

# 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

### ▪ ANGEL INVESTMENTS

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY proposed amendments to Angel Investment Credit Program (14 IAC 531; 48 Ill Reg 5851) expanding eligibility criteria for the credit. A qualified new business venture will meet the minimum employment threshold for a qualifying investment if at least 51% of its employee positions are in Illinois, or if its principal place of business is in Illinois. (Currently, a business must meet both criteria and at least 75% of the employee positions created following receipt of the qualifying investment must be in Illinois.) "Principal place of business" is defined as the location where the business' high-level officers direct, control, and coordinate the business' activities. The sunset date for the program is extended to 12/31/26, and effective 1/1/24, the maximum tax credit is increased to 35% of the credit claimant's

investment in a qualified new business venture if the business is majority owned by minorities, women, or persons with disabilities, or is located in a county with no more than 250,000 residents. The total amount of tax credits that may be awarded under this program is increased to \$15 million (previously \$10 million) per

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calendar year, of which \$5 million will be reserved for minority-, women- and disability-owned businesses and businesses located in less populated counties. At least \$2.5 million in credits will be earmarked for investments in minority-owned businesses made on or after 1/1/24. Investors in small businesses may be affected.

*Questions/requests for  
copies/comments through 6/3/24:*

*Gina Arterberry, DCEO, 607 E. Adams St., 12<sup>th</sup> Floor, Springfield IL 62701, 217-524-8974,  
[Gina.M.Arterberry@illinois.gov](mailto:Gina.M.Arterberry@illinois.gov)*

### ▪ ID/DD FACILITIES

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Intermediate Care for the Developmentally Disabled Facilities Code (77 IAC 350; 48 Ill Reg 5862) and Medically Complex for the Developmentally Disabled Facilities Code (77 IAC 390; 48 Ill Reg 5877) implementing a temporary (3 year) certified nursing assistant (CNA) intern program established by Public Act 102-1037. The rulemakings reflect statutory provisions that limit CNA interns to performing only duties delegated to them by a supervising nurse and permitted under the ID/DD and MC/DD Acts. Facilities must implement written policies describing

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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 duties, supervision and evaluation of CNA interns and make this policy available to DPH and to surveyors. If a CNA intern performs tasks outside the scope of the intern's duties, the facility must stop the intern from performing these tasks, assign them to an appropriate staff member, and have a registered nurse assess the condition of any resident involved in that task. No more than 15% of each resident's nursing and personal care time may be performed by a CNA intern. Facilities that violate these rules are subject to civil penalties or fines. The CNA intern program rules will be repealed 3 years after their effective date. Facilities for persons with developmental disabilities are affected.

*Questions/requests for copies/comments on the 2 DPH rulemakings through 6/3/24: Tracey Trigillo, DPH, 524 S. Second St., 6<sup>th</sup> Fl., Springfield IL 62701, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)*

## STUDENT ASSISTANCE

The ILLINOIS STUDENT ASSISTANCE COMMISSION proposed amendments to General Provisions (23 IAC 2700; 48 Ill Reg 5891) clarifying the residency status of dependent students who must list an out-of-state parent contributor on their Free Application for Federal Student Aid (FAFSA). The student will qualify as an Illinois resident for State financial aid purposes if the student physically resides in Illinois with the other parent. Institutions may, in these situations, allow the dependent student's financial aid eligibility to be based on the contribution of the Illinois resident parent. Other provisions add a definition for the

federal Student Aid Index for determining financial need and clarify the definition of an "educational planning service provider" to exclude institutions of higher education that include these services in their financial aid or career counseling services.

