

# THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY  
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

VOLUME 48

ISSUE 37

September 13, 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

### ▪ STI CONTROL MEASURES

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Control of Sexually Transmissible Infections Code (77 IAC 693; 48 Ill Reg 13555) updating clinical guidance on invasive procedure precautions for health care professionals who are living with HIV, clinical recommendations for Expedited Partner Therapy (EPT), and updating terminology related to HIV and AIDS. The rulemaking aligns its definitions of Acquired Immunodeficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) infection with those of the Centers for Disease Control and Prevention, and changes references to "HIV infected persons" to "persons living with HIV". Updated professional medical standards and guidance for healthcare personnel living with HIV are incorporated in this Part and such personnel are advised to follow updated guidance regarding their performance of invasive procedures

on patients. Procedures for investigating possible secondary exposure of patients or others to HIV from a healthcare worker who is living with HIV are also clarified. Persons diagnosed with chlamydia, gonorrhea or trichomonas by a health care

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professional outside of a local health department shall be offered EPT services enabling their sexual partners to receive immediate treatment without having to present themselves for an exam first. Health care providers are advised to "strongly consider" offering EPT services to pregnant partners (currently, EPT for pregnant partners is described as "a last resort" since certain antibiotics used to treat STIs are contraindicated for pregnant patients) and to

recommend that they advise their prenatal care providers if they have received EPT. Health care providers and local health departments are affected.

*Questions/requests for copies/comments through 10/28/24: Tracey Trigillo, DPH, 524 S. Second St., 6<sup>th</sup> Floor, Springfield IL 62701, 217-782-1159, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)*

### HEALTH INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to the Part titled Illinois Health Benefits Exchange (50 IAC 4500; 48 Ill Reg 13539) that take further steps toward implementing PA 103-103, which transitions the current State-based health insurance exchange hosted on a federal platform to a full State-based exchange by 2026. This rulemaking adopts federal standards and require-

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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

(cont. from page 1)

ments for enrollment of qualified health plans (QHPs), effective dates of coverage, termination of coverage, cost-sharing reductions, eligibility for advance payments of tax credits for health insurance premiums, and reporting/public posting of QHP drug formularies. Open enrollment periods begin on Nov. 1 of the year prior to the benefit year and end on Jan. 15 of the benefit year, unless extended (with at least 120 days public notice on DOI's website). Other provisions establish the method of calculating and paying the State's monthly user fees assessed to QHP issuers, which are based on the issuer's enrollment through the exchange; update incorporations by reference of the Code of Federal Regulations; and clarify that the date of the incorporation reflects the Federal Register publication date for the most recent amendment to that CFR section.

*Questions/requests for copies/comments through 10/28/24: Robert Planthold, DOI, 122 S. Michigan Ave. 19<sup>th</sup> Floor, Chicago IL 60603, 312-814-5445, [robert.planthold@illinois.gov](mailto:robert.planthold@illinois.gov), or Susan Anders, DOI, 320 W. Washington St., 4<sup>th</sup> Floor, Springfield IL 62767, 217-558-0957, [sue.anders@illinois.gov](mailto:sue.anders@illinois.gov).*

## DCEO Public Hearing

### ▪ FILM PRODUCTION

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY will hold a public hearing on proposed amendments to the Part titled Illinois Film Production Services Tax Credit Program (14 IAC 528; 48 Ill. Reg. 7901) **Wednesday, Sept. 18, from 12:30 to 2:30 p.m.** at 555 W. Monroe St., Peoria Room (Fourth Floor), **Chicago**. Persons who have not received an invitation from DCEO may participate via Webex by navigating to [www.webex.com](http://www.webex.com) and entering the meeting number (2631 209 3386) and password (iTUP7ebMW22).

This hearing concerns proposed amendments, published in the 5/31/24 *Illinois Register*, that implement PA 102-700. This rulemaking sets limits on the amount of "above the line" salaries (for producers, directors, cast members, screenwriters, and others with creative or artistic control of a production), "below the line" salaries (for personnel who work off camera and provide primarily technical assistance) and related party transactions (involving parties that have common ownership or investment in the production company) that can be claimed toward the tax credit. Film, TV and internet production companies producing shows in Illinois are affected.

