

The Flinn Report Illinois Regulation

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Joint Committee on Administrative Rules
Illinois General Assembly

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Issue 2

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

■ AUTISM SERVICES

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Medical Payment (89 IAC 140; 47 Ill Reg 315) implementing Public Act 101-10, which mandates coverage of treatment for autism spectrum disorders on and after 2/1/22. The rulemaking authorizes payment for Adaptive Behavior Support (ABS) services provided by Behavioral Health Clinics or independent ABS clinicians, who may include Board Certified Behavior Analysts, Licensed Clinical Psychologists, Licensed Clinical Professional Counselors, Licensed Clinical Social Workers, Licensed Marriage and Family Therapists, licensed Occupational Therapists, or licensed Speech-Language Pathologists. ABS services may also be provided by ABS technicians working under the supervision of an ABS clinician. A

new Section lists covered ABS services (which may be subject to prior authorization) that include Behavior Assessment and Treatment Planning (on at least a semi-annual basis) and Behavior Analysis Intervention, which includes Applied Behavior Analysis (ABA) and ABA coaching or training for parents/caregivers. Services not covered under this

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Section include comprehensive diagnostic evaluation; any activities or interventions that involve restraint or seclusion; psychiatric/mental health assessments and therapies intended to address other behavioral health needs; activities that are solely educational, social or recreational; and services provided under an Individualized

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Adopted Rules

TEACHING STANDARDS

The STATE BOARD OF EDUCATION adopted amendments to the Part now titled Standards for All Illinois Educators (23 IAC 24; 46 Ill Reg 9173), effective 12/29/22, introducing a new system of competency-based standards known as the Illinois Professional Educator Standards (IPES), effective 7/1/26. The current Illinois Professional Teaching Standards will remain in effect through 6/30/26. The rulemaking changes the name of the Part (formerly titled Culturally Responsive Teaching and Leading Standards for All Illinois Educators) and requires educator preparation programs to align with the IPES by 10/1/25. The IPES are organized into 5 categories: Learning Environment; Instruction; Instructional Assessment; Collaboration and

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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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Communication; and Professional Expectations and Pursuit of Growth Opportunities. Specific expectations of competent teachers in each category are listed. Examples of competent teacher expectations under Learning Environment include: reflecting school, local and State safety and public health regulations; integrating culturally responsive materials and resources into the learning environment; accommodating/modifying the learner environment based on learner needs; utilizing developmentally appropriate resources, procedures and expectations; and co-constructing the learning environment with learners and families. Examples of expectations for Instruction include aligning with prescribed learning standards and using technology and remote learning strategies that are developmentally appropriate and accessible to learners. Instructional Assessment expectations include, but are not limited to, using assessments that are justifiable, equitable, accessible, developmentally appropriate, challenging, engaging, collaborative, supportive, protective, and informing. Collaboration and Communication expectations include collaborating with learners, families and other professionals; applying the multiple perspectives of learners, families and colleagues in practice; and other expectations. Professional Expectations and Pursuit of Growth Opportunities expectations include, among others, critically

analyzing one's personal biases and critically analyzing policies that are discriminatory, oppressive, or otherwise harmful to students, families, communities or teachers. Those affected by this rulemaking include prospective educators and institutions providing or sponsoring Illinois educator preparation programs.

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

■ FIREFIGHTERS

The OFFICE OF THE STATE FIRE MARSHAL adopted amendments to the Part now titled Requirements for the Participation and Certification of Fire Protection Personnel (41 IAC 141; 46 Ill Reg 15078) effective 1/1/23, reflecting the current requirements, practices and terminology of OSFM's Division of Personnel Standards and Education. The rulemaking changes the name of the Part (formerly, Policy and Procedures Manual for Fire Protection Personnel); updates National Fire Protection Association (NFPA) standards and editions incorporated in OSFM rules for individual firefighter certification requirements; allows computerized access to training records, testing, certifications, training facility approvals and course approvals; eliminates obsolete Sections and creates new Sections to align with the most effective procedures and with statutory revisions; and consolidates and revises claims

reimbursement provisions. Those affected by this rulemaking include local fire departments and fire service personnel.

Questions/requests for copies: Nancy Robinson, OSFM, 1035 Stevenson Drive, Springfield IL 62703, 217/785-7629, Fax: 217/524-5487.