ISAC also proposed amendments to Nursing Education Scholarships (23 IAC 2749; 48 Ill Reg 5913), Illinois Graduate and Retain Our Workforce (iGROW) Tech Scholarship Program (23 IAC 2750; 48 Ill Reg 5949) and Community Behavioral Health Care Professional Loan Repayment Program (23 IAC 2753; 48 Ill Reg 5956). Amendments to Part 2749 update provisions of the nursing education scholarship program (transferred to ISAC from the Department of Public Health) to reflect ISAC policy and remove no longer used definitions and cross references. The Part 2750 rulemaking clarifies that applicants for the iGROW program must complete the FAFSA and that ISAC will determine the maximum award amount annually; allows extension of the repayment period when an employment obligation cannot be fulfilled due to military service or temporary disability; and clarifies how scholarship awards are determined when combined with other forms of financial assistance. The Part 2753 amendments increase the maximum amount of student loan repayment assistance for graduates in various behavioral health specialties, ranging from \$4,000 (currently \$2,500) per year for certified alcohol/drug counselors and recovery support specialists to \$40,000 (currently \$35,000) per year for psychiatrists. Eligibility for loan repayment is also extended to licensed marriage and family therapists; professionals with master's or bachelor's degrees in counseling, psychology, social work, or marriage and family therapy; and professionals working at behavioral health clinics, substance use

treatment centers, or State-operated psychiatric hospitals licensed or certified by the Department of Human Services or Department of Healthcare and Family Services. Each fiscal year, at least 30% of funding for the loan repayment program must be set aside for African-American/Black, Hispanic, Asian, or Native American applicants. If by January 1 ISAC has not received minority applications that total 30% or more of available funding, remaining funds for that fiscal year may be awarded to other qualified applicants.

*Questions/requests for copies/comments on the 4 ISAC rulemakings through 6/3/24: Jackie Eckley, ISAC, 500 W. Monroe St., 3<sup>rd</sup> Fl., Springfield IL 62704, 217-782-5161, [jackie.eckley@illinois.gov](mailto:jackie.eckley@illinois.gov)*

## ▪ CANNABIS INFUSERS

The DEPARTMENT OF AGRICULTURE proposed an amendment to the Part titled Cannabis Regulation and Tax Act (8 IAC 1300; 48 Ill Reg 5844) correcting errors in the listed fees for modifications and alternations to licensed infuser facilities. For modifications to a license, a fee of \$1,250 is due at the time of application, with an additional fee of \$750 due upon approval of the application. For alterations to a facility that do not require an amendment to the license, the application fee is \$250. DOA will refund the excess portion of any fee paid by an applicant prior to 9/1/24 that was higher than the amounts listed in this rulemaking. Cannabis infuser license holders are affected.

*Questions/requests for copies/comments through 6/3/24: Sam McGee, DOA, State Fairgrounds, PO Box 19281, Springfield IL 62794-9281, 217-558-3741, [Samuel.McGee@illinois.gov](mailto:Samuel.McGee@illinois.gov)*

## JCAR Meeting Action

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At its 4/16/24 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 rules not acted upon at this meeting may be reconsidered at later meetings.

### OBJECTION

JCAR objected to the Department of Commerce and Economic Opportunity's rulemaking titled Grocery Store Initiative Grant Program (14 IAC 645; 47 Ill Reg 19258) because the Department invoked the contents of this rule prior to adoption in violation of Section 5-10(c) of the Illinois Administrative Procedure Act [5 ILCS 100], which states that no agency rule is valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been made available for public inspection and filed with the Secretary of State. On April 9, 2024, the Department announced by press release that applications for the Equipment Upgrades Program, which is described in this rule, are now closed and under review. If applications are already closed, then the Department invoked the eligibility criteria and application procedures found in this rule prior to JCAR's review and prior to the rule's adoption. Moreover, according to the Department's April 9, 2024 press release, Equipment Upgrade Program eligibility criteria not found in this rule are used. The Department is asked to review the application requirements and grant eligibility criteria it plans to enforce and ensure those items appear in this rule.

### 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 May 14 JCAR meeting.

Department of Financial and Professional Regulation, Clinical Social Work and Social Work Practice Act (68 IAC 1470; 47 Ill Reg 18815)

Department of Natural Resources, Timber Buyer Licensing and Harvesting Fees (17 IAC 1535; 47 Ill Reg 17755), The Illinois Explosives Act (62 IAC 200; 47 Ill Reg 11324), and Surfaced Mined Land Conservation and Reclamation Act (62 IAC 300; 47 Ill Reg 11373)

State Board of Education, Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 47 Ill Reg 16165)

### POSTPONEMENT

JCAR postponed action on the Department on Aging rulemaking titled Community Care Program (89 IAC 240; 47 Ill Reg 15309), which is currently on extended Second Notice, until the May 14 meeting.

