

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

▪ LANDSCAPE ARCHITECTURE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Landscape Architecture Registration Act (68 IAC 1275; 48 Ill Reg 18059) that replace the term "licensing" with "registration" and increase the registration fee from \$100 to \$175 for initial registration (does not include exam fee) and from \$60 to \$125 for each 2-year renewal. Restoration of a lapsed registration is \$50 plus all lapsed renewal fees up to a maximum of \$425 (currently, \$230), and new fees for returned checks and for penalties for practicing with a nonrenewed registration are added. A new requirement for 24 hours of continuing education (CE) during each 2-year renewal period, 16 of which must address core subjects of health, safety and welfare, and which must include 1 hour of sexual harassment prevention training required of all DFPR licensees and registrants, has

been added. Approved forms of CE are listed and CE may be earned via online or self-administered courses that meet DFPR's requirements. Other provisions specify when CE requirements may be waived and authorize DFPR to require a foreign applicant for registration by endorsement to complete the

Emergency Rule, Page 2
Adopted Rules, Page 3
Second Notices, Page 4

required registration exam. Landscape architects and their employers are affected.

▪ COUNSELING

DFPR also proposed amendments to the Parts titled Marriage and Family Therapy Licensing Act (68 IAC 1283; 48 Ill Reg 18075), Professional Counselor and Clinical Professional Counselor Licensing Act (68 IAC 1375; 48 Ill Reg 18081) and Clinical Psychologist

Licensing Act (68 IAC 1400; 48 Ill Reg 18095) to correct errors or omissions in previous rulemakings. An amendment to Part 1283 aligns the qualifications for those professionals (psychiatrists, licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed clinical professional counselors) who may provide the first 100 hours and second 100 hours of the required 200 hours of clinical supervision for a marriage and family therapy licensing candidate. The Part 1375 and 1400 rulemakings clarify that a licensed clinical professional counselor or licensed clinical psychologist seeking restoration of a license that has been lapsed 5 years or less, and who has no record of disciplinary action in Illinois or any other state, is granted a one-time exemption from the renewal fee and other documentation requirements.

(cont. page 2)

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

(cont. from page 1)

Psychologists, counselors, and marriage and family therapists are affected by these rulemakings.

• BEHAVIOR ANALYSIS

Finally, DFPR proposed amendments to Behavior Analyst Licensing Act (68 IAC 1376; 48 Ill Reg 18088) that add a fingerprint background check conducted by an Illinois State Police livescan vendor or another DFPR-approved vendor to the licensing requirements for behavior analysts and assistant behavior analysts. The rulemaking also reflects statutory provisions that exempt individuals who have been licensed in another jurisdiction for 10 consecutive years or more without discipline from having to submit proof of education, professional experience, and supervision to be licensed by endorsement in Illinois. Behavior analysts, assistant behavior analysts, and their employers (e.g., autism services providers) are affected.

Questions/requests for copies/comments on the 5 DFPR rulemakings through 2/10/25: Craig Cellini, DFPR, 320 W. Washington St., 2nd Floor, Springfield IL 62786, 217-785-0810, fax 217-557-4451, Craig.Cellini@illinois.gov

MEDICAL PAYMENT

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Medical Payment (89 IAC 140; 48 Ill Reg 18101) implementing a provision of the FY23 Medicaid Omnibus (PA 102-1037) and a Medicaid State Plan Amendment that authorized coverage of certain acupuncture services effective 4/1/23.

Emergency Rule

• TAX CREDITS

The DEPARTMENT OF REVENUE adopted a new Part by emergency rulemaking titled Illinois Gives Tax Credit Act (86 IAC 1050; 48 Ill Reg 18291) effective 12/12/24 for a maximum of 150 days. An identical proposed amendment appears in this week's *Illinois Register* at 48 Ill Reg 18127. The emergency and proposed amendments implement Public Act 103-592, the Illinois Gives Tax Credit Act, which establishes (for tax years 2025 through 2029) income tax credits equal to 25% of each qualified contribution to a permanent endowment fund held by a qualified community foundation. To qualify for this credit, taxpayers must receive contribution authorization certificates from DOR and endowment funds must be approved to issue certificates of receipt to taxpayers making qualified contributions. Applications are available through the DOR website. Endowment funds must renew their certificate of receipt approval annually. A taxpayer must make the intended qualified contribution within 10 days before or after receiving a contribution authorization certificate. In order to receive qualified contributions, an endowment fund must: provide charitable grants exclusively for the benefit of Illinois residents or charities or charitable projects located in Illinois; be intended to exist in perpetuity; have an annual spending rate of not more than 7%; be held by a qualified community foundation as defined in the federal Internal Revenue Code; and must not be a donor advised fund (tax advantaged investment fund for charitable contributions) as defined by the IRS. The total amount of tax credits awarded cannot exceed \$5 million per year, of which 25% must be reserved as credits for small gifts of \$25,000 or less, and the maximum amount of credits per individual per year is \$100,000. Qualified contributions to any single endowment fund cannot exceed \$3 million per year. Examples of information to be provided to DOR and demonstrating how the authorization certificate and certificate of receipt process works are included. Those affected by this emergency rule include non-profit community foundations and any businesses or non-profits that provide qualified contributions.

