

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

VOLUME 48

ISSUE 46

November 15, 2024

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

▪ DAY CARE PROVIDERS

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to Licensing Standards for Day Care Centers (89 IAC 407; 48 Ill Reg 15961) implementing Public Act 103-821. The PA and this rulemaking allow the following accommodations through 6/30/29: day care staff members who meet the qualifications of an early childhood teacher and have a minimum of 2,880 hours of experience at their current facility may take the place of the director during the first and last hours of the center's daily operation if the director is not on site, and interim conditional early childhood teachers may staff classrooms for up to 12 months while completing their coursework, if the center has been unable to hire a fully qualified early childhood teacher. The rulemaking also allows Montessori teacher certification through an accredited program, for any age from birth through 12, to count toward

qualification as a director or early childhood teacher in place of required college credit hours in child care or child development. Day care centers are affected by this rulemaking.

DCFS also proposed amendments to the Part titled Children's Product Safety (89 IAC 386; 48 Ill Reg 15953)

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No Second Notices This Week**

updating its procedures for informing day care providers of children's product safety recalls. A "children's product" is defined as a product designed or intended for the care or use of any child under age 12 (currently, any product intended specifically for children under 6, or for children of all ages). DCFS notifications to day care providers regarding children's product recalls shall include a web link to the comprehensive list of products deemed by the Department

of Public Health to be unsafe for use in day care environments. The rulemaking also strikes obsolete provisions left over from the initial implementation of the Children's Product Safety Act on 7/1/00.

Questions/requests for copies/comments on the 2 DCFS rulemakings through 12/30/24: Tamara Bristow, DCFS, 406 E. Monroe St., Station #65-D, Springfield IL 62701, 217-524-1983, DCFS.Policy@illinois.gov

HOSPITALS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Hospital Services (89 IAC 148; 48 Ill Reg 15982) implementing Public Act 102-4 (Healthcare Pillar Bill), State Medicaid Plan Amendment (SPA) 22-0007 and federal regulations at 42 CFR 440.10.

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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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The rulemaking creates a pool of funding of at least \$50,000,000 annually to be disbursed among safety-net hospitals that maintain perinatal designation from the Department of Public Health. The amount provided to each hospital is based in part on its number of total delivery admissions compared to total delivery admissions at all qualifying hospitals for each quarterly data period. Other provisions clarify existing Department billing and payment policy that covered days associated with claims for normal newborn Diagnosis Related Groups 626 and 640 are not eligible for the per diem Medical High Volume Adjustment payments and Medical Percentage Adjustment payments. Per diem adjustment payments for an entire normal newborn birth encounter are paid on the birth parent's claim. The rate for Hospital Long Term Care Days is set at \$318.43 per day effective 1/1/24, and various

rate adjustments are made for inpatient rehabilitation hospital services, inpatient psychiatric services, long term acute care services, children's specialty hospitals, Alzheimer's treatment, expensive drugs and devices, graduate medical education, and outpatient services at Critical Access Hospitals. Also, the definitions of a Critical Access Hospital and a Safety-Net Hospital are modified for purposes of determining directed payment classes.

HFS also proposed amendments to Diagnosis Related Grouping (DRG) Prospective Payment System (PPS) (89 IAC 149; 48 Ill Reg 16045) reflecting the FY25 and FY24 Medicaid Omnibus legislation and various State Plan Amendments. The rulemaking includes updated safety net adjustments and qualifying criteria effective through 12/31/25, along with further adjustments effective through 2026. The statewide standardized amount is also increased by 10% effective 1/1/24.

Questions/requests for copies/comments on the 2 HFS rulemakings through 12/30/24: Chris

Gange, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, 217-782-1233, HFS.Rules@illinois.gov

▪ STATE LEASES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed an amendment to the Part titled Acquisition, Management and Disposal of Real Property (44 IAC 5000; 48 Ill Reg 15946) which implements statute by allowing leases with a base rent of less than \$200,000 (currently, \$100,000) per year to be acquired without a formal Request for Information (RFI) procurement process. Businesses and other entities that lease property to the State are affected.

