

# 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

### ▪ COUNSELORS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Professional Counselor and Clinical Professional Counselor Licensing Act (68 IAC 1375; 48 Ill Reg 1074) that update and clarify numerous provisions. These amendments change the name of the Part to Professional Counselor and Clinical Professional Counselor Licensing and Practice Act and add a definitions Section that defines "clinical supervision" as review of counseling and case management that is "live, interactive, and visual". Video supervision meets this definition if it is synchronous and permits verbal and visual interaction during the session. The rulemaking also clarifies which professional certifications suffice as proof of meeting educational requirements without an examination. Effective 7/1/26, license applicants must have

completed a master's or doctoral degree program in counseling, psychology, or rehabilitation counseling at a regionally accredited institution that includes at least 60 (currently 48) semester hours of instruction in 13 core subjects (including, but not limited to,

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counseling techniques, group and family dynamics, professional ethics, pathology/maladaptive behavior, and addictions) and at least 30 (currently 24) hours of residency. Applicants whose degree required fewer than 48 semester hours of instruction in these subjects, or fewer than 60 semester hours if applying after 7/1/26, may make up the difference by taking additional classes from an accredited counseling program that issues degrees accepted by DFPR for licensure.

Independent study, self-study/correspondence courses, workshops or continuing education courses will not count toward the core subject requirements. DFPR will not approve programs that require fewer than 39 semester hours to complete or that do not cover at least 7 of the 13 core subjects. An applicant whose education and training were completed in a foreign country may be required to submit educational transcripts and training credentials directly to DFPR for review. The 24 hours of continuing education (CE) required each renewal cycle must now include 3 hours related to professional ethics and, for clinical professional counselors, a one-time requirement of 9 hours in clinical supervision training following the second license renewal. CE credits may be earned through remote instruction if the provider is an approved CE sponsor, but remote in-

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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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struction cannot be counted as out of State CE credit. The license renewal fee is now \$120 per 2-year renewal period instead of \$60 per year and fees will no longer be charged for duplicate licenses, wall certificates, or rosters of licensees (all of which can be obtained online). A waiver from all or part of the CE requirements may be requested for good cause (currently, “extreme hardship”). However, if a waiver from CE due to illness or disability is requested for more than one consecutive renewal cycle, DFPR will regard this as evidence of incapacity to practice and may deny renewal on those grounds. A counselor seeking restoration of a license following disciplinary action must fulfill all requirements of the disciplinary order, submit a petition for hearing to DFPR, and submit evidence of rehabilitation warranting restoration of public trust. This evidence may include, among other items, documentation of counseling or other rehabilitative treatment; written reports or testimony by peer review committees or other persons; results of a physical or mental examination; and evidence of restitution made to

injured parties. Other provisions require licensees to maintain up to date contact information, including e-mail addresses, with DFPR; expand the list of approved CE sponsors; update examples of unethical, dishonorable or unprofessional conduct warranting disciplinary action; and allow variances from rules to be granted by the Director of DFPR without having to obtain approval of the Board first. Licensed professional and clinical professional counselors, their employers, and their CE providers are affected.

*Questions/requests for copies/comments through 3/4/24: Craig Cellini, DFPR, 320 W. Washington St., 2<sup>nd</sup> Floor, Springfield IL 62786, 217-785-0810, fax 217-557-4451.*

## ELECTRONIC TRANSACTIONS

The DEPARTMENT OF INNOVATION & TECHNOLOGY (DoIT) proposed a new Part titled Uniform Electronic Transactions Act (14 IAC 2000; 48 Ill Reg 1122) establishing uniform rules for use of electronic signature and electronic records technologies by State agencies. The new Part defines an electronic record as a record created, generated, sent, communicated, received, or stored by electronic means and an electronic

signature as an electronic sound, symbol, or process attached to a record and executed by a person with the intent to sign the record. Agencies are not required to accept electronic records or signatures beyond those required by law, rule, or the agency’s official policy. Agencies that accept electronic records or signatures must have written policies specifying acceptable methods for executing transactions and storing records, acceptable formats for electronic signatures, and the security measures that will be used to create, accept and maintain signatures and records. These methods must also comply with applicable laws regarding accessibility. Electronic records must also be maintained in accordance with the State Records Act, or the agency’s records retention policy, and applicable laws regarding confidentiality and data privacy.