# Adopted Rules

## ▪ DAY CARE HOMES

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted amendments to Licensing Standards for Group Day Care Homes (89 IAC 408; proposed at 47 Ill Reg 16140) effective 4/3/24 at 48 Ill Reg 5963, that permit group day care homes with extended capacity licenses (allowing them to care for up to 16 children instead of the normal limit of 12) to care for two additional children 30 months of age or older, along with two additional school-age children (present only before or after school or when school is not in session), provided that the caregiver has 2 or more adult assistants present at all times when the additional children ages 30 months or older are being cared for. (Formerly, the 4 additional children accommodated under an extended capacity license had to all be school-age.) These provisions will be in effect through 7/1/25. If more than 12 children are being cared for, the caregiver's own school-age children must be counted among the additional school-age children for this purpose. The total capacity of a home with an extended capacity license remains capped at 16 children. Group day care homes are affected by this rulemaking.

*Questions/requests for copies: Tamara Bristow, DCFS, 406 E. Monroe, Station #65, Springfield IL 62701-1498, 217-524-1983, [DCFS.Policy@illinois.gov](mailto:DCFS.Policy@illinois.gov)*

## DRIVERS' LICENSES

The SECRETARY OF STATE adopted amendments to Issuance of Licenses (92 IAC 1030; proposed at 47 Ill Reg 12704) effective 4/5/24 at 48 Ill Reg 6081, that allow SOS to disclose driver's license and identification card photographs to public defenders for

use in defense of their clients in traffic or criminal cases. The rulemaking also requires documents submitted in the course of an application for a driver's license or identification card in a language other than English to be translated into English and the translation to be accompanied by a certification of the translator's competency. Since 1<sup>st</sup> Notice, SOS has clarified that acceptable documents for the license/ID application process must be paper copies (not cell phone images) and credit card statements or utility bills used for this purpose must be dated within the past 90 days.

*Questions/requests for copies: Pamela Wright, SOS, 298 Howlett Building, Springfield IL 62756, 217-785-3094, [pwright@ilsos.gov](mailto:pwright@ilsos.gov)*

## ▪ RENT-TO-OWN TAXES

The DEPARTMENT OF REVENUE adopted a new Part titled Rental Purchase Agreement Occupation and Use Tax Act (86 IAC 125; proposed at 47 Ill Reg 17948) effective 4/2/24 at 48 Ill Reg 6048, implementing Public Act 100-437, which was effective 1/1/18. The PA and this Part impose a 6.25% occupation tax upon merchants who rent merchandise under a rental-purchase agreement in Illinois (e.g., "rent-to-own" appliance and furniture stores), along with a use tax to the customer at the rate of 6.25% of the rental price paid to the merchant under the rental-purchase agreement. The tax applies to any rental agreement for personal or household items, with an initial term of 4 months or less, that is automatically renewable with each payment and that eventually allows the customer to become the owner of the items. Merchants must obtain certificates of registration from DOR (if they do not already have Retailer's Occupation Tax registration with DOR) and record

gross receipts from rental payments and pay tax on them as they are received. Rent-to-own merchants and their customers are affected.

## ▪ CANNABIS TAXES

DOR also adopted amendments to Cannabis Cultivation Privilege Tax (86 IAC 422; proposed at 47 Ill Reg 17966) effective 4/2/24 at 48 Ill Reg 6069, clarifying that the transfer of cannabis or cannabis concentrate from a cultivator to an infuser, under an agreement whereby the cultivator retains ownership of the cannabis or concentrate and the infuser is merely creating cannabis-infused products for the cultivator to resell, is not a "first sale" on which the cultivator would owe tax. Examples of transactions that meet these criteria are included, along with recordkeeping requirements for these transfers. Cannabis cultivators and infusers are affected.

