

*Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.*

## Proposed Rulemakings

### PROFESSIONAL LICENSING

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to Administrative Procedures for General Professional Regulation Under the Administrative Code (68 IAC 1130; 46 Ill Reg 20445) implementing three Public Acts that establish new licensed healthcare professions. The rulemaking adds behavior analysts and assistant behavior analysts, music therapists, and midwives to the list of licensed healthcare professions. Other changes establish authority for DFPR to issue profession-wide variances from various Practice Act rules during an emergency/disaster declared by the Governor, or when the Secretary of DFPR determines an operational need for blanket variances. (Current rule appears to allow for variances only

on an individual, case-by-case basis.)

#### ■ MIDWIVES

DFPR also proposed a new Part titled Rules for the Licensed Certified Professional Midwife Practice Act (68 IAC 1345; 46 Ill Reg 20475) implementing Public Act 102-683, which establishes certified professional midwives as a licensed healthcare profession (separate from Certified Nurse Midwives under the Nurse Practice Act). Certified professional midwife licenses are valid for 2 years and will expire on October 31 of even-numbered years. Applicants for licensure as midwives must be at least 21 years old; have completed a post-secondary program of academic study and clinical practice accredited by the Midwife Education and Accreditation

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## Adopted Rules

### ■ CHILD CARE

The DEPARTMENT OF HUMAN SERVICES adopted amendments to Child Care (89 IAC 50; 46 Ill Reg 11671) effective 12/15/22, replacing emergency rules that expired on 11/27/22. The rulemaking increases the income eligibility threshold for the Child Care Assistance Program (CCAP) to 225% (formerly 200%) FPL for initial eligibility and 275% (formerly 250%) FPL for continuing eligibility, and update the co-payment schedule. These rules also expand CCAP eligibility to include youth in the care of the Department of Children and Family Services who are themselves parents (while they are in DCFS care and for another 12 months after DCFS closes their case) and to families receiving Extended Family Support Services from DCFS, regardless of the

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**ADOPTED RULES:** Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.  
**PROPOSED RULES:** Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.  
**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 not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.  
**QUESTIONS/COMMENTS:** Submit mail, email or phone calls to the agency personnel listed below each summary.  
**RULE TEXT:** Available on the Secretary of State ([www.cyberdriveillinois.com](http://www.cyberdriveillinois.com)) and General Assembly ([www.ilga.gov](http://www.ilga.gov)) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

# Adopted Rules

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youth or family's income, education or employment status. Military families with a parent (formerly, both parents) on active duty also qualify for CCAP, regardless of whether the remaining parent or relative caregivers are employed or enrolled in education or training activities. Persons in these eligibility categories, as well as homeless parents approved for CCAP Child Protective Services, are also exempt from co-pays. Other provisions grant CCAP eligibility without restrictions to parents taking web-based or correspondence courses from an accredited university (formerly, CCAP assistance was allowed only for children under age 6 and only for classes that met at fixed times) and charge a \$1/month co-payment to CCAP families with a parent employed in child care. Since 1<sup>st</sup> Notice, DHS has clarified what constitutes employment in child care for the purpose of determining eligibility for the reduced co-payment. Parents and child care providers enrolled in CCAP are affected by this rulemaking.

## ■ HOME SERVICES PROGRAM

DHS also adopted amendments to Program Description (89 IAC 676; 46 Ill Reg 11342), Customer Rights and Responsibilities (89 IAC 677; 46 Ill Reg 11352), Service Planning and Provision (89 IAC 684; 46 Ill Reg 11362) and Provider Requirements, Type Services, and Rates of Payment (89 IAC 686; 46 Ill Reg 11367)

effective 12/19/22, updating various aspects of the DHS Home Services Program (HSP) for persons with disabilities to reflect federal regulations and a collective bargaining agreement between DHS and the Service Employees International Union (SEIU) which represents HSP workers (individual providers). Amendments to Part 676 add or update definitions applicable to the other Parts. The Part 677 rulemaking implements federal person-centered planning requirements, which include informing customers of their rights and responsibilities and the types of services that are available so that customers can actively participate in eligibility determinations and the service planning process. Amendments to Part 684 require customers to comply with electronic visit verification and individual providers to comply with the current collective bargaining agreement as conditions of receiving HSP funding. The Part 686 rulemaking changes the cap on HSP individual provider hours from 45 per week to the maximum specified in the currently effective collective bargaining agreement (60 hours per week) and requires customers to hire a sufficient number of providers to avoid any individual providers incurring unauthorized overtime. Customers must request an exception to the overtime policy in order for an HSP individual provider to work longer hours without losing funding. Exceptions may be granted based on provider capacity (e.g., not enough IPs available within reasonable