*Questions regarding the rulemaking or the hearing: Gina Arterberry, DCEO, 607 E. Adams St., 12<sup>th</sup> Fl., Springfield IL 62701, 217-524-8974, [Gina.M.Arterberry@Illinois.gov](mailto:Gina.M.Arterberry@Illinois.gov)*

## Emergency Rule

### IMMIGRANT HEALTHCARE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted emergency amendments to Special Eligibility Groups (89 IAC 118; 48 Ill Reg 13854) effective 9/8/24 for a maximum of 150 days. These emergency amendments renew the following enrollment and cost limitations that HFS has imposed on the Health Benefits for Immigrant Adults (HBIA) and Health Benefits for Immigrant Seniors (HBIS) programs: publishing notice of opening or closing of enrollment on the HFS website at least 14 days in advance of the action (HFS has closed new enrollment in HBIA since 6/30/23 and in HBIS since 11/6/23); authorizing (but not requiring) providers to charge copayments of up to \$250 for inpatient hospital stays and 10% of the Department's rate for hospital outpatient and ambulatory surgical treatment center services, unless these services meet HFS' definition of emergency treatment; eliminating backdated medical coverage for 3 months prior to the application date; and requiring large public hospitals to reimburse the Department for HBIA and HBIS payments made in excess of the rates paid to non-public hospitals. Healthcare providers participating in these programs may be affected.

*Questions/requests for copies: Katie Hill, HFS, 201 S. Grand Ave. East., 3<sup>rd</sup> Floor, Springfield IL 62763-0002, 217-782-1233, [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov)*

# JCAR Meeting Action

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At its 9/10/24 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.

## **WITHDRAWAL OF FILING PROHIBITION**

With respect to the Department of Human Services rulemaking titled Fiscal/Administrative Recordkeeping and Requirements (89 IAC 509; 48 Ill Reg 2769) JCAR withdraws the Filing Prohibition effective with and contingent upon the Department filing the agreed upon modifications. This Filing Prohibition was voted at the July 16, 2024 JCAR meeting.

## **OBJECTION**

JCAR objects to the Department of Human Services' rulemaking titled Child Care (89 IAC 50; 48 Ill. Reg. 9217) because the Department has implemented this program outside of rule. Sec. 5-10(c) of the Illinois Administrative Procedure Act [5 ILCS 100] states that no agency rule is valid or effective until it has been made available for public inspection and filed with the Secretary of State. Public Act 103-8, which this rulemaking implements, became effective on June 7, 2023 and gave the Department until October 1, 2024 to adopt rules. However, the Department did not propose rules for the program until July 5, 2024 and had already opened and closed a grant application period for providers before that date. While the Department cited the need to negotiate with stakeholders and obtain appropriations for the program as the reason for the delay in promulgating rules, the consultation and rulemaking processes could have been started any time after the Public Act became effective.

## **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 Oct. 8 JCAR meeting.

Department of Commerce and Economic Opportunity, Illinois Film Production Services Tax Credit Program (14 IAC 528; 48 Ill. Reg. 7901)

Department of Veterans' Affairs, Educational Opportunities for Children of Deceased or Disabled Veterans (95 IAC 101; 47 Ill. Reg. 17418) and MIA/POW Scholarship (95 IAC 116; 47 Ill. Reg. 17433)

## **POSTPONEMENT**

JCAR postponed action on the following proposed rulemaking, which will remain on Second Notice through the Oct. 8 meeting:

Department of Public Health, Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center and Acute Stroke Ready Hospital Code (77 IAC 515; 48 Ill Reg 95)

# Adopted Rules

## SCHOOLS

The STATE BOARD OF EDUCATION adopted amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; proposed at 48 Ill Reg 5208) effective 8/27/24 at 48 Ill Reg 13586, that clarify various aspects of required bullying prevention policies. When a school posts its bullying policy on its website (as already required by statute and rule), the policy must be readily accessible to parents and guardians of students and must not be password protected. If a school or school district does not have a website, the policy must be included in the student handbook and annual registration materials and the district must provide SBE with proof of publication. Any policy revision submitted to SBE must include the date the revision was adopted. If SBE receives a complaint that a school or school district has not substantially complied with its stated bullying policy, SBE will reach out to that school/district with technical assistance upon written request from a parent or guardian. Schools and districts that have failed to submit or comply with a bullying prevention policy will be listed on SBE's website until they have been compliant for at least 30 days. Beginning in the 2024-25 school year and continuing through the 2030-31 school year, each school district must collect data regarding verified allegations of bullying for submission to SBE in an annual report due no later than August 15. The data collected must include a record of each verified allegation of bullying and the action taken in response; whether this bullying was based on actual or perceived characteristics as listed in the School Code (e.g., race, ethnicity, religion, gender/sexual identity, socioeconomic status, physical appearance, association with other persons having these characteristics)