Questions/requests for copies/comments on the proposed rulemaking through 2/10/25: Brian Fliflet, DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844, REV.GCO@illinois.gov

The rulemaking removes acupuncture from the list of services not covered in Section 140.6 and adds a new Section establishing criteria for covering acupuncture. Services must be provided by an acupuncturist licensed by the Department of Financial and Professional Regulation under the Acupuncture Practice Act and 68 IAC 1140, and are limited to procedures addressing chronic lower back pain or

breach baby presentation during pregnancy.

Questions/requests for copies/comments through 2/10/25: Christopher Gange, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, 217-782-1233, HFS.Rules@illinois.gov

Adopted Rules

• MEDICAL PRACTICE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Medical Practice Act of 1987 (68 IAC 1285; proposed at 47 Ill Reg 18129, reflecting updates to the Act and changes in licensing procedure for medical and osteopathic physicians. The rulemaking clarifies the sequence of courses and subjects that must be covered during the required 6 years of undergraduate and post-graduate medical education; clarifies requirements for graduates of foreign medical schools; updates the list of approved accrediting organizations for postgraduate clinical training programs; and outlines information to be submitted by other clinical training programs seeking approval from DFPR. A Section that requires medical practice licensure applicants to apply directly to DFPR for licensing examinations is being repealed and replaced with a list of acceptable standardized licensing examinations used in the U.S. and Canada. Physicians licensed outside of Illinois and seeking Illinois licensure by endorsement may request that the Federation of State Medical Boards (FSMB) forward their profiles to DFPR to verify certain credentials that previously had to be submitted by the physician. Other provisions establish requirements for restoring a license from disciplinary status (suspended, revoked, or refused renewal); clarify requirements for temporary Illinois licensing of out-of-state physicians or residents completing medical training; require fingerprinting and background checks (already required for physicians) for medical residents, visiting professors and visiting physicians; update requirements for use of anesthesia and use of lasers or related technology; and clarifies when additional testing or training may be

required of a physician who has been inactive. Continuing medical education (CME) material may now be delivered by webinar or from online databases in addition to live classes and other currently recognized means. CME sponsors may now include any organization that provides clinical services to patients, educates healthcare professionals, or serves as a fiduciary to patients, the public, or population health; examples include but are not limited to ambulatory procedure centers, health law firms, group medical practices, government or military agencies, insurance or managed care companies, nursing homes, rehabilitation centers, and health professional membership organizations. Finally, the Medical Disciplinary Board is renamed the Illinois State Medical Board and its procedures for disciplinary cases are updated. Since 1st Notice, DFPR has retained its streamlined reinstatement process for physician licenses that have been expired, not renewed, or inactive for 3 years or less (instead of shortening the timeframe to 2 years or less), allowed the Director only to extend (originally, extend or shorten) timeframes for paying fines; reinstated several Sections and provisions slated to be stricken; and made numerous other clarifying changes. Physicians, medical students, medical residents, and medical school instructors 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

HORSE RACING

The ILLINOIS RACING BOARD adopted amendments to the following Parts, all effective 12/12/24: Pari-Mutuels (11