## TAXPAYER RIGHTS

DOR adopted an amendment to the Part titled Taxpayer Rights (86 IAC 205; proposed at 47 Ill Reg 17380) effective 4/2/24 at 48 Ill Reg 6065, updating statutory language to reflect additions to the Taxpayer Bill of Rights Act [20 ILCS 2520]. The amendment requires DOR to systematically identify areas of recurrent taxpayer noncompliance with rules or guidelines and report these findings to the General Assembly on an annual basis. It also requires DOR, in cases where an audit finds no violations, to send the taxpayer a closing letter acknowledging that no violations were found. If an audit finds deficiencies in a taxpayer's recordkeeping or recommends changes in the record-

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# Adopted Rules

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keeping process, the auditor must provide these recommendations to the taxpayer in writing and also disclose (unless the taxpayer declines) the audit methods and procedures used.

## DOR PUBLIC INFORMATION

Finally, DOR adopted an amendment to Charitable Games Act (86 IAC 435; proposed at 47 Ill Reg 15629) effective 4/2/24 at 48 Ill Reg 6076, that updates contact information for DOR's Office of Bingo and Charitable Games.

*Questions/requests for copies of the 4 DOR rulemakings: Parts 125 and 422, Alexis K. Overstreet; Part 205, Kimberly Rossini; Part 435, Brian Fliflet; DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844.*

## • OCCUPATIONAL THERAPY

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Illinois Occupational Therapy Practice Act (68 IAC 1315; proposed at 47 Ill Reg 17339) effective 4/5/24 at 48 Ill Reg 5981, that add continuing education (CE) requirements for sexual harassment prevention, implicit bias awareness, and dementia recognition; allow fieldwork education of OT and OT assistants, mentoring of OT doctoral degree candidates, and work on a professional development plan to count toward CE requirements; and include the Illinois State Board of Education and educational associations (such as the Illinois Education Association and National Education Association) as approved sponsors of continuing education. The rulemaking also caps the required CE for restoration of a license lapsed for 5 years or longer at 24 hours (currently,

60 hours), all of which must be earned within 24 months prior to the application for license restoration. At least 3 of these hours must cover updates to professional practice standards and relevant laws and regulations. Other provisions include a more detailed list of allowable modalities of occupational therapy that use electricity, application of heat or cold, application of mechanical forces (e.g., pressure, vibration), or intramuscular manual therapy (dry needling), and add training and practice requirements for the use of dry needling. Occupational therapists and assistants and persons applying for OT licensure or renewal are affected.

## • OPTOMETRISTS

DFPR also adopted amendments to the Part titled Optometric Practice Act of 1987 (68 IAC 1320; proposed at 47 Ill Reg 13402) effective 4/5/24 at 48 Ill Reg 6009, that allow most continuing education (CE) to be completed online either through live or pre-recorded presentations beginning 4/1/24. However, online courses cannot be counted toward out of state CE credit. Previous limits on the number of hours of CE that can be completed online are removed. New CE requirements, for all license renewals after 1/1/23, include sexual harassment prevention and implicit bias awareness training (required for all DFPR healthcare licensees in 68 IAC 1130) and, for licensees who hold controlled substance licenses, opioid education required by the Illinois Controlled Substances Act. These courses must be repeated each license renewal period. The rulemaking also removes specific time requirements for training courses in diagnostic and topical ocular pharmaceutical agents and therapeutic clinical procedures. Applicants for licensure will now be required to complete a comprehensive course in ocular

pharmaceutical agents (previously, a 120-hour course) and prevent "evidence satisfactory" to DFPR of training in these subjects within 3 years prior to application. Other changes allow optometrists with controlled substance licenses to prescribe up to a 30-day supply (formerly, 72 hours) of Schedule III through V controlled substances; allow oral steroids to be prescribed for no more than 7 days; remove fees for wall certificates (which are no longer being issued) and for producing a roster (as the information is available online), and no longer require the Director to notify the Board of variances. Optometrists and their employers are affected by this rulemaking.