and if so, what the relevant characteristics were; records showing that the school adhered to its bullying prevention policy, including parental notification within 24 hours of a bullying incident; the number of safety plans issued to students as the result of a bullying investigation; and any other information pertinent to the investigation and findings. Upon written request of a parent or guardian of a child enrolled in any school district, charter school or non-public school, SBE must release to that parent or guardian non-identifiable data on the number of verified bullying allegations and incidents in that school or district.

*Questions/requests for copies: Azita Kakvand, SBE, 555 W. Monroe St., Suite 900, Chicago IL 60661, 3120783-2757, [rules@isbe.net](mailto:rules@isbe.net)*

## ▪ MIDWIVES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted a new Part titled Rules for the Licensed Certified Professional Midwife Practice Act (68 IAC 1345; proposed at 48 Ill Reg 7517) effective at 48 Ill Reg 13608, implementing Public Act 102-683 by establishing licensing procedures for licensed certified professional midwives (not to be confused with certified nurse-midwives, who are licensed as nurses). This Part establishes procedures and requirements for licensure, license renewals, continuing education, restoration of licenses, and recordkeeping. Licensed certified professional midwives must be at least 21 years of age; have completed an accredited college-level midwifery education program that includes academic and clinical practice (or earned certification from the North American Registry of Midwives (NARM) by other means); be certified

by the NARM; be certified in cardiopulmonary resuscitation (CPR) and neonatal resuscitation; and complete the required licensing examination. All licenses are valid for 2 years and expire on October 31 of even-numbered years. The licensing fee for both initial licenses and renewals is \$500. At least 20 hours of continuing education (CE) will be required during each renewal cycle beginning with the 2028 renewal. CE sponsors must be approved by DFPR and pay a \$500 initial licensing fee and a \$250 renewal fee (State colleges, universities and community colleges are not subject to this fee). Licensed certified professional midwives may also employ midwife assistants whose duties are limited to routine tasks such as collecting patient information, drawing blood, and administering medications. This rulemaking also establishes definitions and standards for what constitutes dishonorable, unethical or unprofessional conduct; establishes standards for determining rehabilitation when an individual seeks restoration of a license following disciplinary action; establishes application, renewal, and other fees; creates procedures and requirements for reporting adverse occurrences; and allows DFPR to grant variances from these rules on a case-by-case basis. Licensed professional midwives and their employers are affected.

## DFPR HEARINGS

DFPR also repealed the Part titled Department Rules of Practice in Administrative Hearings (68 IAC 1100; proposed at 48 Ill Reg 3445) and adopted an amendment to the Part titled Rules of Practice in Administrative Hearings (68 IAC 1110; proposed at 48 Ill Reg 3450), both effective 8/30/24 at 48 Ill Reg 13600

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# Adopted Rules

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and 13602. These amendments remove the only remaining Section in Part 1100, which requires DFPR to suspend or deny a professional license when the licensee or applicant has an outstanding tax delinquency with the Department of Revenue, and move these provisions to Part 1110.

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

## NURSING ASSISTANTS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; proposed at 48 Ill Reg 7646), Sheltered Care Facilities Code (77 IAC 330; proposed at 48 Ill Reg 7663) and Illinois Veterans' Homes Code (77 IAC 340; proposed at 48 Ill Reg 7677), all effective 8/28/24 at 48 Ill Reg 13796, 13812, and 13825, implementing Public Act 102-1037, which created a temporary (3-year) Certified Nursing Assistant Intern program for long-term care facilities. These rulemakings reflect statutory requirements for CNA Interns, who may perform limited duties under the direction of a supervisory nurse. Facilities that employ CNA Interns must have written policies specifying what tasks may be delegated to a CNA Intern and how they will be supervised and evaluated. If a CNA Intern performs any task outside the scope of their authorized duties, the facility must assign this task to appropriate personnel, correct any mistakes made, and ensure that a registered nurse conducts a thorough assessment of any resident affected by the work performed. No more than 15% of any

resident's nursing and personal care time may be provided by a CNA Intern. Since 1<sup>st</sup> Notice, DPH has added an automatic repeal date of 11/1/27 to these rulemakings.