Questions/requests for copies/comments through 12/30/24: Administrative Rules Coordinator, CMS, 313 S. Sixth St., 3rd Floor, Springfield IL 62702, 217-782-2000, CMS.Rule@illinois.gov

JCAR Meeting Action

At its 11/12/24 meeting, the Joint Committee on Administrative Rules approved the following actions. Proposed rulemakings from this agenda that are not listed below received No Objection and may be adopted by their agencies. Emergency or peremptory rules not acted upon at this meeting may be reconsidered at later meetings.

EXTENSIONS

JCAR, with the concurrence of the respective agencies, extended the Second Notice periods for the following rulemakings an additional 45 days. These rulemakings will be considered again at the Dec. 10 JCAR meeting.

Department of Agriculture, Industrial Hemp Act (8 IAC 1200; 47 Ill Reg 18778)

Illinois Emergency Management Agency and Office of Homeland Security, Licensing of Radioactive Material (32 IAC 330; 48 Ill Reg 10771)

POSTPONEMENTS

JCAR postponed action on the following rulemakings until the Dec. 10 meeting:

Department of Human Services, Supplemental Nutrition Assistance Program (SNAP) (Peremptory Rule) (89 IAC 121; 48 Ill Reg 14986)

Department of Financial and Professional Regulation, Medical Practice Act of 1987 (68 IAC 1285; 47 Ill Reg 18265)

Adopted Rules

▪ EMERGENCY MEDICAL SERVICES

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to the Part now titled Emergency Medical Services, Trauma Centers, Pediatric Emergency and Critical Care Centers, Stroke Centers and Hospital Code (77 IAC 515; proposed at 48 Ill Reg 95) effective 11/1/24 at 48 Ill Reg 16159, that align the Part with current statute, national and state standards of emergency service, and current EMS system and provider practice. The rulemaking changes the name of the Part (formerly Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center and Acute Stroke Ready Hospital Code) and updates incorporated statutes, rules and professional standards. The State-administered Emergency Medical Technician and Paramedic examinations, and their associated exam fees, are abolished and only the National Registry of Emergency Medical Technicians (NREMT) licensing exams are now required. Application for EMT or Paramedic licensure must be made within 24 months after passing the NREMT exam. The late renewal fee is increased from \$50 to \$100. For honorably discharged military veterans, initial licensing fees are waived and future renewal fees are reduced by one-half. Specifications for the types of cases that should and should not be included in quarterly morbidity and mortality reviews of trauma cases have been removed. Each EMS region must establish a Pediatric Quality Improvement Subcommittee that will meet quarterly. Provisions for federally funded bioterrorism grants for which hospitals apply individually are being replaced by a general hospital disaster/all-hazards preparedness grant program for which DPH will

distribute funding. Vehicle service providers (e.g., ambulance services) must pay an annual licensing fee of \$35 (previously \$25) per vehicle for 99 or fewer vehicles; providers with 100 or more vehicles pay a flat annual fee of \$3,500 (formerly \$2,500). A late fee of \$25 per vehicle, for up to 100 vehicles, will be charged if license renewal is 30 days or more late. Vehicle service providers must have a designated Pediatric Emergency Care Coordinator in charge of preparing personnel to care for sick and injured children. Requirements for vehicle equipment, including obstetrical kits and other devices, are updated. Stretcher van licenses will be valid for 4 years (previously, 1 year) and will remain valid as long as annual inspections are passed and current fees are paid. Other provisions update training and licensing requirements for Trauma Nurse Specialists; establish procedures for administering OSHA respirator medical evaluations to fire fighters; clarify how medical transport providers submit patient care run reports to receiving hospitals; recognize advance medical directives (Do Not Resuscitate or Physician/Practitioner Orders for Life Sustaining Treatment) issued in another state or created using a national template; and make technical updates to medical terminology, emergency medical personnel titles, and communications systems. Since 1st Notice, DPH has updated or modified many of these provisions in response to public comment and has restored text concerning requirements for Specialized Emergency Medical Services Vehicles (e.g., air and water medical transport vehicles) that had originally been stricken. Hospitals, ambulance and medical transportation services, EMTs, Paramedics, and other first responders are affected by this rulemaking.