distance from the customer's home), unique or special needs of the customer (e.g., Determination of Need score of 70 or higher, court-ordered service plans), and other reasons. Ongoing exceptions will be automatically renewed (formerly, redetermined annually) unless not renewed pursuant to the collective bargaining agreement. The rulemaking also updates qualifications for approved providers of adult day care, day habilitation services, and prevocational services to include meeting the criteria for a "home and community-based setting" as defined by the federal Centers for Medicare and Medicaid Services; sets minimum specifications for electronic home response equipment; institutes a criminal background screening policy for HSP individual providers; and sets guidelines for electronic visit verification. Customers and providers of the Home Services Program are affected by these rulemakings.

*Questions/requests for copies of the 5 DHS rulemakings: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Building, 3<sup>rd</sup> Floor, Springfield IL 62762, 217/785-9772.*

## ■ EMERGENCY SERVICES

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke

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# Proposed Rulemakings

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Council; have an active certification in performing cardiopulmonary resuscitation (CPR); have proof of active neonatal resuscitation provider status; pass the North American Registry of Midwives (NARM) examination or the American Midwifery Certification Board (AMCB) examination; and submit a \$2,500 application fee (\$2,000 for renewal). Midwives licensed in other states may obtain Illinois licensure with proof of active CPR and neonatal resuscitation training, proof of having passed the NARM or AMCB exams or their equivalent, and payment of the application fee. Persons who have held certified professional midwife status from NARM for at least 3 years must submit proof of completion of NARM's Midwifery Bridge Certificate within 1 year after this Part is adopted in order to be granted Illinois licensure. Beginning with the 2026 renewal period, all certified professional midwives must complete 20 hours of CE for license renewal. The new Part also permits certified professional midwives to employ assistants for administrative and clerical services and for routine medical tasks such as drawing blood, administering injections, assisting in delivery and newborn care, and assisting in patient daily living care. The certified professional midwife is responsible for ensuring that the assistant receives appropriate training and must be on the premises to supervise the assistant. Other provisions address recordkeeping, reporting

of adverse occurrences (e.g., death or hospitalization of a patient or newborn within 48 hours after delivery), restoration of lapsed licenses, restoration following disciplinary action, standards of professional conduct, and granting of variances. Those affected by this rulemaking include certified professional midwives, their assistants and their employers.

## ■ INTERIOR DESIGN

DFPR also proposed amendments to the Part titled Interior Design Profession Title Act (68 IAC 1255; 46 Ill Reg 20453) updating current professional standards and practices and implementing statutory changes. The rulemaking clarifies that registration as an interior designer may be obtained either by certifying required education and experience and passage of the National Council for Interior Design Qualifications (NCIDQ) exam, or by direct certification from the Council for Interior Design Qualifications (CIDO), subject to review. A new Section has been added under which DFPR may accept graduates of non-approved programs who complete and pass the required examination (the computer-based NCIDQ exam created by CIDO). The rulemaking also specifies experience requirements for graduates of accredited 4- or 5-year interior design or architecture programs (2 years' experience), 3 year programs (3 years' experience) or 2 year programs (4 years' experience) and requires all materials to be submitted within 2

years after an application is filed; otherwise a new application process must be completed. Another new Section requires 10 hours of continuing education (CE) for registration renewal, one hour of which must address professional conduct and ethics and another hour of which must address sexual harassment prevention. All CE may be obtained either in person or online, provided that online instruction includes an examination graded by the education sponsor. Procedures for verifying CE and obtaining waivers of CE requirements are also included. Other provisions update seal and signature requirements and clarify procedures for restoring a lapsed registration. Interior designers and their employers are affected by this rulemaking.

