

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

VOLUME 48

ISSUE 15

April 12, 2024

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

▪ SUBSTANCE USE TREATMENT

The DEPARTMENT OF HUMAN SERVICES proposed repeal of the Part titled Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 IAC 2060; 48 Ill Reg 5389) and proposed a new Part titled Substance Use Disorder Treatment and Intervention Services (77 IAC 2060; 48 Ill Reg 5484). The new Part adopts updated (from 2001 to 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 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 a SUD. The new Part also clarifies level of care requirements ranging from outpatient care to medically-monitored inpatient withdrawal management; removes or

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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. Substance use disorder intervention and treatment

providers are affected by these rulemakings.

SNAP BENEFITS

DHS also proposed amendments to Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 48 Ill Reg 5588) implementing recent changes to federal law. The rulemaking increases the age at which SNAP recipients age 18 and older become exempt from work requirements from 50 to 51 years effective 9/1/23; to 53 years effective 10/1/23; and to 55 years effective 10/1/24. Exemptions from work requirements are also extended to homeless persons as defined in the federal Food and Nutrition Act (individuals lacking a fixed and regular nighttime residence or whose primary nighttime residence is a supervised temporary accommodation or a location not designed to be an over-

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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.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.

Proposed Rulemakings

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night accommodation); to veterans of the U.S. Armed Forces, regardless of discharge status; and to former foster children ages 18 to 24.

Questions/requests for copies/comments on the 3 DHS rulemakings through 5/28/24: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Floor, Springfield IL 62762, 217-785-9772, DHS.AdministrativeRules@illinois.gov

▪ ELECTRICITY TAX

The DEPARTMENT OF REVENUE proposed amendments to the Part titled Electricity Excise Tax Law (86 IAC 511; 48 Ill Reg 5635) reflecting recent changes to the Law. The rulemaking adds new statutory definitions of purchase price (upon which the tax is imposed) and other terms and clarifies that the tax for electricity delivered to vehicle charging stations for resale to consumers is paid by the operator of the charging station rather than by the electricity supplier. Other provisions update requirements for making tax payments by electronic funds transfer; add tax exemptions for electric vehicle manufacturing (REV Illinois) and microchip production (MICRO) projects; update registration, payment and recordkeeping requirements; and identify penalties for violations of the Law and rules. Those affected by this rulemaking include operators of electric vehicle charging stations and participants in REV Illinois or MICRO projects.

Questions/requests for copies/comments through 5/28/24: Alexis K. Overstreet, DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844, REV.GCO@illinois.gov

Emergency Rules

▪ VIOLENCE PREVENTION

The DEPARTMENT OF HUMAN SERVICES adopted emergency amendments to the Part titled Medicaid Community Mental Health Services Program (59 IAC 132; 48 Ill Reg 5799) effective 3/28/24 for a maximum of 150 days. Companion proposed amendments appear in this week's *Illinois Register* at 48 Ill Reg 5381. The emergency and proposed rules provide that individuals hired as Peer Support Workers (PSWs) for a Violence Prevention Community Support Team (VP-CST) are exempt from the background check requirements for Medicaid community mental health services workers that are contained in the Part. Instead, they are subject to background check requirements contained in 89 IAC 140.Table P (see below). Additionally, the companion proposed rulemaking changes the title of the Part to Community Mental Health Services Program.

Questions/requests for copies/comments on the proposed rulemaking through 5/28/24: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Floor, Springfield IL 62762, 217-785-9772, DHS.AdministrativeRules@illinois.gov

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES also adopted emergency amendments to Medical Payment (89 IAC 140; 48 Ill Reg 5768) effective 3/28/24 for a maximum of 150 days. Companion proposed amendments appear in this week's *Register* at 48 Ill Reg 5379. These emergency and proposed rules establish alternate background check rules for PSWs that work for Behavioral Health Clinics (BHCs) enrolled in the Medical Assistance Program. The alternate rules, contained in new Table P, narrow the list of criminal offenses that disqualify an individual from employment to include only specified violent or aggravated felonies for a period of 5 or 10 years after the offense. (The intent is to allow persons who may once have been involved in gangs or other illegal activity to serve as PSWs with Violence Prevention Community Support Teams.) Medicaid mental health providers are affected by this emergency rule.

