

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

▪ ADULT PROTECTIVE SERVICES

The DEPARTMENT ON AGING proposed amendments to Adult Protection and Advocacy Services (89 IAC 270; 47 Ill Reg 17262) expanding the acceptable education qualifications for Adult Protective Services (APS) provider agency staff. Persons with associate degrees in a health or human services field and 4 years' experience in health or human services, and persons with 4 years of experience in law enforcement or criminal investigations, may now qualify to be APS caseworkers. (Currently, a master's degree in a health or human services field; a bachelor's degree or Registered Nurse license with 1 year experience; or a Licensed Practical Nurse license plus 2 years' experience are required.) Report takers and case aides must have either an associate degree in a health or human services field or 2 years' experience working with older adults; these requirements can be

waived if necessary and do not apply to persons currently employed as aides or report takers. Aides and report takers must also complete 2 hours of recertification training, 2 hours of dementia training, and 1 hour of trauma informed training annually. The rulemaking also amends the definitions of abuser, investment

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adviser, and mandated reporter, along with other existing text, to reflect statutory language in the Adult Protective Services Act and clarifies that timelines for responding to reports of abuse, neglect, self-neglect or financial exploitation are not waived during periods when an APS agency is closed (e.g., holiday weekends). APS provider agencies are affected.

*Questions/requests for
copies/comments through 1/10/24:*

Priscilla Chapman, DonA, One Natural Resources Way, Suite 100, Springfield IL 62702-1271, 217-606-1256, aging.rulemaking@illinois.gov

▪ DENTISTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Illinois Dental Practice Act (68 IAC 1220; 47 Ill Reg 17316) that add provisions for a specialty in dental anesthesiology (in addition to existing specialties such as pediatric dentistry, periodontics, and orthodontics) and requirements for licensure in that specialty. The rulemaking also clarifies the training requirements for moderate (conscious) sedation permits; updates references to standardized licensure examinations; and accepts advanced clinical training in pediatric dentistry, periodontics, endodontics, orthodontics, and oral/

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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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maxillofacial surgery (currently, only prosthodontics) toward licensure of graduates from dental schools outside of the U.S. or Canada. Dentists and dental students are affected by this rulemaking.

• OCCUPATIONAL THERAPY

DFPR also proposed amendments to the Part titled Illinois Occupational Therapy Practice Act (68 IAC 1315; 47 Ill Reg 17339) that add continuing education (CE) requirements for sexual harassment prevention, implicit bias awareness, and dementia recognition; allow fieldwork education of OT and OT assistants, mentoring of OT doctoral degree candidates, and work on a professional development plan to count toward CE requirements; and include the Illinois State Board of Education and educational associations (such as the Illinois Education Association and National Education Association) as approved sponsors of continuing education. The rulemaking also caps the required CE for restoration of a license lapsed for 5 years or longer at 24 hours (currently, 60 hours), all of which must be earned within 24 months prior to the application for license restoration. At least 3 of these hours must cover updates to professional practice standards and relevant laws and regulations. Other provisions include a more detailed list of allowable modalities of occupational therapy that use electricity, application of heat or cold, application of mechanical forces (e.g., pressure, vibration), or intramuscular manual therapy (dry needling), and add training and practice requirements for the use of dry needling. Occupational therapists

and assistants and persons applying for OT licensure or renewal are affected.

• PHYSICAL THERAPY

DFPR proposed an amendment to the Part titled Illinois Physical Therapy Act (68 IAC 1340; 47 Ill Reg 17367) to correct an error regarding continuing education requirements. The amendment will allow physical therapists to earn up to 10 hours of CE for clinical instruction and physical therapist assistants to earn up to 5 hours of CE for clinical instruction. Current rule has the numbers reversed, with assistants being allowed 10 hours and therapists only 5 hours.