■ WATER TESTING

The ILLINOIS ENVIRONMENTAL PROTECTION AGENCY adopted amendments to Testing Fees For Analytical Services (35 IAC 691; 46 Ill Reg 12384) effective 12/29/22, requiring community water supplies to submit water samples to IEPA for annual testing once each calendar year (formerly, once each State fiscal year). The rulemaking also updates the mailing address for IEPA's laboratory and provides a link for paying laboratory fees electronically. Municipalities with community water supplies are affected.

Questions/requests for copies: Nick Kondelis, IEPA, 1021 N. Grand Ave. East, Springfield IL 62794-9276, 217/782-5544.

Proposed Rulemakings

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Family Service Plan or Individualized Education Plan. Providers of ABS or ABA services may be affected by this rulemaking.

Questions/requests for copies/comments through 2/27/23: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, HFS.Rules@illinois.gov

■ ASSISTED LIVING

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Assisted Living and Shared Housing Establishment Code (77 IAC 295; 47 Ill Reg 356) updating life safety requirements, raising fines for violations, and clarifying complaint investigation procedures. The rulemaking updates the definition of an assisted living establishment to reflect current statutes and updates life safety requirements and bathtub/shower requirements for assisted living units. The new requirements will apply to new establishments constructed on or after the date these rules are adopted; existing establishments that have been licensed or approved for construction as of 12/30/22 will remain subject to current standards. Fees for licensure applications are increased to \$6,000 (currently \$2,000) for assisted living establishments, \$60 (currently \$20) per licensed unit in an assisted living establishment, and \$3,000 (currently \$1,000) for shared housing establishments. Fines are also being increased from \$500 to

Peremptory Rule

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted peremptory amendments to Pay Plan (80 IAC 310; 47 Ill Reg 576) effective 12/29/22, implementing 3 memoranda of understanding with AFSCME. The peremptory rule replaces the title of Historical Documents Conservator I (Abraham Lincoln Presidential Library and Museum) with Historical Documents Conservator; adds the title of Historical Research Editor (ALPLM); and consolidates the

\$1,500 for first-time Type 2 violations; \$1,000 to \$3,000 for repeat Type 2 violations; \$2,000 to \$6,000 for first-time Type 1 (serious/endangering) violations; and from \$6,000 to \$20,000 for repeat Type 1 violations. An establishment that cares for a resident whose needs exceed those that assisted living centers are authorized to provide (i.e., the resident requires sheltered care or skilled/intermediate care) will be fined \$1,500 (currently \$500) for the first violation and \$3,000 (currently \$1,000) for subsequent violations, with each day of unauthorized care counted as a separate violation. The rulemaking clarifies that DPH must conduct an on-site investigation of any complaint that does not involve abuse or neglect within 30 days of the complaint (existing rule requires on-site investigation of abuse/

titles of Veterans Educational Specialist I, II and III (Department of Veterans' Affairs) into a single Veterans Educational Specialist title. All the affected titles are assigned to an AFSCME bargaining unit and assigned bargaining unit pay grades. Six DVA employees and one ALPLM employee are affected.

Questions/requests for copies: Jason R. Doggett, CMS, 504 William G. Stratton Bldg., Springfield IL 62706, 217/782-4267, fax 217/524-4570, CMS.PayPlan@Illinois.gov

neglect reports within 24 hours if a resident's life or safety is in imminent danger and within 7 days otherwise). Other provisions specify the information to be included in an establishment's statement of correction (outlining actions that will be taken to remedy violations); define a reportable serious incident or accident as any occurrence that causes a resident physical or emotional harm or injury; and implement Public Act 102-1007 by requiring establishments to inform employees of available employee assistance programs. Assisted living and shared housing establishments are affected by this rulemaking.

Questions/requests for copies/comments through 2/27/23:

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JCAR Meeting Action

At its 1/10/23 meeting, the Joint Committee on Administrative Rules approved the following actions:

OBJECTION

JCAR objects to the Secretary of State rulemaking titled Notary Public Records (14 IAC 176; 46 Ill Reg 5874) because of serious technical errors and significant outstanding issues from commenters. 1 IAC 220.900(a)(2)(F) requires rulemakings to be free of serious technical errors, redundancies and grammatical or typographical errors that could affect the meaning of the rules. Furthermore, 1 Ill. Adm. Code 220.900(a)(3)(E) requires agencies to adequately respond to public comments concerning the rulemaking. Although the Secretary of State has worked with JCAR staff to address many of these concerns in the final version of the rule, making changes of this volume and complexity to a rulemaking without additional public review would circumvent a full public comment process. The Secretary of State has indicated its intent to withdraw this rulemaking and refile the latest agreed-upon version as a new rulemaking so that all interested parties have the opportunity to comment again.