Questions/requests for copies/comments on the proposed rulemaking through 5/28/24: Katie Hill, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, 217-782-1233, HFS.Rules@illinois.gov

DRIVER'S LICENSES

The SECRETARY OF STATE proposed an amendment to the Part titled School Bus Driver Permit (92 IAC 1035; 48 Ill Reg 5663) clarifying that an applicant for an Illinois school bus driver permit who holds a driver's license with a school bus and passenger endorsement from another state (including the District of Columbia or any province of Canada) that is

currently valid, or has been expired for less than 30 days, does not have to take the school bus permit written exam. SOS also proposed an amendment to Cancellation, Revocation of Suspension of Licenses or Permits (92 IAC 1040; 48 Ill Reg 5668) removing references to judicial driving permits (JDPs), which are no longer issued. Finally, SOS is repealing

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Proposed Rulemakings

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the Part titled License Provisions Violations (92 IAC 1050; 48 Ill Reg 5690) which established the practice of accepting a driver's license in lieu of bail for traffic tickets; this practice was abolished by the SAFE-T Act.

Questions/requests for copies/comments on the 3 SOS

rulemakings through 5/28/24: Pamela Wright, SOS, 298 Howlett Bldg., Springfield IL 62756, pwright@ilsos.gov

SURGERY CENTERS

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Ambulatory Surgical Treatment Center Licensing Requirements (77 IAC 205; 48 Ill Reg 5602) that update incorporated statutes, federal regulations, professional standards, and life-safety standards; increase the minimum

required clearance around examination and operating tables from 2 feet 6 inches to 3 feet; remove incineration as an option for disposing of medical waste; and update outdated terminology (e.g., replacing "x rays" with "medical imaging".)

Questions/requests for copies/comments through 5/28/24: Tracey Trigillo, DPH, 524 S. Second St., 6th Fl., Springfield IL 62701, dph.rules@illinois.gov

Adopted Rules

SCHOOLS

The STATE BOARD OF EDUCATION adopted a new Part titled Computer Science Equity Grant Program (23 IAC 700; proposed at 47 Ill Reg 14194), effective 3/28/24 at 48 Ill Reg 5704, implementing Public Act 103-264. The Act requires the State Board of Education to establish and implement a competitive grant program to support the development or enhancement of computer science programs in K-12 schools. Entities that may apply for grants include school districts, laboratory schools, regional offices of education, intermediate service centers, and State institutions of higher education, and multiple eligible entities may file a joint grant application. SBE will publish a Request for Proposals (RFP) when grant funding is available, describing the application process and the information that applicants will be required to provide. The RFP will also specify any areas of priority or of restriction that are established for a given program year. Grants will be approved for 3-year periods contingent upon available funding and upon the grantee completing all reporting requirements. Grant funds may be used for the following purposes: ensuring that all students have access to computer science coursework aligned with State learning standards and emerging labor market needs; training or retraining teachers to be more proficient in teaching computer science; supplying classrooms with computer science equipment and materials; more effectively recruiting K-12 students who are underrepresented in computer science professions into computer science courses; and funding initiatives designed to prepare K-8 students for high school level computer science courses or computer science careers. Grant

applications will be evaluated on a point system based on need (20 points), capacity (25 points), quality of the plan (15 points), sustainability (15 points), and cost effectiveness (20 points). Additional priority points will be awarded to schools/districts that do not currently offer computer science programs, whose programs are accessible only to a small percentage of students, or to programs in which the majority of students or teachers are of gender or racial/ethnic identities that are underrepresented in the current computer science labor market.

SBE also adopted amendments to the Part titled State Seal of Biliteracy (23 IAC 680; proposed at 47 Ill Reg 14183) effective 3/28/24 at 48 Ill Reg 5693, to accommodate students seeking to demonstrate proficiency in Latin, Sanskrit, or American Sign Language, which do not use all four of the domains (reading, writing, speaking and listening) normally required to demonstrate proficiency. The proposed rules also remove superfluous examples of assessments (mentioned by name) and change the submission date for participating schools' annual reports from 7/31 to 9/15.

Questions/requests for copies of the 2 SBE rulemakings: Azita Kakvand, SBE, 555 W. Monroe St., Suite 900, Chicago IL 60661, 312-783-2757, rules@isbe.net

OFF-ROAD VEHICLES

The DEPARTMENT OF NATURAL RESOURCES adopted a new Part titled Off-Highway Vehicle Trails on Properties Owned, Leased or Managed by the Department of Natural Resources (17 IAC 135; proposed at 47 Ill Reg 15080), effective 3/27/24 at 48 Ill Reg 5715,