Questions/requests for copies/comments on the 3 DFPR rulemakings through 1/10/24: Craig Cellini, DFPR, 320 W. Washington St., 4th Floor, Springfield IL 62786, 217-785-0810, fax 217-557-4451, Craig.Cellini@illinois.gov

TAXPAYER RIGHTS

The DEPARTMENT OF REVENUE proposed an amendment to the Part titled Taxpayer Rights (86 IAC 205; 47 Ill Reg 17380) updating statutory language to reflect additions to the Taxpayer Bill of Rights Act [20 ILCS 2520]. The amendment requires DOR to systematically identify areas of recurrent taxpayer noncompliance with rules or guidelines and report these findings to the General Assembly on an annual basis. It also requires DOR, in cases where an audit finds no violations, to send the taxpayer a closing letter acknowledging that no violations were found. If an audit finds deficiencies in a taxpayer's recordkeeping or recommends changes in the recordkeeping process, the auditor must provide these recommendations to the taxpayer in writing and also

disclose (unless the taxpayer declines) the audit methods and procedures used.

DOR REPEALERS

DOR also proposed repeal of the Parts titled County Water Commission Retailers' Occupation Tax (86 IAC 630; 47 Ill Reg 17384), County Water Commission Service Occupation Tax (86 IAC 640; 47 Ill Reg 17392) and County Water Commission Use Tax (86 IAC 650; 47 Ill Reg 17398). PA 96-1389 abolished these taxes effective 6/1/16.

Questions/requests for copies/comments on the 4 DOR rulemakings through 1/10/23: Kimberly Rossini, DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844.

VETERANS

The DEPARTMENT OF VETERANS' AFFAIRS proposed amendments to the Parts titled Educational Opportunities for Children of Deceased or Disabled Veterans (95 IAC 101; 47 Ill Reg 17418), Rules Governing the Board of Appeals (95 IAC 113; 47 Ill Reg 17429) and MIA/POW Scholarship (95 IAC 116; 47 Ill Reg 17433) reflecting the consolidation of the Deceased or Disabled Veterans Educational Grant Program (which provides educational grants to eligible veterans' children ages 10 through 17, or until high school graduation) with the MIA/POW Scholarship program (which provides college scholarships to children and spouses of eligible veterans). The Part 101 and 116 rulemakings change the name of each Part to reflect the consolidation of these programs and clarify eligibility criteria for grant applicants. If an applicant for either program is an adopted child or stepchild of the eligible veteran, the

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adoption or marriage must have taken place when the child was under 18. A minor child under 18 who has been under court-ordered guardianship for at least 2 years prior to application may also qualify for the Deceased/Disabled Grant Program. An eligible veteran includes any veteran or serviceperson, including Illinois National Guard members, who while on active duty or a training assignment was declared to be a prisoner of war or missing in action, or died from or was declared 100% disabled due to a service-connected disability. (Current rule in Part 101 defines eligible veterans in terms of service dates related to specific conflicts and draft periods.) The eligible veteran must also have been an Illinois resident prior to entering service; have become an Illinois resident within 6 months after entering service; or have been an Illinois resident for at least 15 consecutive years at any time after entering service. An eligible veteran also cannot have been dismissed from service or received a dishonorable or bad conduct discharge. The rulemaking also specifies the documentation required to establish eligibility for the grant or scholarship, as well as documentation required to establish 15 continuous years of Illinois residency if the veteran was not an Illinois resident at the time of enlistment or discharge. A grant or scholarship denial may be appealed within 30 days after DVA sends notice of the denial. Amendments to Part 113 add the Deceased/Disabled and MIA/POW grant and scholarship programs to the list of programs that

can be appealed to the DVA Board of Appeals. The Part 116 rulemaking removes obsolete requirements to document 30 years of continuous Illinois residency by the eligible veteran, clarifies that the scholarship covers only tuition and mandatory fees (fees charged to students regardless of whether they attend on campus or by distance learning; does not include application, graduation, lab fees, or add/drop fees) for 4 years of enrollment including summer terms, and requires scholarship recipients to notify the educational institution of their intention to use the scholarship each term.

