

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

▪ EMPLOYEE TRAINING

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY proposed amendments to Employer Training Investment Program (56 IAC 2650; 48 Ill Reg 8693) that change the name of the Part to Employment Training Investment Program and expand the definition of employee training that can be funded by grants under this Part to include online, virtual classroom, or e-learning programs and training in language skills. The rulemaking replaces references to the Department with the term "Grantor" and changes contracts to "agreements". Eligible training activities for which an employer may apply for a grant now include English language instruction and technical, language, and vocational skills training provided to members of migrant communities with Temporary Protected Status (granted by the federal government; currently includes migrants/refugees

from 16 countries including Afghanistan, Venezuela, Haiti, Sudan, Somalia, and Ukraine). Applicants must be registered and pre-qualified through the Grant Accountability and Transparency Act (GATA) Portal and must be entities regarded for federal income tax purposes. Grantees are also subject to federal audit

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requirements and GATA rules at 44 IAC 7000. Grantees are required to monitor their own activities and those of any subcontractors to assure compliance with federal and state requirements and with performance expectations. Grantees may use transcripts from a digital training platform to verify employee and course training records. Employers receiving grants must comply with the Drug Free Workplace Act [30 ILCS 580/3] in addition to federal antidiscrimination laws. Applications

will be accepted whenever a Notice of Funding Opportunity is posted. Other provisions clarify the application process and criteria for evaluating grants. Businesses seeking DCEO grants for employee training are affected.

Questions/requests for copies/comments through 8/5/24: Gina Arterberry, DCEO, 607 E. Adams St. 12th Floor, Springfield IL 60601, 217-524-8974, Gina.M.Arterberry@Illinois.gov

▪ EMERGENCY VEHICLE LOANS

The ILLINOIS FINANCE AUTHORITY proposed amendments to the Part titled Illinois Finance Authority (74 IAC 1100; 48 Ill Reg 8722) concerning the Fire Truck Revolving Loan Program outlined in Subpart H and administered by the Office of the State Fire Marshal. (The program provides

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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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zero interest and interest-bearing loans to municipalities and fire protection districts to purchase fire trucks, brush trucks, or ambulances.) The rulemaking changes the period for eligible expenditures from 1 year before the disbursement of funds to one year before the program application deadline posted by OSFM. The person in charge of reviewing submitted application documentation is the Executive Director (in current rule, Chief Financial Officer) of IFA. Interest calculation for interest-bearing loans will be based on the application date instead of the disbursement date and will no longer be tied to the rate set by the Illinois Environmental Protection Agency for its Clean Water Initiative programs. IFA may, in its sole discretion, take title to or a lien against the truck or ambulance being purchased with the loan as additional security for the loan if the Authority deems it necessary. Units of local government and fire protection districts that apply for these loans are affected.

Questions/requests for copies/comments through 8/5/24: Administrative Rules Coordinator, IFA, 160 N. LaSalle St., Suite S-1000, Chicago IL 60601, 312-650-1322, publiccomments@il-fa.com

• NURSING ASSISTANTS

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to the Part titled Long-Term Care Assistants and Aides Training Programs Code (77 IAC 395; 48 Ill Reg 8740) implementing Public Act 102-1037, which creates a temporary (3-year) Certified Nursing Assistant Intern program for long-term care facilities. This rulemaking reflects statutory requirements for CNA Interns, who may perform limited duties under the direction of a supervisory nurse while working toward full certification as a CNA. The intern must first complete at least 8 hours of classroom training and 24 hours of on-the-job training at the employing facility, provided by a nurse certified as a nursing assistant instructor, or an advanced practice registered nurse or registered nurse with at least a bachelor's degree plus 3 years of continuous experience in geriatric care. Tasks to be included in the intern's training include, but are not limited to, first aid and CPR certification; performing the Heimlich maneuver; infection control, including washing residents' hands; performing oral hygiene (e.g., tooth brushing, denture cleaning) on residents; feeding, dressing, shaving (with an electric razor) and giving partial baths to residents; making a bed while it is occupied; transferring residents from bed to wheelchair or helping them walk with a gait or transfer belt; calculating residents' food/water intake and output; and adjusting a resident's bed position. Tasks that cannot be performed by a CNA Intern

include shaving with a non-electric razor; nail or perineal care; transfers with a mechanical lift; and passive range of motion exercises or movements. CNA Interns are subject to background checks and will be included in the DPH Health Care Worker Registry. Persons who completed Temporary Nursing Assistant (TNA) training between 4/21/20 and 9/18/20 may be accepted as CNA Interns after their competency in the required skills has been confirmed by an APRN or registered nurse educator. CNA Interns must enroll in a Basic Nursing Assistant Training Program (BNATP) within 6 months after completing CNA Intern training and will receive 1 hour credit for every hour employed as a CNA Intern or as a TNA, up to a maximum of 30 hours credit. Facilities that employ CNA Interns must be in good standing with DPH and the federal Medicare/Medicaid program, and must not have applied for or received a waiver from registered nurse staffing requirements or have had CNAs removed from the Health Care Worker Registry for abuse, neglect or exploitation of residents within the past 2 years. This rulemaking will be automatically repealed 3 years after its adoption. Long-term care facilities and providers of CNA training are affected.