*Questions/requests for copies/comments on the 3 DFPR rulemakings through 2/14/23: Craig Cellini, DFPR, 320 W. Washington, 2<sup>nd</sup> Floor, Springfield IL 62786, 217/785-0810, fax 217/557-4451.*

## ■ HEALTHCARE PROVIDERS

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to the Part titled Underserved Physician Workforce Code (77 IAC 590; 46 Ill Reg 20730) implementing PA 102-888, which amended the Underserved Health Care Provider Act. The rulemaking changes the name of the Part to Underserved Health Care Provider

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# Adopted Rules

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Center and Acute Stroke Ready Hospital Code (77 IAC 515; 46 Ill Reg 8984) effective 12/16/22, replacing emergency amendments that were effective on 5/26/22 and 10/22/22. These amendments allow any Emergency Medical Services (EMS) personnel with a current and unencumbered certification as an Emergency Medical Technician (EMT), Advanced EMT, or Paramedic in the National EMT Registry to serve in an Illinois EMS system on a provisional basis until they receive an Illinois license. The rulemaking also modifies protocols for hospitals to notify DPH and regional EMS system providers when they are temporarily unable to accept new emergency patients (bypass status). During a federal or State declared disaster, hospitals must notify DPH and receive prior approval before going on bypass status. A request for bypass status must include information regarding the length of wait for hospital beds and emergency admissions; state the percentage of currently occupied beds, the number of open ICU beds, and the number of potential discharges; and affirm that the hospital has already implemented a surge plan. The DPH Regional EMS Coordinator will review the request and approve it for a period of 2 hours, 4 hours, or another appropriate length of time, or deny the request. (Since 1<sup>st</sup> Notice, DPH has clarified that bypass requests may be renewed based on a continuing assessment of the situation and has allowed for bypass periods of

longer than 4 hours when necessary.) A hospital will not be permitted to go on bypass status if 3 or more hospitals in the same geographic area are already on bypass status or if transport time to the next nearest hospital will exceed 15 minutes. Bypass status may be requested if no resources (i.e, personnel, equipment, beds) are currently available to treat a given type or class of patient (e.g., stroke, heart attack, trauma) and if all reasonable efforts to remedy the situation have been exhausted (e.g., calling in off-duty staff, canceling elective procedures and admissions). The hospital must also continually monitor the situation to determine when bypass status can be lifted. The rulemaking also requires trauma centers, including pediatric trauma centers, to have at least one Registered Professional Nurse with a current, nationally recognized trauma nursing certification available in the Emergency Department to care for trauma patients at all times, and removes specific requirements for backup RN staffing. Other provisions modify technical and equipment standards for ambulances; establish alternative staffing provisions for private ambulance providers and rural volunteer providers serving communities of fewer than 5,000 residents; and expand the list of required protocols and procedures for EMS services. Additional changes since 1<sup>st</sup> Notice clarify when an EMS provider may transport a patient who is not experiencing a medical emergency to a destination other than a hospital (e.g., mental health

or substance abuse treatment facility) and remove a provision that would have prohibited private ambulance providers with alternate staffing arrangements from participating in out of State mutual aid or disaster assistance calls. Those affected by this rulemaking include volunteer, municipal/fire district, and private ambulance services, and hospital emergency departments.

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

## ■ REV TAX CREDITS

The DEPARTMENT OF REVENUE adopted amendments to Income Tax (86 IAC 100; 46 Ill Reg 14492) effective 12/13/22 implementing PA 102-669, which establishes the Reimagining Electric Vehicles (REV) investment tax credit for tax years that begin on or after 11/16/21. The rulemaking allows taxpayers to claim this credit for investments in depreciable tangible property (e.g., equipment, vehicles, or machinery) at the site of a REV Illinois project (electric vehicle or battery manufacturing facility) approved by the Department of Commerce and Economic Opportunity (DCEO). The credit is equal to 0.5% of the basis of the qualified property and applies to the tax year in which the property is placed in service, unless the credit reduces the taxpayer's

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# Proposed Rulemakings

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Workforce Code and includes advanced practice registered nurses (APRNs) and physician assistants (PAs) among the health care providers eligible for loan repayment assistance. All eligible health care providers must accept payment from Medicare, Medicaid, the State Children's Health Insurance Program, private insurance, or directly from the patient. The rulemaking also adds hospitals and rural health clinics to the medical facilities where eligible health care providers can provide service to fulfill the conditions for educational loan repayment. Those affected by this rulemaking include APRNs and PAs seeking loan repayment assistance and medical facilities that employ them.