Questions/requests for copies/comments on the 3 DVA rulemakings through 1/10/24: Sara Augustinas, DVA, 69 W. Washington, Ste. 1620, Chicago, IL 60602, 217-685-2334, Sara.Augustinas@illinois.gov

TEACHERS' RETIREMENT

The TEACHERS' RETIREMENT SYSTEM proposed amendments to The Administration and Operation of the Teachers' Retirement System (80 IAC 1650; 47 Ill Reg 17403) that remove the one-year limit on paid leaves of absence; implement PA 103-525, which allows teachers to purchase optional TRS service credit for paid student teaching, by establishing eligibility requirements for purchasing this service credit; and allow extra duty pay for work that does not require teacher licensure to count toward pensionable salary when performed by a TRS member in a TRS-reportable position and when it includes supervision of students related to the academic program. (Currently, extra duty pay is counted as salary when earned by a full-time or part-time contractual teacher, but not

when earned by a substitute or part-time non-contractual teacher.)

Questions/requests for copies/comments through 1/10/24: Cynthia Fain, TRS, 2815 W. Washington St., PO Box 19253, Springfield IL 62794-9243, 217-814-2041, cfain@trsill.org

DCFS PERSONNEL

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to the Part titled Audits, Reviews and Investigations (89 IAC 434; 47 Ill Reg 17295) allowing purchase of service (POS) agencies that contract with DCFS to subtract the value of fringe benefit packages from their costs, thereby reducing the amount of excess revenue they must pay back to the Department. Since excess revenue limitations in current rule effectively limit benefit packages to no more than 25% of salary, this rulemaking will allow POS agencies to offer enhanced fringe benefit packages worth more than this amount. The rulemaking also changes the name of the Office of Field Audits to the Office of Financial Review, replaces the term "grant" with "award", updates the effective date for cost reporting requirements, and adds statutory authority for the audit standards to be followed by the Office of Financial Review.

Questions/requests for copies/comments through 1/10/24: Jeff Osowski, DCFS, 406 E. Monroe, Station #65, Springfield IL 62701-1498, 217-524-1983, fax 217-557-0692, DCFS.Policy@illinois.gov

Adopted Rules

▪ DRIVER'S LICENSES

The SECRETARY OF STATE adopted amendments to Issuance of Licenses (92 IAC 1030; proposed at 47 Ill Reg 12012 and 12360) and Commercial Driver Training Schools (92 IAC 1060; proposed at 47 Ill Reg 12372), both effective 11/7/23 at 47 Ill Reg 17529, concerning road testing for motorcycle operators and road testing administered by commercial driver training schools. The Part 1030 amendments, which combine two separately proposed rulemakings, implement PA 103-162 by removing the road testing requirement for motorcycle drivers under 18 who have completed an IDOT-approved motorcycle safety training course. They also make permanent a pilot program allowing teen-accredited commercial driver training schools (in addition to SOS facilities) to administer road tests to high school students who have completed driver education courses. Commercial schools may also administer road tests to individuals under 18 who are not attending or did not complete high school but still meet Illinois Vehicle Code requirements for obtaining a driver's license. A minimum score of 80% is required on the commercial driver training school test, and the facility is no longer required to complete a form exempting the individual from a facility-administered road test when applying for a license at an SOS facility. Amendments to Part 1060 establish requirements for commercial driving schools and their instructors to become certified to administer these tests. Instructors must have at least 2 years experience in behind the wheel instruction to teens and must administer at least 25 road tests per year; an instructor who does not meet the 25-test minimum must take a refresher course to maintain certification. Requirements

for driving test routes, test procedures, vehicles, recordkeeping, and reporting are also included. Commercial driving schools are affected by these rulemakings.

Questions/requests for copies of the 2 SOS rulemakings: Pamela Wright, SOS, 298 Howlett Bldg. Springfield IL 62756, 217-785-3094, pwright@ilsos.gov

▪ MUSIC THERAPY

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted a new Part titled Music Therapy Licensing and Practice Act (68 IAC 1316; proposed at 47 Ill Reg 1600) effective 11/13/23 at 47 Ill Reg 17445, implementing Public Act 102-993, which establishes music therapy as a licensed profession. The new Part addresses procedures and requirements for licensure, license renewal, required course content for approved music therapy programs, continuing education (CE), requirements for CE sponsors, restoration of licenses, variances from normal licensure requirements, and recordkeeping. Applicants for music therapy licenses must submit an official transcript and proof of graduation with a bachelor's degree or higher in music therapy from an accredited educational institution meeting the standards outlined in this Part, or (if the applicant's bachelor's or higher degree is not in music therapy) proof of completion of a music therapy degree equivalency program approved by the American Music Therapy Association. Applicants must also submit certification of completion/passage of a required examination along with the initial licensure fee of \$400. Music therapists licensed in other states may apply for Illinois licensure by endorsement. Licensees must complete at least 40 hours of CE each 2-year renewal cycle.