Questions/requests for copies/comments through 8/5/24: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, 217-782-1159, dph.rules@illinois.gov

Adopted Rules

• HEALTHCARE PROFESSIONALS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Administrative Procedures for General Professional Regulation Under the Administrative Code (68 IAC 1130; proposed at 47 Ill Reg 18250) effective 6/4/24 at 48 Ill Reg 8762, implementing Public Acts 102-399 and 103-531. The Public Acts and these amendments require continuing education (CE) regarding Alzheimer's Disease/dementia and cultural competency for health care professional licensees, including physicians and physician assistants; chiropractors; dentists; registered nurses, advanced practice registered nurses, and licensed practical nurses; clinical psychologists; pharmacists and pharmacy technicians; physical, occupational, and speech-language therapists; professional and clinical professional counselors; and behavior analysts and assistant behavior analysts. At least one hour of CE in cultural competency will be required each license renewal cycle beginning 1/1/25. This training must be provided by a DFPR-approved entity (which may include a hospital or other health care provider; an accredited community college, four-year college or university; or a State, county or municipal agency) and must instruct licensees in how to care effectively for patients from diverse cultures, groups and communities. Additionally, beginning 1/1/23, one hour of CE concerning Alzheimer's Disease/dementia is required each renewal cycle for health care professionals who have direct patient encounters with patients age 26 or older. This requirement does not apply to licensees whose practice is limited to patients age 25 or younger. This rulemaking also removes a requirement to schedule automatic

post-suspension hearings in cases where a health care professional licensee has been suspended for failure to comply with a DFPR chaperone order (requiring the licensee to have a designated chaperone present during any patient encounter). A post-suspension hearing will now be held only if requested by the suspended licensee. Physicians, nurses, and other health care professional licensees are affected by this rulemaking.

• COUNSELORS

DFPR also adopted amendments to the Part now titled Professional Counselor and Clinical Professional Counselor Licensing and Practice Act (68 IAC 1375; proposed at 48 Ill Reg 1074) effective 6/4/24 at 48 Ill Reg 8776, that update and clarify numerous provisions. These amendments change the name of the Part (formerly Professional Counselor and Clinical Professional Counselor Licensing 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, counseling techniques, group and family dynamics, professional ethics,

pathology/maladaptive behavior, and addictions) and at least 30 (formerly 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; remote instruction 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 (formerly "extreme hardship"). However, if a waiver from CE due to illness or disability is requested for more than one consecutive renewal cycle, DFPR

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Adopted Rules

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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. (Since 1st Notice, DFPR has added a provision allowing a counselor who has never had any disciplinary action in Illinois or another state to have their license restored with a one-time exemption from paying the renewal fee and providing proof of fitness or evidence of practice in another jurisdiction.) 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.

• SOCIAL WORKERS

DFPR adopted amendments to the Part titled Clinical Social Work and Social Work Practice Act (68 IAC 1470; proposed at 47 Ill Reg 18815) effective 6/4/24 at 48 Ill Reg 8825,

implementing Public Act 103-433 and other measures. This rulemaking allows applicants for licensure as Licensed Clinical Social Workers (LCSWs) who have taken but not passed the licensing exam since 1/1/19 to substitute 3,000 hours of supervised clinical experience (in addition to the 3,000 hours currently required of master's-level graduates, or 2,000 hours required of doctoral-level graduates) for passage of the licensing exam. These additional hours must have been completed under the supervision of specific licensed professionals (e.g., psychiatrist, psychiatric APRN, LCSW, licensed clinical psychologist) and must have been completed within 3 years after the date of initial license application. Applicants for licensure as Licensed Social Workers (LSWs) are no longer required to pass a licensing examination. Effective 1/1/26, an applicant for LCSW licensure who wishes to substitute clinical experience for passage of the licensing exam must be an LSW or be licensed to perform school social work prior to completing the 3,000 additional hours of supervised clinical experience. The minimum 15 hours per week required for part-time clinical experience is removed (29 or fewer hours per week is considered part-time) and clinical professional experience gained in Illinois must be supervised by an LCSW licensed in Illinois. Applicants are no longer required to provide a complete work history since completing their undergraduate education, and applicants with at least 5 consecutive years of practice in another jurisdiction do not have to provide proof of their education and supervised clinical experience. New continuing education (CE) requirements for all health care licensees contained in 68 IAC 1130 (one hour of sexual harassment prevention training and one hour of implicit bias awareness training each renewal cycle) are referenced.