RECOMMENDATION

With regard to the Illinois Gaming Board's rulemaking title Video Gaming (General) (11 IAC 1800; 46 Ill Reg 14742), JCAR recommends that the Board be more timely in placing policies of general applicability in administrative rule and refrain from

enforcing policies of general applicability before they are properly adopted in rule. The Board has been issuing temporary identification badges for video gaming licensees for at least 10 years.

EXTENSIONS

JCAR and the respective agencies agreed to extend the Second Notice periods for the following rulemakings an additional 45 days. These rulemakings will be considered again at the February 14, 2023 meeting.

Department of Commerce and Economic Opportunity, Broadband Grant Programs (14 IAC 548; 46 Ill Reg 16666)

State Police Merit Board, Procedures of the Department of State Police Merit Board (80 IAC 150; 46 Ill Reg 8066)

JCAR MEMBERSHIP CHANGES

The Committee welcomed new member Sen. Cristina Castro, D-Elgin. Sen. Castro has been chosen by the Senate Democratic caucus to replace Sen. Don Harmon, D-Chicago.

JCAR also thanked Rep. Tom Demmer, R-Dixon, and co-chair Rep. Keith Wheeler, R-Oswego, for their service. Reps. Demmer and Wheeler were appointed to JCAR by the House Republican caucus in 2016. Their terms in the General Assembly expired this week.

Proposed Rulemakings

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

AABD BENEFITS

The DEPARTMENT OF HUMAN SERVICES proposed

amendments to Aid to the Aged, Blind or Disabled (89 IAC 113; 47 Ill Reg 344) implementing the 2023 monthly grant adjustment allowance. The grant adjustment increases the allowance from \$662.90 to \$735.90, reflecting the January 2023 Supplemental Security Income (SSI) 8.7% increase. Shelter care rates are

also increased by 10% pursuant to PA 102-699.

Questions/requests for copies/ comments through 2/27/23: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Building, 3rd Floor, Springfield IL 62762, 217/ 785-9772.

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 appear in next week's *Illinois Register* and be considered at the February 14, 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 AGRICULTURE

Grain Code (8 IAC 281; 46 Ill Reg 14808) proposed 9/9/22

DEPT OF HEALTHCARE & FAMILY SERVICES

Hospital Services (89 IAC 148; 46 Ill Reg 16331) proposed 9/30/22

DEPT OF PUBLIC HEALTH

Newborn Metabolic Screening Code (Repealer) (77 IAC 661; 46 Ill Reg 15454) proposed 9/16/22

Newborn and Infant Screening and Treatment Code (New Part) (77 IAC 661; 46 Ill Reg 15473) proposed 9/16/22

Recreational Area Code (77 IAC 800; 46 Ill Reg 14415) proposed 8/19/22

Youth Camp Code (77 IAC 810; 46 Ill Reg 14438) proposed 8/19/22

Illinois CLEAR-Win Program Code (77 IAC 843; 46 Ill Reg 16351) proposed 9/30/22

Manufactured Home Installation Code (77 IAC 870; 46 Ill Reg 14463) proposed 8/19/22

Modular Dwellings and Mobile Structures Code (77 IAC 880; 46 Ill Reg 14473) proposed 8/19/22

Health Care Data Collection and Submission Code (77 IAC 1010; 46 Ill Reg 15951) proposed 9/23/22

OFFICE OF THE STATE FIRE MARSHAL

Petroleum Equipment Contractor Licensing (41 IAC 172; 46 Ill Reg 15982) proposed 9/23/22

General Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 IAC 174; 46 Ill Reg 16029) proposed 9/23/22

Technical Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 IAC 175; 46 Ill Reg 16068) proposed 9/23/22

Administrative Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 IAC 176; 46 Ill Reg 16181) proposed 9/23/22

Compliance Certification for Underground Storage Tanks (41 IAC 177; 46 Ill Reg 16206) proposed 9/23/22

Underground Storage Tank Fund Eligibility and Deductible Determinations by the Office of the State Fire Marshal (41 IAC 178; 46 Ill Reg 16212) proposed 9/23/22

SECRETARY OF STATE

Certificates of Title, Registration of Vehicles (92 IAC 1010; 46 Ill Reg 17084) proposed 10/14/22

STATE EMPLOYEES' RETIREMENT SYSTEM

The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; 46 Ill Reg 17902) proposed 11/14/22