## ■ HEALTH CARE WORKERS

DPH also proposed an amendment to Health Care Worker Background Check Code (77 IAC 955; 46 Ill Reg 20767) implementing PA 102-1063, which allows an individual's federal taxpayer identification number to be recorded in DPH's Health Care Worker Registry (which tracks health care worker records, including records of abuse, neglect, or criminal convictions) as an alternative to a Social Security number.

## ■ LONG TERM CARE

DPH proposed amendments to Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 46 Ill Reg 20656), Sheltered Care Facilities Code (77 IAC 330; 46 Ill

Reg 20681), Illinois Veterans' Homes Code (77 IAC 340; 46 Ill Reg 20701) and Specialized Mental Health Rehabilitation Facilities Code (77 IAC 380; 46 Ill Reg 20716) that update incorporations by reference of federal regulations and guidelines, State statutes, and applicable State regulations.

*Questions/requests for copies/ comments on the 6 DPH rulemakings through 2/14/23: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield, IL 62701, 217/782-1159, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov).*

## ■ STATE GRANTS

The GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET proposed amendments to the Part titled Grant Accountability and Transparency Act (44 IAC 7000; 46 Ill Reg 20495) updating the Part and aligning its provisions with current federal regulations. These amendments reflect revised Uniform Guidance from the federal Office of Management and Budget concerning reporting requirements for grantees, evaluation of performance and risk, and other matters. Other changes remove the Uniform Intergovernmental Grant Agreement as the required instrument for all grants from the State to other governmental entities; simplify the indirect cost rate election process; adjust procedures for revising budget and program plans; update statutory citations and web addresses; and clarify various definitions and other language. Units of local government, businesses and non-

profit agencies that apply for grants from State awarding agencies are affected.

*Questions/requests for copies/ comments through 2/14/23: Jennifer Butler, GOMB, 401 S. Spring St., 603 Stratton Building, Springfield IL 62706, [OMB.GATA@illinois.gov](mailto:OMB.GATA@illinois.gov)*

## ■ AIR POLLUTION

The POLLUTION CONTROL BOARD proposed amendments to Permits and General Provisions (35 IAC 201; 46 Ill Reg 20627), Alternative Control Strategies (35 IAC 202; 46 Ill Reg 20638) and Visible and Particulate Matter Emissions (35 IAC 212; 46 Ill Reg 20644) that remove from each Part provisions allowing emitting facilities to obtain advance permission to violate normal emission limitations during start-up, or to continue operating during a malfunction that causes emissions to exceed normal limits. These amendments are intended to remedy findings by the federal Environmental Protection Agency of deficiencies in the Illinois State Implementation Plan for reducing air pollution under the Clean Air Act.

*Questions/requests for copies/ comments on the 3 PCB rulemakings through 2/14/23: Clerk's Office, PCB, 60 E. Van Buren, Suite 630, Chicago IL 60605. Please reference Docket R23-18. Copies of the Board's opinions may be obtained from the Board's Web site at [pcb.illinois.gov](http://pcb.illinois.gov) or by calling the Clerk's office at 312/814-3620.*

# Adopted Rules

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liability to zero, in which case it must be carried forward and applied to the following 5 years of tax liability. Property disposed of by the taxpayer within 48 months after it is purchased will cease to qualify for the credit and will increase the taxpayer's subsequent liability. Businesses investing in REV projects are affected.

*Questions/requests for copies: Jennifer Uhles, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.*

## ■ CANNABIS DISPENSARIES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to Cannabis Regulation and Tax Act (68 IAC 1291; 46 Ill Reg 5127) effective 12/13/22, implementing Public Act 102-98, which requires DFPR to issue at least 50 additional Conditional Adult Use Dispensing Organization Licenses with license allocations determined by lottery on or before 12/21/22. The rulemaking, which has undergone various changes and clarifications since 1<sup>st</sup> Notice, outlines the application and selection process for the 2022 license lottery, including the application fee (\$250); license distribution by federal Bureau of Labor Statistics (BLS) regions and number of licenses to be distributed per BLS region; and the criteria for qualifying as a social equity applicant (individual/entity

adversely affected by enforcement of past cannabis laws or located in a disproportionately impacted area marked by economic distress and a high rate of arrests for cannabis related offenses). Applicants may submit only one application per region and may not apply in more than one region. Procedures for proving social equity applicant eligibility, timelines for submission and review of applications, and procedures for challenging a DFPR finding are included (some have been updated or clarified since 1<sup>st</sup> Notice). Other provisions address the penalties and corrective actions required if two or more applications include the same principal officer, actions to be taken in the event of a principal officer's death, and restrictions placed upon a conditional license. Changes since 1<sup>st</sup> Notice include removing and adding various definitions; removing certain length-of-ownership sale restrictions; specifying that no more than 55 conditional licenses will be issued; and expanding the disproportionate/individual impact criteria for social equity applicants to include residence and convictions occurring in any state and to include victims of firearm injuries. Those affected by this rulemaking include current or potential holders of cannabis dispensing organization licenses.

