

The Flinn Report Illinois Regulation

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Joint Committee on Administrative Rules
Illinois General Assembly

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Issue 1

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

FAMILY PLANNING

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Medical Assistance Programs (89 IAC 120; 47 Ill Reg 14) and Medical Payment (89 IAC 140; 47 Ill Reg 32) implementing Public Act 102-665, which establishes a Family Planning Program to provide targeted medical assistance coverage for persons of childbearing age who do not qualify for regular Medicaid/Medical Assistance. Amendments to Part 120 extend Family Planning Program eligibility to Illinois residents who are not pregnant at the time of enrollment, do not otherwise qualify for Medical Assistance under the Public Aid Code, and whose income is at or below 208% of the Federal Poverty Level, with all applicable disregards, for a household of 1 or 2 persons. For purposes of eligibility

determination, only the income of the applicant is considered and no household members beyond 2 are counted. Coverage continues until the individual no longer qualifies for the Family Planning Program or qualifies for full Medicaid/Medical Assistance coverage. Family Planning Presumptive Eligibility

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Next JCAR Meeting:
Tues. Jan. 10, 10:30 a.m.
Rm C-1, Stratton Bldg.,
Springfield

Live streaming at JCAR website

providers may immediately grant presumptive eligibility and provide covered services to individuals whom they determine meet eligibility criteria. Presumptive eligibility continues until HFS processes the individual's complete application, or if the individual does not file an

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Adopted Rules

INFERTILITY COVERAGE

The DEPARTMENT OF INSURANCE adopted amendments to the Part titled Infertility Coverage (50 IAC 2015; 45 Ill Reg 16140) effective 12/20/22, implementing various changes to the Illinois Insurance Code [215 ILCS 5] as it applies to group health insurance policies that provide pregnancy-related coverage to businesses with 25 or more full-time employees. This rulemaking aligns the definition of "infertility" with that added to the Code by PA 102-170, which includes: failure to establish a pregnancy or carry it to live birth after 12 months of regular, unprotected sexual intercourse (6 months for women over age 35); inability to reproduce, either as a single individual or with a partner, without medical intervention; or the findings of a licensed physician

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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) and General Assembly (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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based on a patient's medical, sexual and reproductive history. The rulemaking also requires freezing and storage of sperm, oocytes or embryos to be covered for a covered individual undergoing medical treatment that could cause infertility (e.g., radiation); prohibits certain coverage exclusions for fertility services provided by a surrogate; and removes selective abortion of an embryo from the list of generally allowable coverage exclusions (formerly, coverage of selective termination was required only when the mother's life would be threatened by carrying all implanted embryos to term). It also implements gender neutral language (e.g., clarifying that the term "woman," as used in the Code, does not limit a person's actual or perceived gender identity) and clarifies that the Part does not apply to policies that provide excepted benefits as defined in federal or State law. Since 1st Notice, DOI has clarified the extent of coverage that must be provided to surrogates under the policy of the covered individual who sought the services of the surrogate, and clarified that in situations where the infertility coverage requirements of the federally mandated Illinois Benchmark Plan and the Insurance Code differ, the standard that requires greater coverage will apply. Those affected by this rulemaking include providers of infertility care and insurance providers that provide pregnancy-related coverage.

INSURANCE

DOI adopted amendments to Registration of Insurers (50 IAC 652; 46 Ill Reg 14831) effective 12/20/22, that allow insurance holding company groups to request an exemption from the requirement for a full Group Capital Calculation filing in their first year, or to request permission for a limited filing, under certain conditions and at the discretion of the DOI Director. DOI also adopted amendments to Universal Life Insurance (50 IAC 1411; 46 Ill Reg 9457) effective 12/20/22 that correct an erroneous cross reference and change the language in a subsection referring to misstatement of age or sex to refer only to misstatements of age.

Questions/requests for copies of the 3 DOI rulemakings: Part 2015, Ryan Gillespie (217/558-2746); Part 652, Susan Berry (217/782-1759); Part 1411, Arlene Mehsling (217/785-9022); DOI, 320 W. Washington St., Springfield, IL 62767.