All Illinois music therapy licenses will expire on 10/31 of even-numbered years, with a renewal fee of \$300. The Part also defines acts of dishonorable, unethical, or unprofessional conduct for which licensees may be disciplined. Music therapists and their employers are affected by this rulemaking.

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

▪ HOME HEALTH SERVICES

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Home Health, Home Services, and Home Nursing Agency Code (77 IAC 245; proposed at 47 Ill Reg 8817) effective 11/8/23 at 47 Ill Reg 17468, that add and clarify requirements for home health and home services agencies with more than one location, in accordance with federal Centers for Medicare and Medicaid Services regulations. A branch office and a parent agency must share administration, supervision and services on a daily and an emergency basis in a manner that makes it unnecessary for the branch office to be separately licensed. They must be located in the same geographic service area, no more than 100 miles apart, and the administrator or manager of the parent office must be available to supervise the branch office during all of the branch office's operating hours. Personnel records and records of contracted services must be maintained at the parent office. A site that a parent agency uses solely for administrative tasks such as training staff or obtaining supplies and not for rendering services is known as a drop site. It cannot have designated staff

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Adopted Rules

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and cannot accept client/patient referrals, store client or personnel records, conduct payroll or billing activities, or assign orders. The geographic service area served by a home health agency must be comprised of contiguous counties forming recognizable boundaries. Agencies must notify DPH at least 30 days prior to the closure of the agency or any of its branch offices and include the name and location of the custodian who will receive the agency's patient records. Agencies must notify DPH within 10 days after any change to the agency's name, address, phone number, fax number, e-mail, manager/administrator, or supervising nurse. They must request DPH approval for any addition to, or removal of, the service categories they provide or for an expansion or

reduction in their service area. Agencies are required to maintain an office with a working telephone that is staffed during its regular business hours, and must adopt written policies that establish their operating hours. These policies must also include procedures by which agency clients can obtain care from the agency or from another provider outside of the agency's operating hours. Other provisions clarify what elements are required in a service plan, and impose fines of up to \$100 per day for failure to comply with the requirements for a branch office or drop-site location. Changes since 1st Notice include: clarifying the definition of a parent agency; clarifying what can be included in a home services plan of care; and removing a proposed \$200 penalty for late filing of license renewal. Providers of home health services or home nursing services are affected.

Questions/requests for copies: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, 217/782-1159, dph.rules@illinois.gov

OST REPEALER

The OFFICE OF THE STATE TREASURER repealed the Part titled Investment Programs (74 IAC 720; proposed at 47 Ill Reg 11421) effective 11/9/23 at 47 Ill Reg 17556. The Part was adopted in 1977 and concerned participation by State banks and savings and loans in the Treasurer's time deposit program. The Treasurer repealed this Part because it was based on an obsolete statute.

Questions/requests for copies: Sara Meek, Office of the State Treasurer, 219 State House, Springfield IL 62706, 217/524-0530, fax 217/785-2777, e-mail: SMeek@illinoistreasurer.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 December 12, 2023 meeting in Chicago. Other items not listed in the Illinois Register or Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR at jcar@ilga.gov.

DEPT OF HUMAN SERVICES

Medicaid Community Mental Health Services Program (59 IAC 132; 47 Ill Reg 12626) proposed 8/18/23

Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 IAC 2060; 47 Ill Reg 12628) proposed 8/18/23

Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 47 Ill Reg 12998) proposed 8/18/23

DEPT OF PUBLIC HEALTH

Hospital Licensing Requirements (77 IAC 250; 47 Ill Reg 9134) proposed 7/7/23

Hospital Licensing Requirements (77 IAC 250; 47 Ill Reg 11724) proposed 8/4/23

Next JCAR Meeting: Tuesday, Dec. 12, 11 a.m.

Room C600, Bilandic Bldg., 160 N. La Salle St., 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 Kimberly Lightford

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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