## SURGERY CENTERS

DPHS also adopted amendments to Ambulatory Surgical Treatment Center Licensing Requirements (77 IAC 205; proposed at 48 Ill Reg 5602) effective 8/28/24 at 48 Ill Reg 13763, that update incorporated statutes, federal regulations, professional standards, and life-safety standards; increase the minimum required clearance around examination and operating tables from 2 feet 6 inches to 3 feet; remove incineration as an option for disposing of medical waste; and update outdated terminology (e.g., replacing "x rays" with "medical imaging".) Since 1<sup>st</sup> Notice, DPH has updated various incorporated standards and made other grammatical and technical changes.

*Questions/requests for copies of the 4 DPH rulemakings: Tracey Trigillo, DPH, 524 S. Second St., 6<sup>th</sup> Fl., Springfield IL 62701, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)*

## • RADIOACTIVE MATERIAL

The ILLINOIS EMERGENCY MANAGEMENT AGENCY AND OFFICE OF HOMELAND SECURITY adopted amendments to Licensing of Radioactive Material (32 IAC 330; proposed at 48 Ill Reg 7567), Medical Use of Radioactive Material (32 IAC 335; proposed at 48 Ill Reg 7606) and Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material (32 IAC 337; proposed at 48 Ill Reg 7636), all effective 8/29/24 at 48 Ill Reg 13634, 13672 and 13701, implementing recent changes to regulations by the U.S. Nuclear Regulatory Commission. Amendments to Part 330 clarify various requirements for nuclear pharmacists

and exemptions for specific licenses of broad scope. The Part 335 rulemaking simplifies the definition of a medical institution, updates cross references and incorporated materials, updates regulations for the use of sealed radiation sources, and requires sealed sources to be inspected before (formerly, after) each use. Finally, amendments to Part 337 clarify procedures for conducting fingerprint background checks for individuals who have unescorted access to category 1 or category 2 quantities of radioactive material. Medical facilities that use radiation treatments or radioactive material are affected.

*Questions/requests for copies/of the 3 IEMA-OHS rulemakings: Traci Burton, IEMA-OHS, 1035 Outer Park Drive, Springfield IL 62704, 217-785-9860, [Traci.Burton@illinois.gov](mailto:Traci.Burton@illinois.gov)*

## AIR POLLUTION

The POLLUTION CONTROL BOARD adopted amendments to the Parts titled Visible and Particulate Matter Emissions (35 IAC 212; proposed at 47 Ill Reg 12810), Organic Material Emission Standards and Limitations (35 IAC 215; proposed at 47 Ill Reg 12824), Carbon Monoxide Emissions (35 IAC 216; proposed at 47 Ill Reg 12836) and Nitrogen Oxides Emissions (35 IAC 217; proposed at 47 Ill Reg 12842), all effective 8/30/24 at 48 Ill Reg 13711, 13729, 13742, and 13749. These rulemakings establish alternate emissions limitations (intended to meet current USEPA standards) during periods of startup, shutdown, breakdown or malfunction when an emissions generator may be unable to meet normal emission standards.

*Questions/requests for copies of the 4 PCB rulemakings: Clerk's Office, PCB, 60 E. Van Buren St., Suite 630, Chicago IL 60605, 312/814-3620. Please refer-*

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# Adopted Rules

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ence Docket R23-18(A). Comments may also be filed online at [pcb.illinois.gov](http://pcb.illinois.gov).