■ DRIVER'S LICENSES & IDS

The SECRETARY OF STATE adopted amendments to Issuance of Licenses (92 IAC 1030; 46 Ill Reg 15069 and 15522) effective 12/21/22, combining two separately proposed rulemakings. The amendments implement PA 102-1011 by including licensed physical therapists among the medical professionals who may certify a person's disability for purposes of obtaining a Person with a Disability Identification

Card. The rulemaking also removes the requirement that Illinois Commercial Driver's License (CDL) applicants who hold valid out of State CDLs retake their CDL written and pre-trip/skills/road exams. (SOS had temporarily waived this requirement during the COVID-19 public health emergency but has now abolished it permanently, since federal rules require all states to administer CDL exams using the same source of knowledge test questions and same criteria for road tests, and Illinois was the only state that required re-testing.) Those affected by this rulemaking include out of State CDL applicants and their employers.

SOS also adopted an amendment to Cancellation, Revocation or Suspension of Licenses or Permits (92 IAC 1040; 46 Ill Reg 15539) effective 12/21/22, imposing a 12-month license suspension on persons under age 21 who are convicted of possession of cannabis while in a motor vehicle or of using fraudulent identification to purchase cannabis. For a second or subsequent conviction or a first offense while a revocation is pending, the license shall be revoked.

TITLE FEES

SOS adopted amendments to Collection of Fees (92 IAC 1003; 46 Ill Reg 14529) effective 12/21/22, implementing PA 102-845 by

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Proposed Rulemakings

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application, until the last day of the following month. The Part 140 rulemaking authorizes Family Planning Program coverage for physical exams, including annual preventive examinations; screenings for sexually transmitted disease, HIV, and cervical cancer; lab tests; contraceptive counseling and education; contraceptive devices, supplies, and prescriptions; surgical sterilization procedures; and fertility preservation services. Fertility preservation coverage requires prior approval and is limited to medically necessary office visits, pelvic ultrasounds, sperm and oocyte freezing and storage, medications/injectables, and lab testing. Family planning related services covered as part of, or as follow-up to, family planning visits include: treatment of unintended medical consequences from insertion or removal of a medical device (e.g., an IUD); follow-up testing, lab work or treatment for abnormal or incidental findings made during an examination; vaccines for preventable reproductive health related conditions (e.g., HPV); breast mammograms/tomography and, if necessary, BRCA genetic counseling and testing; abortion care; removal of STD lesions discovered during an exam; prescription-only prenatal vitamins and folic acid; expedited partner drug treatment for STDs; prescriptions for HIV pre-exposure prophylaxis (PrEP) and post-

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Emergency Rules

DRIVER'S LICENSES

The SECRETARY OF STATE adopted emergency amendments to Issuance of Licenses (92 IAC 1030; 47 Ill Reg 268) effective 12/20/22 for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 47 Ill Reg 73. The emergency and proposed rules implement PA 102-1103 by extending an exemption from required road testing for driver's license renewal applicants ages 75-78 until 10/1/23. (Commercial Driver's License (CDL) holders age 75 and older must continue to take the road test.) These rulemakings also allow drivers whose licenses expired in 2020, 2021 or 2022 and have violations that require them to take a written test every other renewal cycle to defer the written test for another renewal cycle if they were due to take the test on or prior to 12/31/22. This deferral does not apply to CDL holders.

Questions/requests for copies/comments on the proposed rulemaking through 2/21/23: Pamela Wright, SOS, 298 Howlett Building, Springfield IL 62756, pwright@ilsos.gov

■ POLICE TRAINING

The LAW ENFORCEMENT TRAINING AND STANDARDS BOARD adopted emergency amendments to the Parts titled Illinois Police Training Act (20 IAC

1720; 47 Ill Reg 216), Intern Training Program (20 IAC 1725; 47 Ill Reg 243) and Part-Time Basic Training (20 IAC 1770; 47 Ill Reg 253) all effective 12/15/22 for a maximum of 150 days. Identical proposed amendments appear in this week's *Register* at 47 Ill Reg 65, 68, and 70. The emergency and proposed rules implement provisions of the SAFE-T Act (PA 102-652) concerning police training and qualifications for certification as officers. Local law enforcement agencies are affected by these rulemakings.

All Officers

Amendments to Parts 1720 and 1770 require newly hired full- and part-time officers, in order for their certification to become active, to undergo a thorough background check and their employing law enforcement agency must confirm that they have completed an approved training academy and passed the certification exam. Officers have 3 opportunities to pass the certification exam. Previously certified officers seeking recertification must also undergo a background check before they can be recertified. Officers that were certified in another state or by the federal government must have their prior training and certification verified and must pass the LETSB equivalency exam. Convictions that disqualify an applicant from

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establishing procedures for purchasers of qualified vehicles that were manufactured in Illinois to obtain a \$25 rebate of their title fees. The vehicle owner must request the rebate within 1 year after purchase and submit the request on a form provided at the SOS website. Proof of payment of the title fee and the Vehicle Identification Number of the purchased vehicle must be submitted with the form.