Approved CE providers for licensed marriage and family therapists are also approved as CE providers for social workers. Continuing education that is completed remotely is not considered out of State CE and the provider must be approved by DFPR. Beginning with the renewal period that ends 11/30/27, LCSWs must, after their second renewal, complete a one-time 6-hour course in clinical supervision training. Other provisions clarify procedures for restoring a license following disciplinary action and add criteria for demonstrating rehabilitation from the violation or deficiency that prompted the disciplinary action; grant LCSW licensees with a clean disciplinary record a one-time waiver from renewal fees and other renewal requirements; allow CE waiver requests for good cause (formerly "extreme hardship"); allow DFPR to deny renewal to a licensee who requests a CE waiver due to incapacitating illness for 2 consecutive license renewal periods; remove fees for duplicate licenses and wall certificates; and require applicants and licensees to provide a physical address and e-mail address to DFPR and keep them updated. Since 1st Notice, DFPR has added an effective date for the clinical supervision training requirement. Social workers, licensed clinical social workers, and their employers are affected by this rulemaking.

Questions/requests for copies of the 3 DFPR rulemakings: Craig Cellini, DFPR, 320 W. Washington St. 2nd Floor, Springfield IL 62786, 217-785-0810, fax 217-557-4451.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to Classification and Pay

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Adopted Rules

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(80 IAC 301; proposed at 48 Ill Reg 8) and General Provisions (80 IAC 304; proposed at 48 Ill Reg 76), effective 6/5/24 at 48 Ill Reg 8753 and 8757. Amendments to Part 301 allow the Director of CMS, after reconsidering a position classification decision at the

incumbent employee's request, to notify the employee of the final decision by e-mail, U.S. Mail, or "any other appropriate method" (formerly, notification must be in person or by certified U.S. Mail with return receipt). Since 1st Notice, CMS has clarified that the final decision will be delivered after the employee has had a reasonable opportunity to be heard concerning the change in position

classification. The Part 304 rulemaking makes technical changes and removes an obsolete statutory provision.

Questions/requests for copies of the 2 CMS rulemakings: Administrative Rules Coordinator, CMS, 313 S. Sixth St., 3rd Floor, Springfield IL 62702, 217-782-9669, CMS.Rule@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 July 16, 2024 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 CHILDREN AND FAMILY SERVICES

Locating and Returning Missing, Runaway, and Abducted Children (89 IAC 329; 47 Ill Reg 16130) proposed 11/17/23

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Banking Development District Act (38 IAC 346; 48 Ill Reg 5221) proposed 4/5/24

Department Rules of Practice in Administrative Hearings (Repealer) (68 IAC 1100; 48 Ill Reg 3445) proposed 3/15/24

Rules of Practice in Administrative Hearings (68 IAC 1110; 48 Ill Reg 3450) proposed 3/15/24

Registered Interior Designers Act (68 IAC 1255; 48 Ill Reg 3457) proposed 3/15/24

Marriage and Family Therapy Licensing Act (68 IAC 1283; 48 Ill Reg 3461) proposed 3/15/24

Nursing Home Administrators Licensing and Disciplinary Act (68 IAC 1310; 48 Ill Reg 3502) proposed 3/15/24

Clinical Psychologist Licensing Act (68 IAC 1400; 48 Ill Reg 3520) proposed 3/15/24

Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act (68 IAC 1485; 48 Ill Reg 3561) proposed 3/15/24

DEPT OF INSURANCE

Illinois Health Benefits Exchange (50 IAC 4500; 48 Ill Reg 2038) proposed 2/9/24

Navigator, In-Person Counselor and Certified Application Counselor Certification (50 IAC 4515; 48 Ill Reg 2347) proposed 2/16/24

DEPT OF NATURAL RESOURCES

Landowner Permits (17 IAC 528; 48 Ill Reg 3570) proposed 3/15/24

DEPT OF PUBLIC HEALTH

Essential Support Person Code (77 IAC 50; 48 Ill Reg 4950) proposed 3/29/24

Home Health, Home Services, and Home Nursing Agency Code (77 IAC 245; 48 Ill Reg 3397) proposed 3/8/24

Assisted Living and Shared Housing Establishment Code (77 IAC 295; 48 Ill Reg 4295) proposed 3/22/24

Lead Poisoning Prevention Code (77 IAC 845; 48 Ill Reg 3071) proposed 3/1/24

Health Care Professional Credentials Data Collection Code (77 IAC 965; 48 Ill Reg 4958) proposed 3/29/24

Next JCAR Meeting: Tuesday, July 16, 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

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