*Questions/requests for copies/comments through 3/4/24: Adam Bourdette, DoIT, 555 W. Monroe St., Suite 200-N, Chicago IL 60661.*

## JCAR Meeting Action

At its 1/16/24 meeting, the Joint Committee on Administrative Rules approved the following actions. Proposed rulemakings from this agenda that are not listed below received No Objection and may be adopted by their agencies. Emergency rules not acted upon at this meeting may be reconsidered at later meetings.

### OBJECTIONS

JCAR objects to the Illinois State Police rulemaking titled Firearm Owner’s Identification Card Act (20 IAC 1230; 47 Ill Reg 13846) because the rulemaking does not meet the criteria under 1 IAC 220.900(a)(2)(E), which requires a rule to be simple and clear so that the rule can be understood by the persons and groups the rule affects. The rule contains definitions that are subjective and open to broad interpretation by an enforcing jurisdiction, which leaves the regulated public without clear direction on how to comply with the rule.

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# JCAR Meeting Action

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JCAR objects to the Department of Public Health's use of emergency rulemaking to adopt an amendment to Hospital Licensing Requirements (77 IAC 250; 47 Ill Reg 18178) because this emergency rule fails to meet the criteria of 1 IAC 230.400(a)(1)(C), which states that the emergency situation addressed by the rule must have arisen through no fault of the agency. This is the 8<sup>th</sup> successive emergency rulemaking the Department has adopted related to the federal Acute Hospital Care at Home (AHCH) waiver. At its December 13, 2022 meeting JCAR recommended, with respect to the Department's emergency amendments to 77 IAC 515 (46 Ill Reg 17682), that the Department avoid exercising its authority to adopt repeat emergency rules under Sec. 5-45(c) of the Illinois Administrative Procedure Act and Secs. 2(a) through (i) of the Department of Public Health Act simply to avoid regulatory gaps prior to the adoption of a permanent rulemaking. Despite this recommendation, DPH renewed this emergency rule twice without the declared public health emergency that prompted 6 previous adoptions of this emergency rule. The Department also had ample time to file for Second Notice and adopt the companion proposed rulemaking before the 7th emergency rule then in effect expired.

## EXTENSIONS

JCAR, with the concurrence of the respective agencies, extended the Second Notice periods for the following rulemakings an additional 45 days. These rulemakings will be considered again at the February 6 JCAR meeting.

Department of Central Management Services, Travel (80 IAC 2800; 47 Ill Reg 14148)

Illinois Gaming Board, Video Gaming (General) (11 IAC 1800; 47 Ill Reg 2540)

Higher Education Travel Control Board, Higher Education Travel (80 IAC 2900; 47 Ill Reg 14652)

Department of Human Services, Criteria for the Evaluation of Programs of Services in Community Rehabilitation Agencies (89 IAC 530; 47 Ill Reg 2593)

Department of Public Health, Control of Notifiable Diseases and Conditions Code (77 IAC 690; 47 Ill Reg 7323)

Department of Public Health, Control of Notifiable Diseases and Conditions Code (77 IAC 690; 47 Ill Reg 10251)

## NO ACTION

JCAR took no action on the Department of Healthcare and Family Services rulemaking titled Hospital Services (89 IAC 148; 47 Ill Reg 1145). Since this rulemaking was proposed on 1/27/23, it will reach its 1-year expiration date before the Second Notice period ends and cannot be adopted.

# Adopted Rules

## COMMUNITY CARE PROGRAM

The DEPARTMENT ON AGING adopted an amendment to the Part titled Community Care Program (89 IAC 240; proposed at 47 Ill Reg 7036) effective 1/3/24 at 48 Ill Reg 1129, replacing an emergency amendment that expired on 10/6/23. This rulemaking removes an exemption from the requirement that Community Care Program (CCP) applicants apply for Medicaid. This exemption formerly applied to persons with assets of more than twice the established asset disregard for medical assistance eligibility. Since the Department of Healthcare and Family Services has raised the asset disregard for medical assistance

eligibility to \$17,500, all CCP applicants are now required to apply for Medicaid.