Questions/requests for copies of the 3 SOS rulemakings: Pamela Wright, SOS, 298 Howlett Building, Springfield IL 62756, 217/785-3094, pwright@ilsos.gov

■ CHILD CARE

The DEPARTMENT OF HUMAN SERVICES adopted amendments to Child Care (89 IAC 50; 46 Ill Reg 13603) effective 12/20/22, establishing procedures to address intentional program violations or fraud on the part of parents or child care providers enrolled in the Child Care Assistance Program (CCAP). Intentional program violations include providing false or misleading statements to DHS concerning a parent's employment or education/training enrollment, income, number or age of children in the household; claiming CCAP assistance for care provided by an ineligible provider; falsifying sign-in/sign out records or billing for days of care that were not provided; failing to comply with health and safety training requirements; or failing to comply

with DCFS child care licensing requirements. Examples of fraud including knowingly creating or manufacturing fictitious children or child care settings or creating false pay stubs, school registrations, or other documents. Sanctions that may be imposed for intentional violations include a warning (if no improper payment is involved), repayment of improper payments, or repayment plus suspension or termination from CCAP. Hearing processes for parents and providers appealing determinations of violations or fraud are outlined. Child care providers whose employees are covered by collective bargaining agreements are exempt from these rules and should refer instead to the relevant portion of their agreements. Child care providers taking part in CCAP are affected.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Building, 3rd Floor, Springfield IL 62762, 217/785-9772.

DEER HUNTING

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to White-Tailed Deer Hunting By Use of Firearms (17 IAC 760; 46 Ill Reg 14848) effective 1/1/23, implementing Public Act 102-932, which adds centerfire rifles to the firearms that may be used in deer hunting. The rulemaking also clarifies that hunters may carry multiple firearms in the field so long as they are legal hunting devices,

and that non-hunting firearms may be carried only in accordance with the Firearm Concealed Carry Act.

Questions/requests for copies: John Fischer, DNR, One Natural Resources Way, Springfield IL 62702, 217/782-1809.

■ DATA CENTERS

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted a new Part titled Data Center Investment Program (14 IAC 521; 46 Ill Reg 5010) effective 12/22/22, implementing rules for companies seeking to participate in DCEO's data center investment program. The program grants exemptions from local sales and use taxes, as well as State income tax credits, to qualifying new or existing computer data centers that have made, or plan to make, expansions or upgrades. A data center is defined as a facility whose primary services are storage, management, and processing of digital data and which houses computer or network systems; systems for monitoring and managing infrastructure performance; internet-related equipment and services; data communications connections; environmental controls; fire protection systems; or security systems and services. A qualifying data center must be located in Illinois and must have made, or be committed to making, a capital investment of at least \$250 million over 5 years. An existing data

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exposure prophylaxis (PEP); and transportation services when needed for family planning and family planning related visits. Treatment for chronic conditions such as HIV/AIDS and hepatitis is not covered under this program. Those affected by these rulemakings include healthcare providers and local health departments that provide covered services or determine presumptive eligibility.

Questions/requests for copies/ comments on the 2 HFS rulemakings through 2/21/23: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, HFS.Rules@illinois.gov

HOMEOWNER ASSISTANCE

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY proposed an amendment to Homeowner Assistance Fund Programs (47 IAC 302; 47 Ill Reg

58) that will, upon adoption, replace an emergency amendment that was effective 11/2/22. The amendment increases the maximum allowable grant (to assist homeowners impacted by the COVID-19 pandemic and in need of assistance in paying their mortgages or other housing costs) from \$30,000 to \$60,000.

Questions/requests for copies/ comments through 2/21/23:

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police academy enrollment and training now include, in addition to felonies or crimes of moral turpitude, decertifiable misdemeanors as defined in the Police Training Act (non-felony offenses that require revocation of an officer's LETSB certification). These rulemakings also update physical fitness standards for academy admission.