Questions/requests for copies: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, dph.rules@illinois.gov

▪ EMISSIONS INSPECTIONS

The DEPARTMENT OF TRANSPORTATION adopted amendments to Diesel Emission Inspection Program (92 IAC 460; proposed at 47 Ill Reg 15634) effective 10/29/24 at 48 Ill Reg 16576, that update its rules for Official Emissions Testing Stations (last amended in 2002) and add provisions for portable diesel emissions testing. Providers of portable emissions testing must apply for and obtain an Official Portable Diesel Emissions Permit from DOT and must maintain a recordkeeping office in Illinois, with records open for inspection by DOT at any time. The maximum allowable charge to a customer for an annual emissions inspection is \$50 for both the initial inspection and a reinspection (previously, \$30 and \$25). DOT will approve charge/rate schedules that are less than or equal to these amounts but will not approve higher charges. The application for a portable emissions testing permit must include the physical address of the applicant's Illinois recordkeeping office; the year, make, model and license plate number of each vehicle that will transport testing equipment; a list of the equipment that will be used to perform inspections; verification that the equipment meets Society of Automotive Engineers (SAE) standards; and a \$50 application fee to be submitted electronically. Applicants for either testing station permits or portable testing permits must file a \$10,000 bond with DOT before a permit can be issued. Portable emissions testing providers

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must, upon request, notify DOT at least 48 hours in advance of locations where inspections are scheduled, and must file an updated list of their vehicles at least annually. Individuals applying for certification as diesel emissions testers must submit a current digital photo and a copy of a government-issued photo identification card with their application. Certified Diesel Emissions Tester (CDET) applicants must also pass an open-book test with a score of at least 88% (previously, 70%) and pay a \$25 fee for a retest if they fail. CDET certifications are valid for one year (formerly, no time period was specified) and renewable if the tester maintains compliance with this Part. DOT may require a tester to retake the open-book test, physically perform a diesel emissions test, or demonstrate proficiency in operating emissions testing equipment as part of annual recertification. The rulemaking also removes obsolete testing standards, updates procedures for recording test results, directs correspondence regarding the emissions testing program to DOT's Bureau of Investigation and Compliance (formerly, Division of Traffic Safety) and updates contact information. Businesses that operate vehicles subject to emissions testing or that provide emissions testing are affected.

Questions/requests for copies: Gabriella Moretti, DOT, 69 W. Washington St., 21st Floor, Chicago IL 60602, 312-814-2773, fax 312-793-3933, gabriella.moretti@illinois.gov

▪ TAXES

The DEPARTMENT OF REVENUE adopted amendments to Retailers' Occupation Tax (86 IAC 130; proposed

at 48 Ill Reg 8276) effective 11/4/24 at 48 Ill Reg 16529, implementing statutory sales tax exemptions under the Manufacturing Illinois Chips for Real Opportunity (MICRO) Act and the Reimagining Energy and Vehicles in Illinois (REV) Act. Both Acts and this rulemaking allow businesses that have obtained a MICRO or REV certificate from the Department of Commerce and Economic Opportunity to be exempt from State and local sales taxes on qualifying building materials for the certified project. Examples of qualifying and non-qualifying building materials are included. Procedures for filing annual reports with DOR are also included, along with criteria for suspending or revoking the tax exemption for failure to file the report or for unlawfully using an exemption certificate. Businesses that qualify for MICRO or REV tax credits and exemptions are affected.

DOR also adopted amendments to Gas Revenue Tax Act (86 IAC 470; proposed at 48 Ill Reg 8307) and Telecommunications Excise Tax (86 IAC 495; proposed at 48 Ill Reg 8313) both effective 11/4/24 at 48 Ill Reg 16561 and 16566, that implement a provision of the Public Utilities Act. The Act and these rulemakings prohibit natural gas suppliers and telecommunications providers from imposing additional charges on customers who are certified under the MICRO or REV Acts to cover the cost of these taxes. The Part 495 rulemaking also adds statutory language implementing the federal Internet Tax Freedom Act and other provisions of State statute. Natural gas suppliers, telecommunications providers, and businesses certified under the MICRO or REV Acts are affected.