establishing procedures by which DNR will establish off-highway vehicle sites, trailside facilities and trails open to the public on DNR-owned or managed sites. These facilities will be open for use only by All-Terrain Vehicles (ATVs) with at least 3 wheels and weighing 1,500 pounds or less; Off-Highway Motorcycles (OHMs, i.e., dirt bikes); and recreational Off-Highway Vehicles (OHVs) up to 2,000 pounds in weight if gas powered or 3,000 pounds if electric powered, and with 4 or more wheels. Vehicle operators 16 years of age or older must have a valid driver's license and operators under 16 must be under the direct supervision of a licensed driver age 18 or older. All operators under 18 must also have signed waivers from a parent or guardian. Operators must register with and obtain a usage permit from DNR. Permits are \$20 per vehicle for one day and \$65 per vehicle for 4 days. DNR will determine dates and hours of operation for off-highway vehicle sites, which will be posted at the site and also by electronic means. Each site shall also publish the number of vehicles it will allow to operate that day. Vehicle drivers and all passengers must wear USDOT approved safety helmets unless their vehicles are enclosed or have roll bars and seatbelts. ATVs and OHVs must additionally carry an orange flag on a flexible mast at least 72 inches (6 feet) long. Vehicles also cannot generate sound exceeding 96 decibels and are subject to sound testing at DNR's request. Regulations applicable to all DNR owned or managed properties in 17 IAC 110 and 130 will apply to these sites unless the rules in this Part are more restrictive.

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Adopted Rules

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• LAND CONSERVATION

DNR also adopted amendments to Conservation Stewardship Program (17 IAC 2580; proposed at 47 Ill Reg 17778) effective 3/27/24 at 48 Ill Reg 5725, that update and clarify various aspects of the program. The rulemaking provides that if ownership of CSP-enrolled land changes during a 10-year enrollment term, the new owners may continue the existing CSP enrollment if they submit an updated tax bill or deed, stand map, Schedule of Practices (for land management), and a DNR change of ownership form. The original enrollment expiration date will remain in effect (at which time the enrollment can be renewed). If the new landowner does not complete the enrollment process within 6 months after the sale of the land, DNR will remove the land from CSP and notify the county assessor and the Illinois Department of Revenue. DNR will also remove land from CSP and notify the county and DOR if a change in ownership reduces the property to less than 5 acres, or if the property has been foreclosed or has delinquent taxes. A Schedule of Practices for CSP-enrolled land must cover the entire 10-year enrollment

period and the management practices used must be reported to DNR in the 3rd, 6th, and 9th years of enrollment. (Currently, a detailed schedule of management practices is required only for the first 5 years of enrollment and a more general schedule is required for the last 5 years; management practices must currently be reported annually.) Landowners participating in the Conservation Stewardship Program are affected.

• OIL WELLS

DNR adopted amendments to the Part titled The Illinois Oil and Gas Act (62 IAC 240; proposed at 47 Ill Reg 17786) effective 3/27/24 at 48 Ill Reg 5734, that allow operators of oil production wells drilled prior to 10/25/21 that do not meet DNR's current well location and spacing requirements to obtain revisions to those requirements if the previously drilled well is located on or within 10 feet of a boundary line with a currently compliant drilling unit. In these cases, the previously drilled well can be treated as part of the compliant drilling unit. An application for this revision must explain the reasons for the request and include a \$400 fee. The rulemaking also clarifies requirements for well drillers to notify coal mining companies of their intent to drill near or over a mine or mining property and requires current oil and

gas well permittees to provide an e-mail address with their annual reports. Oil and gas drilling companies are affected by this rulemaking.

Questions/requests for copies of the 3 DNR rulemakings: 17 IAC 1535, John Fischer; 17 IAC 2580, Nicole Thomas; 62 IAC 240, Carrie Leitner; DNR, One Natural Resources Way, Springfield IL 62702, 217-782-1809, dnr.rules@illinois.gov

DRIVER'S LICENSES

The SECRETARY OF STATE adopted amendments to Issuance of Licenses (92 IAC 1030; proposed at 47 Ill Reg 4237) effective 4/1/24 at 48 Ill Reg 5751, that change the definitions of two license restrictions: J14 (authorizing a driver to operate a vehicle with outside mirrors, using a non-standard lens arrangement, during daylight hours only) and J33 (authorizing operation of a Class D vehicle with outside mirrors using a non-standard lens arrangement at all hours, instead of only during nighttime hours). Other, minor changes are made for readability.

Questions/requests for copies: Pamela Wright, SOS, 298 Howlett Building, Springfield IL 62756, 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 14, 2024 meeting in Springfield. 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.

DEPT OF HUMAN SERVICES

Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 48 Ill Reg 1582) proposed 1/26/24

DEPT OF CENTRAL MANAGEMENT SERVICES

Classification and Pay (80 IAC 301; 48 Ill Reg 8) proposed 1/5/24

Merit and Fitness (80 IAC 302; 48 Ill Reg 12) proposed 1/5/24

Conditions of Employment (80 IAC 303; 48 Ill Reg 66) proposed 1/5/24

General Provisions (80 IAC 304; 48 Ill Reg 76) proposed 1/5/24

Next JCAR Meeting: Tuesday, April 16, 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 Sue Rezin

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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