Full-Time Officers

Amendments to Part 1720 require full-time officers to be certified by the Board, or recertified if they have been inactive, before they can function as law enforcement officers or carry firearms in connection with law enforcement duties. Officers that were actively employed as of 7/1/22 but do not have LETSB certification may receive transitional certification. Officers who were previously issued waivers or given

provisionary accommodations will be reviewed on a case-by-case basis, and the Board may require them to take certain police training courses, pass a certification exam, or meet other conditions. The minimum passing score for certification exams and for the equivalency exam for officer candidates not trained at an Illinois police academy is 66% (previously, the Board established a minimum score between 60% and 80%).

Interns

The Part 1725 rulemaking requires interns to meet the standards set in the Police Training Act, pass the State intern exam with a score of at least 66% and meet the physical fitness standards established in Parts 1720 and 1770.

Part-Time Officers

Amendments to Part 1770 modify the existing requirement that part-

time officers complete a physical fitness test and enroll in the LETSB Part-Time Basic Training Course within 6 months after hiring and complete the course within 18 months after hiring. The rulemaking allows part-time officers who leave a position before completing these requirements to restart the timeframes for completion when they are hired by another agency, unless the gap between these appointments is less than 10 days. Part-time officers who did not fulfill these requirements in the past may re-enroll in the training program if they are hired by another agency. LETSB may waive part-time training requirements for officers with extensive prior law enforcement experience who are seeking part-time employment. Part-time certified officers seeking full-time employment with a waiver of full-time training requirements

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center may qualify based on a capital investment made in the 5 years preceding 1/1/20; new centers or existing centers undergoing expansion must make this investment in a 5-year period beginning on or after 1/1/20. During this 5-year period, a qualifying data center must create at least 20 new full-time or equivalent jobs that, in aggregate, pay at least 20% above the average full-time wage in the county where the data center is located. A qualifying data center must also certify to DCEO, within 90 days after beginning service, that it is carbon neutral or has attained certification as a green building under recognized national standards, and must have a project labor agreement approved by DCEO. A qualifying data center may receive a State income tax credit equal to 20% of wages paid to employees of its construction contractor if the construction project is located in an economically distressed area. Tax exemptions are renewable every 5 years for a maximum of 20 years. The rules also outline the program application process, the required memoranda of understanding (MOU) between DCEO and participating businesses, consequences of noncompliance with an MOU, and the appeal process for participants appealing a DCEO finding of noncompliance. Those affected by this rulemaking include small municipalities in which data centers may be located and small businesses providing construction or other services to these centers.

Questions/requests for copies: Bridget Schutt, DCEO, 555 W. Monroe St., Suite 1200, Chicago IL 60611, Bridget.Schutt2@illinois.gov

■ EQUAL PAY ACT

The DEPARTMENT OF LABOR adopted amendments to the Part titled Equal Pay in Employment (56 IAC 320; 46 Ill Reg 8023) effective 12/22/22, implementing Section 11 of the Equal Pay Act of 2003, which requires Illinois businesses with more than 100 employees that file annual reports with the federal Equal Employment Opportunity Commission to apply to DOL for equal pay registration certificates every 2 years. This rulemaking establishes timelines for businesses and DOL to fulfill this requirement; establishes what data must be reported to the DOL and in what format; clarifies compliance with wage laws; and establishes that DOL, after giving notice of a violation, must provide 30 days for an employer subject to Section 11 to come into compliance. The rulemaking also outlines the process for DOL to notify an employer that an application for a certificate has been rejected, or that a certificate has been suspended or revoked, and for an affected business to appeal these decisions. Provisions for employees of large private businesses to request data concerning pay for their job classification are also established. Other provisions allow electronic payment of fines and fees, add a Section for incorporated and referenced materials, and add recordkeeping requirements for

compliance with PA 100-1140, which prohibits employers with 4 or more employees from discriminating against African-American employees with regard to pay (this provision affects small businesses). Since 1st Notice, DOL has clarified that employers must be notified of an investigation within 30 days after a complaint is filed and given an opportunity to respond; that the scope of DOL investigations is limited to 5 years; and has clarified instructions for employers to report wages.

Questions/requests for copies: Anna Koepfel, DOL, Lincoln Tower Plaza, 524 S. Second St., Suite 400, Springfield IL 62701, 217/558-1270, Anna.Koepfel@illinois.gov

Emergency Rules

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may be required to complete a transitional course. Agencies employing part-time officers on or after 7/1/22 may request a waiver allowing officers who have completed 6 months of basic academy training, passed Unit 7 of the part-time academy, and completed the mandatory firearms training course, to begin working as part-time officers.