IAC 300; proposed at 48 Ill Reg 8424, adopted at 48 Ill Reg 18246), Concessionaire Rules (11 IAC 402; proposed at 48 Ill Reg 8428, adopted at 48 Ill Reg 18250), Totalizator Operations (11 IAC 433; proposed at 48 Ill Reg 8432, adopted at 48 Ill Reg 18254), Outstanding Tickets (11 IAC 434; proposed at 48 Ill Reg 8439, adopted at 48 Ill Reg 18261), Licensing (11 IAC 502; proposed at 48 Ill Reg 8443, adopted at 48 Ill Reg 18265), Claiming Races (11 IAC 510; proposed at 48 Ill Reg 8449, adopted at 48 Ill Reg 18271), Security and Admissions (11 IAC 1325; proposed at 48 Ill Reg 8453, adopted at 48 Ill Reg 18275), Entries, Subscriptions, and Declarations (11 IAC 1413; proposed at 48 Ill Reg 8458, adopted at 48 Ill Reg 18280) and Admissions and Credentials (11 IAC 1428; proposed at 48 Ill Reg 8464, adopted at 48 Ill Reg 18286). Amendments to Parts 300 and 433 allow computer records of scanned tickets to be kept as an alternative to the licensee marking and retaining a physical ticket. The Part 402 rulemaking updates statutory provisions prohibiting organization licensees, concessionaires and other racetrack employees and officials from making political contributions forbidden under the State Employees and Officials Ethics Act. An amendment to Part 434 reflects statutory provisions requiring organization licensees to submit to the State Director of Mutuels annually by January 10 a payment equal to the dollar amount of outstanding tickets still unpaid from the previous two calendar years, along with a list of cashed tickets submitted in the preceding calendar year. Provisions requiring the payment to be made by check and cashed tickets to be sorted by tote, calendar year and location are

(cont. page 4)

Adopted Rules

(cont. from page 3)

being removed. Amendments to Part 502 clarify rules stating that a sanction or ruling against a licensee will generally also apply to the licensee's spouse, unless IRB finds that continued participation in racing by the spouse does not circumvent the intent of the rule. The Part 510 rulemaking states that a claim to a horse in a claiming race shall be voided if the horse is a starter and dies on the racetrack or suffers an injury requiring euthanasia on the track as determined by the State veterinarian. A claim to a horse is voidable at the sole discretion of the new owner or their trainer, for a period of up to 1 hour after the race is made official, for any horse that cannot walk off the track under its own power, must be transported by van off the track after the race, or has been observed by a regulatory

veterinarian to be lame or have exercise-induced pulmonary hemorrhage. Amendments to Part 1325 update rules regarding who may be admitted to a racetrack's stable area and other areas. Racetrack operators must now prepare admission statements weekly instead of daily; the statement has been simplified and the admission tax has been reduced from 40 to 15 cents per attendee. IRB is also no longer required to approve an operator's proposed race track tickets and credentials before they are printed. The Part 1413 rulemaking requires non-claiming races and claiming races with a value of \$20,000 or more to be run if there are at least 7 (previously 6) entries. Trainers (formerly, owners) may also withdraw horses from a purse race or overnight handicap down to a minimum of 9 (previously 8) horses still in the race. These withdrawals may be made only after the stewards have been notified of

any horses being scratched due to veterinary issues. Withdrawals that reduce the field to 8 or fewer horses may only be made with approval of the steward and must be due to medical reasons or a request to move one or more horses to a different race card. Finally, amendments to Part 1428 remove references to printed admission tickets, correct the amount of admission tax paid by the track operator to reflect the current amount of 15 cents, and allow persons to be admitted to a track without paying admission after the 6th (formerly 7th) race.

Questions/requests for copies of the 9 IRB rulemakings: Bob Denneen, IRB, 555 W. Monroe St., Suite 1700-S, Chicago IL 60661, 312-814-5017, Bob.Denneen@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 January 14, 2025 meeting in Chicago. 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.

DEPT OF CENTRAL MGMT SERVICES

The Travel Regulation Council (80 IAC 3000; 48 Ill Reg 15168) proposed 11/1/24

DEPT OF HEALTHCARE AND FAMILY SERVICES

Reimbursement for Nursing Costs for Geriatric Facilities (89 IAC 147; 48 Ill Reg 15231) proposed 11/1/24

DEPT OF REVENUE

Automobile Renting Occupation Tax (86 IAC 180; 48 Ill Reg 14909) proposed 10/18/24

Automobile Renting Use Tax (86 IAC 190; 48 Ill Reg 14922) proposed 10/18/24

Next JCAR Meeting: Tuesday, Jan. 14, 11 a.m.

Room C-600, Bilandic Building, 160 N. LaSalle 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 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

Kim Schultz, Executive Director ■ Kevin Kulavic, Deputy Director

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