*Questions/requests for copies: Craig Cellini, DFPR, 320 West Washington St., 2<sup>nd</sup> Floor, Springfield IL 62786, 217/785-0813, fax: 217/557-4451.*

## ■ INDEPENDENT COLLEGES

The BOARD OF HIGHER EDUCATION and the CAPITAL DEVELOPMENT BOARD adopted a joint rulemaking titled Joint Rules of the Board of Higher Education and the Capital Development Board: Independent Colleges Capital Investment Grant Program (46 Ill Reg 12692 and 12671), effective 12/19/22, establishing eligibility, application, fund distribution and other procedures for the program. The BHE rules at 23 IAC 1031 contain the full rule text, while the CDB rules at 71 IAC 45 simply cross reference the BHE rules. Non-public, non-profit higher educational institutions in Illinois (not including private business or vocational schools, schools offering only or primarily online instruction, or seminaries established primarily to train clergy) are eligible for grants from the Build Illinois Bond Fund. Grant funds may be used for construction, repair, renovation or other capital improvements, but may not be used on facilities used for sectarian instruction, religious worship or for a department of divinity, nor may they be used on residential space for non-students or office, retail or storage space unrelated to the educational mission of the institution. As part of the application process, colleges must explain how the proposed project furthers BHE's Strategic Plan, which includes the college developing an equity plan

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## Second Notices

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The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will appear in next week's *Illinois Register* and be considered at the January 10, 2023, meeting in Springfield. Other items not published in the *Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

### DEPT OF CENTRAL MGMT SERVICES

The Travel Regulation Council (80 IAC 3000; 46 Ill Reg 17379) proposed 10/28/22

### DEPT OF COMMERCE & ECONOMIC OPPORTUNITY

Broadband Grant Programs (14 IAC 548; 46 Ill Reg 16666) proposed 10/7/22

### DEPT OF HEALTHCARE & FAMILY SERVICES

Hospital Reimbursement Changes (89 IAC 152; 46 Ill Reg 16346) proposed 9/30/22

### STATE BOARD OF EDUCATION

Special Education (23 IAC 226; 46 Ill Reg 15376) proposed 9/16/22

## Adopted Rules

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and implementing practices that will close gaps in enrollment, retention, graduation and student loan repayment for underrepresented groups. Grantees must also comply with the Business Enterprise for Minorities, Women and Persons with Disabilities Act and the Illinois Works Apprenticeship Initiative. A college that, within 10 years after receiving a grant, is no longer an independent college or ceases to meet any of the project eligibility criteria must repay the grant on a prorated basis (total grant amount divided by 120 months, for each month remaining in the 10-year

period), or if another independent college that meets these criteria has assumed operation of the facilities for which the grant was awarded, the remainder of the grant may be transferred to the successor college. The application, award and post-award processes are subject to the Grant Accountability and Transparency Act (GATA).

*Questions/requests for copies:*  
*Ginger Ostro, BHE, 1 N. Old State Capitol, Suite 333, Springfield IL 62701, [ostro@IBHE.org](mailto:ostro@IBHE.org), or Lauren Noll, CDB, 401 S. Spring St., 3<sup>rd</sup> Floor Stratton Building, Springfield IL 62706, [Lauren.Noll@illinois.gov](mailto:Lauren.Noll@illinois.gov)*

### TELECOMMUNICATIONS

The ILLINOIS COMMERCE COMMISSION adopted an amendment to Uniform System of Accounts for Telecommunications Carriers (83 IAC 710; 46 Ill Reg 3062) effective 12/15/22, updating an incorporation by reference of the federal uniform system of accounts for telecommunications carriers to the version in effect as of 11/1/21 (formerly, 9/3/13).

*Questions/requests for copies:*  
*Brian W. Allen, ICC, 527 E. Capitol Ave., Springfield, IL 62701, 217/558-2387.*