## STATE RETIREMENT

The STATE EMPLOYEES' RETIREMENT SYSTEM adopted amendments to The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; proposed at 48 Ill Reg 8339) effective 8/27/24 at 48 Ill Reg 13838. This rulemaking clarifies that a Tier 2 System member (initially hired on or after 1/1/11) who is vested with law enforcement duties may retire at age 55 with 20 years of service in any of the following positions: Illinois State Police officer; Conservation Police officer; Illinois Commerce Commission police officer; investigator for the Department of Revenue, Illinois Gaming Board, Office of the Attorney General, or Secretary of State; or arson investigator. The rulemaking also codifies the System's

process for filling a vacancy in an elected member trustee position. Since 1<sup>st</sup> Notice, SERS has clarified that a vacancy must be posted on its website no less than 45 days before it is filled.

*Questions/requests for copies: Jeff Houch, SERS, 2101 S. Veterans Parkway, PO Box 19255, Springfield IL 62794-9255, 217-524-8105, fax 217-557-3943, [jeff.houch@srs.illinois.gov](mailto:jeff.houch@srs.illinois.gov)*

## DOR HEARINGS

The DEPARTMENT OF REVENUE adopted an amendment to Practice and Procedure for Hearings Before the Illinois Department of Revenue (86 IAC 200; proposed at 48 Ill Reg 6682) effective 8/27/24 at 48 Ill Reg 13834, updating the address of DOR's Chicago hearing office (now 555 W. Monroe St., Suite 1100) and the office hours for both the Chicago and Springfield offices (8:30 a.m. to 4:30 p.m. Monday through Friday, excluding State holidays listed at the Department of Central Management Services website).

*Questions/requests for copies: Melanie Neely, DOR, 101 W. Jefferson St., MC5-500, Springfield IL 62794, 217-782-2844, [REV.GCO@illinois.gov](mailto:REV.GCO@illinois.gov)*

## PUBLIC INFORMATION

The OFFICE OF THE TREASURER adopted amendments to the Part titled Public Information, Rulemaking and Organization (2 IAC 650; 48 Ill Reg 13846) effective 8/29/24, updating the Office's current locations, list of administrative rules, and organizational structure (which now includes divisions focusing on banking, investments, and unclaimed property). Since these are internal agency organizational rules, no First Notice publication was required under the Illinois Administrative Procedure Act.

*Questions/requests for copies: Sara Meek, Office of the Treasurer, 219 State House, Springfield IL 62706, 217-836-0030, fax 217-782-2777, e-mail: [SMeek@illinoistreasurer.gov](mailto:SMeek@illinoistreasurer.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 October 8, 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](mailto:jcar@ilga.gov).

## IL RACING BOARD

Pari-Mutuels (11 IAC 300; 48 Ill Reg 8424) proposed 6/14/24

Concessionaire Rules (11 IAC 402; 48 Ill Reg 8428) proposed 6/14/24

Totalizator Operations (11 IAC 433; 48 Ill Reg 8432) proposed 6/14/24

Outstanding Tickets (11 IAC 434; 48 Ill Reg 8439) proposed 6/14/24

Licensing (11 IAC 502; 48 Ill Reg 8443) proposed 6/14/24

Claiming Races (11 IAC 510; 48 Ill Reg 8449) proposed 6/14/24

Security and Admissions (11 IAC 1325; 48 Ill Reg 8453) proposed 6/14/24

Entries, Subscriptions, and Declarations (11 IAC 1413; 48 Ill Reg 8458) proposed 6/14/24

Admissions and Credentials (11 IAC 1428; 48 Ill Reg 8464) proposed 6/14/24

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# Second Notices

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## DEPT OF CENTRAL MANAGEMENT SERVICES

State Vehicles and Garage (44 IAC 5040; 48 Ill Reg 9165)  
proposed 7/5/24

## DEPT OF COMMERCE AND ECONOMIC OPPORTUNITY

Energy Transition Community Grant Program (14 IAC 810; 47 Ill  
Reg 19269) proposed 12/29/23

## DEPT OF PUBLIC HEALTH

Ambulatory Surgical Treatment Center Licensing Requirements  
(77 IAC 205; 48 Ill Reg 10115) proposed 7/12/24

## DEPT OF REVENUE

Electricity Excise Tax Law (86 IAC 511; 48 Ill Reg 5635) proposed  
4/12/24

## SECRETARY OF STATE

Issuance of Licenses (92 IAC 1030; 48 Ill Reg 7994) proposed  
5/31/24

### Next JCAR Meeting: Tuesday, Oct. 8, 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

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