Questions/requests for copies/comments on the 3 proposed LETSB rulemakings through 2/21/23: Jennifer Wooldridge, LETSB, 4500 S. Sixth St. Road, Springfield IL 62703, 217/782-4540, ptb.comments@illinois.gov

Proposed Rulemakings

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Kathryn Finn, IHDA, 111 E. Wacker Dr., Suite 1000, Chicago IL 60601.

DUAL CREDIT CLASSES

The ILLINOIS COMMUNITY COLLEGE BOARD proposed an amendment to the Part titled Administration of the Illinois Public Community College Act (23 IAC 1501; 47 Ill Reg 1) implementing Public Act 102-1077. The Act and this rulemaking allow high school students who may not otherwise meet a community college district's academic eligibility requirements to enroll in a dual credit course taught at the high school, for high school credit only. The rulemaking also implements, effective 1/1/23, the following requirements for high school instructors seeking credentials to teach dual credit classes: the instructor must have a master's degree in any subject and have earned at least 9 graduate credit hours in a subject the instructor is currently teaching, or expects to teach; or if the instructor teaches career and technical education (CTE) classes, the instructor must have completed at least half of the institution's requirements for faculty in the subject to be taught. In either case, the instructor must have a professional development plan, approved by the college, for achieving the credentials needed for college level instruction.

Questions/requests for copies/ comments through 2/21/23: Matt Berry, ICCB, 401 E. Capitol Ave.,

Springfield IL 62701-1711, 217/785-7411, fax: 217-524-4981, Matt.Berry@illinois.gov

UNIVERSITY EMPLOYMENT

The STATE UNIVERSITIES CIVIL SERVICE SYSTEM proposed amendments to the Part titled State Universities Civil Service System (80 IAC 250; 47 Ill Reg 75) concerning the hiring of university police officers and appointment of designated employer representatives (DERs). (The provisions for hiring police officers will, upon adoption, replace emergency rules that were effective 12/1/22.) The rulemaking allows universities to hire officers who have served as sworn police officers within the past 24 months and requested placement on a transfer list of candidates for campus police positions. (Existing rule allows only current municipal, county or State police officers to be placed on and hired from a transfer list.) Candidates who are not currently serving on another police force must have, or be eligible to receive, certification from the Law Enforcement Training and Standards Board and must pass screening and background investigations which may include fingerprinting, police records checks, credit checks, and inquiries of neighbors, relatives and employers. The number of vacancies that can be filled by these candidates during any 24-month period is also limited, based on the size of the university police department. The proposed rulemaking also establishes an appointment process for DERs

from each university in the System. DERs are administrative officials who act as liaisons between each university and SUCSS regarding their actions and responsibilities in relation to the State Universities Civil Service Act and this Part. Each employing university must report its DER's name, title, address, phone number, e-mail, and date of appointment to SUCSS on a System-provided form. Any employing university that does not have a current DER form on file with SUCSS is not authorized to complete any employment transactions (e.g., hiring, promotion, termination) that are subject to the Act and this Part. University officials cannot appoint themselves as DERs and any such appointment will not be recognized by SUCSS. If a DER terminates employment with the university, a new DER must be appointed immediately (within 3 business days if the departure is sudden or unanticipated). A DER may file a signature authorization form with SUCSS that allows a designee to sign documents in the DER's absence. In the event of a sudden or unanticipated departure of the DER, the designee's signature authority expires in 3 business days or upon the appointment of a new DER, whichever is sooner.

Questions/requests for copies/ comments through 2/21/23: Gail Schiesser, SUCSS, 1717 Philo Rd. Suite 24, Urbana IL 61802, 217/278-3150, rulemaking@sucss.illinois.gov

Second Notices

The following rulemaking was moved to Second Notice this week by the agency listed below, commencing the JCAR review period. This rulemaking will be considered at the January 10, 2023, meeting in Springfield. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning this rulemaking should be addressed to JCAR using the contact information on page 1.

IL STATE POLICE

Firearm Owner's Identification Card Act (20 IAC 1230; 46 Ill Reg 17910) proposed 11/14/22

Joint Committee on Administrative Rules

Senator Bill Cunningham, <i>co-chair</i>	Representative Tom Demmer
Senator John F. Curran	Representative Michael Halpin
Senator Donald DeWitte	Representative Frances Ann Hurley
Senator Don Harmon	Representative Steven Reick
Senator Kimberly Lightford	Representative Curtis Tarver, II
Senator Sue Rezin	Representative Keith Wheeler, <i>co-chair</i>

Kim Schultz
Executive Director