## • PHYSICAL THERAPY

DFPR adopted an amendment to the Part titled Illinois Physical Therapy Act (68 IAC 1340; proposed at 47 Ill Reg 17367) effective 4/5/24 at 48 Ill Reg 6035, to correct an error regarding continuing education requirements. The amendment will allow physical therapists to earn up to 10 hours of CE for clinical instruction and physical therapist assistants to earn up to 5 hours of CE for clinical instruction. Current rule has the numbers reversed, with assistants being allowed 10 hours and therapists only 5 hours.

*Questions/requests for copies of the 3 DFPR rulemakings: Craig Cellini, DFPR, 320 W. Washington St., 4<sup>th</sup> Floor, Springfield IL 62786, 217-785-0810, fax 217-557-4451, [Craig.Cellini@illinois.gov](mailto:Craig.Cellini@illinois.gov)*

## UNEMPLOYMENT BENEFITS

The DEPARTMENT OF EMPLOYMENT SECURITY adopted amendments to the Part now titled Noncitizen Status

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# Adopted Rules

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(56 IAC 2905; proposed at 47 Ill Reg 18243) effective 4/3/24 at 48 Ill Reg 5974. These amendments change the name of the Part (formerly Alien Status), replace the term “alien” with “noncitizen” and update references to the federal agencies that address immigration-related matters. Since 1<sup>st</sup> Notice, DES has clarified language explaining how legal U.S. residency status must be documented.

*Questions/requests for copies: Kevin Lovellette, DES, 33 S. State St., 9<sup>th</sup> Floor, Chicago IL 60603, 312-793-*

1224, fax: 312-793-5645,  
[Kevin.Lovellette@illinois.gov](mailto:Kevin.Lovellette@illinois.gov)

## TEACHERS' RETIREMENT

The TEACHERS' RETIREMENT SYSTEM adopted amendments to The Administration and Operation of the Teachers' Retirement System (80 IAC 1650; proposed 47 Ill Reg 17403) effective 4/5/24 at 48 Ill Reg 6117, that remove the one-year limit on paid leaves of absence; implement PA 103-525, which allows teachers to purchase optional TRS service credit for paid student teaching, by establishing eligibility requirements for purchasing this service credit; and allow extra duty pay for work that

does not require teacher licensure to count toward pensionable salary when performed by a TRS member in a TRS-reportable position and when it includes supervision of students related to the academic program. (Previously, extra duty pay was counted as salary when earned by a full-time or part-time contractual teacher, but not when earned by a substitute or part-time non-contractual teacher.)

*Questions/requests for copies: Cynthia Fain, TRS, 2815 W. Washington St., PO Box 19253, Springfield IL 62794-9243, 217-814-2041, [cfain@trsil.org](mailto:cfain@trsil.org)*

# Second Notices

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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 May 14, 2024 meeting in Springfield. Further comments concerning these rulemakings should be addressed to JCAR at [jcar@ilga.gov](mailto:jcar@ilga.gov).

### DEPT OF CENTRAL MANAGEMENT SERVICES

Federal Surplus Property: Illinois State Plan, State Agency for Federal Surplus Property  
(44 IAC 5020; 48 Ill Reg 1980) proposed 2/9/24

### DEPT OF COMMERCE AND ECONOMIC OPPORTUNITY

Manufacturing Illinois Chips for Real Opportunity (MICRO) Act (14 IAC 120; 47 Ill Reg 14153) proposed 10/13/23

### ILLINOIS MEDICAL DISTRICT COMMISSION

Public Information and Organization (2 IAC 2525; 48 Ill Reg 811) proposed 1/12/24

### STATE BOARD OF EDUCATION

Evaluation of Educator Licensed Employees Under Articles 24A and 34 of the School Code  
(23 IAC 50; 47 Ill Reg 16309) proposed 11/17/23

Dismissal of Tenured Teachers Under Article 24 and Dismissal of Tenured Teachers and Principals Under Article 34 of the School Code  
(23 IAC 51; 47 Ill Reg 16318) proposed 11/17/23

**Next JCAR Meeting: Tuesday, May 14, 10:30 a.m.**

Room C-1, Stratton Bldg., 401 S. Spring St., Springfield

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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