*Questions/requests for copies: Priscilla Chapman, DonA, One Natural Resources Way, Suite 100, Springfield IL 62702-1271, 217-606-1256, [aging.rulemaking@illinois.gov](mailto:aging.rulemaking@illinois.gov)*

## AIR POLLUTION

The POLLUTION CONTROL BOARD adopted amendments to Definitions and General Provisions (35 IAC 211; proposed at 47 Ill Reg 15589) effective 1/4/24 at 48 Ill Reg 1144, that implement a recent change in federal Environmental Protection Agency

(USEPA) regulations. The rulemaking revises the definitions of volatile organic material (VOM) and volatile organic compound (VOC) to exclude a compound that USEPA has determined makes only a negligible impact on ozone formation.

*Questions/requests for copies: Don A. Brown, PCB, 60 E. Van Buren St., Suite 630, Chicago IL 60605, 312-814-3461, [don.brown@illinois.gov](mailto:don.brown@illinois.gov). Please reference Docket 24-8. Copies of the Board's opinion and order are available by calling 312-814-3620 or downloading a copy from the Board's website at <http://www.pcb.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 February 6, 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](mailto:jcar@ilga.gov).

## BOARD OF BOILER AND PRESSURE VESSEL RULES

Boiler and Pressure Vessel Safety (41 IAC 2120; 47 Ill Reg 14904) proposed 10/27/23

## IL ENVIRONMENTAL PROTECTION AGENCY

Environmental Laboratory Certification Fee Rules (35 IAC 185; 47 Ill Reg 13743) proposed 9/29/23

Accreditation of Environmental Laboratories (35 IAC 186; 47 Ill Reg 13750) proposed 9/29/23

## DEPT OF HUMAN SERVICES

Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 47 Ill Reg 14085) proposed 10/6/23

## POLLUTION CONTROL BOARD

General Provisions (35 IAC 501; 47 Ill Reg 3159) proposed 3/10/23

Permits (35 IAC 502; 47 Ill Reg 3186) proposed 3/10/23

Other Agricultural and Silvicultural Activities (35 IAC 503; 47 Ill Reg 3254) proposed 3/10/23

Livestock Waste Regulations (35 IAC 506; 47 Ill Reg 3259) proposed 3/10/23

## DEPT OF PUBLIC HEALTH

Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 47 Ill Reg 15090) proposed 10/27/23

Newborn and Infant Screening and Treatment Code (77 IAC 661; 47 Ill Reg 13013) proposed 9/8/23

Early Hearing Detection and Intervention Code (Repealer) (77 IAC 662; 47 Ill Reg 13028) proposed 9/8/23

## DEPT OF REVENUE

Income Tax (86 IAC 100; 47 Ill Reg 16353) proposed 11/17/23

## IL STUDENT ASSISTANCE COMMISSION

Illinois Veteran Grant (IVG) Program (23 IAC 2733; 47 Ill Reg 14748) proposed 10/20/23

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# Second Notices

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Illinois Graduate and Retain Our Workforce (iGROW) Tech Scholarship Program (23 IAC 2750; 47 Ill Reg 14754) proposed 10/20/23

Human Services Professional Loan Repayment Program (23 IAC 2752; 47 Ill Reg 14761) proposed 10/20/23

Minority Teachers of Illinois (MTI) Scholarship Program (23 IAC 2763; 47 Ill Reg 14768) proposed 10/20/23

Golden Apple Scholars of Illinois Program (23 IAC 2764; 47 Ill Reg 14776) proposed 10/20/23

Illinois Special Education Teacher Tuition Waiver (SETTW) Program (23 IAC 2765; 47 Ill Reg 14784) proposed 10/20/23

AIM HIGH Grant Pilot Program (23 IAC 2766; 47 Ill Reg 14792) proposed 10/20/23

## **Next JCAR Meeting: Tuesday, Feb. 6, 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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