Questions/requests for copies of the 3 DOR rulemakings: Katarzyna Kowalska, DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844, REV.GCO@illinois.gov

▪ CHARITABLE ORGANIZATIONS

The OFFICE OF THE ATTORNEY GENERAL adopted amendments to the Part titled Solicitation for Charity Act (14 IAC 400; proposed at 48 Ill Reg 6330) effective 10/29/24 at 48 Ill Reg 16061, reflecting Public Act 103-121. The rulemaking changes the thresholds for annual reporting and audit/financial review requirements for organizations that conduct charitable fundraising. Organizations that received more than \$25,000 but no more than \$300,000 (previously, \$150,000) in contributions, or employed professional fundraisers who collected up to \$25,000, during the organization's fiscal year must file the AG's required reports, fees, and a copy of their federal tax returns. Organizations that received more than \$300,000 but no more than \$500,000 in contributions but did not employ professional fundraisers who raised more than \$25,000 during the fiscal year must file the same documents, plus reviewed financial statements signed by an independent CPA. Organizations that received more than \$500,000 (previously, \$150,000) in contributions or that employed professional fundraisers who raised more than \$25,000 during the fiscal year must file required reports, fees, federal tax returns, and reviewed financial statements, plus a report form for each professional fundraising campaign conducted during the fiscal year. Requests for 60-day extensions of time to file reports will be automatically granted to organizations in compliance with the Act if the AG receives them by the organization's due date. The rulemaking also replaces the written report forms contained in appendices to the Part with links to electronic forms at the AG's website. Since 1st Notice, the AG has removed from its existing rule a requirement to include

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a schedule of assets and investments and a financial statement with an initial application for registration, and also clarified who must sign annual reports for a top-tier organization with more than \$500,000 in annual contributions. Non-profit charitable organizations engaged in fundraising are affected by this rulemaking.

The OAG also adopted amendments to the Part titled Charitable Trust Act (14 IAC 480; proposed at 48 Ill Reg 6390) effective 10/29/24 at 48 Ill Reg 16115, that clarify various aspects of charitable trust registration. The rulemaking replaces written financial report forms with links to electronic forms; automatically grants 60-day extensions upon written request to trusts that are in compliance with the Act and request more time to file their financial reports; and clarify who must sign financial reports. Changes since 1st Notice remove a requirement to

submit a schedule of assets and investments and a financial statement. Non-profit charitable trusts are affected.

Questions/requests for copies of the 2 OAG rulemakings: Kristin Louis, Office of the Attorney General, 115 S. LaSalle St., Chicago IL 60603, 312-814-2595, kristin.louis@ilga.gov, or Kristin Creel, OAG, 500 S. Second St., Springfield IL 62701, 217-782-9070, Kristin.creel@ilga.gov.

STATE VEHICLES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to the Part titled State Vehicles and Garage (44 IAC 5040; proposed at 48 Ill Reg 9165) effective 10/29/24 at 48 Ill Reg 16139, that update which State vehicle services are offered by CMS; remove references to the CMS Fleet Card (which has been replaced by vendor fleet cards from a contracted vendor); and require vehicle purchase requests, including requests for

exceptions from fuel economy standards, to be submitted directly to the State Purchasing Officer by the purchasing agency (formerly, CMS authorized purchase requests and submitted them to the State Purchasing Officer). The CMS Division of Vehicles (DOV) will no longer be responsible for all passenger vehicle acquisitions for most agencies under the jurisdiction of the Governor. Other provisions clarify criteria for evaluating vehicle purchase requests; simplify the process for determining the most cost-effective vehicle; update the procedure for reporting accidents involving on-duty State employees; and remove a recommendation to purchase fuel from a State-owned garage whenever possible.

Questions/requests for copies: Administrative Rules Coordinator, CMS, 313 S. Sixth St., 3rd Floor, Springfield IL 62702, 217-782-2000, CMS.Rule@illinois.gov

Next JCAR Meeting: Tuesday, Dec. 10, 11 a.m.

Room C-600, Bilandic Bldg. 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
700 Stratton Office Building, Springfield IL 62706
217-785-2254 ■ jcar@ilga.gov