

ILLINOIS ASSOCIATION OF HEALTHCARE ATTORNEYS

**25th ANNUAL
ILLINOIS HEALTH LAW SURVEY**

SELECTED CASE LAW, STATUTES & REGULATIONS

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25th Annual Illinois Health Law Survey

SUMMARY

The rapidly evolving practice of health law calls upon attorneys to stay informed of state and federal law changes. The Illinois Association of Healthcare Attorneys assists its members on this front in a variety of ways, including this 25th Annual Illinois Health Law Survey: a compilation and summary of state statutes, state regulations, and state and federal court decisions affecting healthcare in Illinois (the “Survey”). This executive summary is intended to provide readers with an overview of key changes in Illinois health law over the past year from select topic areas. It is important to note this executive summary and the Survey itself are not exhaustive of all health law changes that occurred in Illinois during the past year. Some of these changes are summarized under one or more categories.

Abortion

- In *Planned Parenthood of Indiana and Kentucky, Inc. v. Marion County Prosecutor*, the court reversed the district court’s grant of summary judgment for Plaintiff, vacated the permanent injunction, and remanded the case. Therefore, the court upheld an Indiana statute that required medical providers to report complications “arising from” abortions.
- In *Whole Woman’s Health Alliance v. Rokita*, the court granted Defendant’s motion to stay parts of the district court’s injunction that prevented officials from enforcing specific prevention of Indiana’s law on abortion because only the U.S. Supreme Court has the power to overturn U.S. Supreme Court precedents.

Antitrust Law

- In *Ass’n of Am. Physicians & Surgeons, Inc. v. Am. Bd. Of Med. Specialties*, the court held that the Plaintiff failed to state a plausible claim for a § 1 violation of the Sherman Act.
- In *Illinois v. Hitachi, LTD.*, the court affirmed the judgement of the circuit court of Cook County to grant summary judgement in favor of the Defendant because the Plaintiff inflated their claim for compensation.

Children’s Health

- Public Act 102-0681 (HB 3490) amends the Illinois Food, Drug, and Cosmetic Act to include specific healthy beverages for children at restaurants.
- Public Act 102-0926 (HB 4242) amends the Children and Family Services Act and the rates paid to daycare providers.
- Public Act 102-0763 (HB 4303) amends the Children and Family Services Act with the addition of a section regarding foster children exit interviews.

- Public Act 102-0752 (SB 3936) creates the Student Confidential Reporting Act and establishes a program that receives reports from the public about potential self-harm or harm to others directed at school students, employees, or Illinois schools.
- Public Act 102-0860 (SB 3819) amends the State Employees Group Insurance Act of 1971 by adding coverage sections regarding pediatric palliative care. It also amends the Health Maintenance Organization Act and the Voluntary Health Services Plans Act.
- Public Act 102-0861 (SB 3833) amends the Abused and Neglected Child Reporting Act and added several healthcare providers to the list of “medical personnel.”
- Public Act 102-0899 (SB 3889) amends the Children’s Mental Health Act of 2003. It requires the Children’s Mental Health Partnership to advise state agencies on short-term and long-term strategies to provide services for children and their families from birth to 25 years old to address children’s mental health needs.
- Public Act 102-1034 (SB 4028) amends the Critical Health Problems and Comprehensive Health Education Act and the Children’s Mental Health Act of 2003 by adding education programming requirements and establishing a Children’s Mental Health Partnership.
- Public Act 102-1091 (SB 4006) amends the Autism Spectrum Disorder Reporting Act by adding a section on reporting and access to behavioral analysis.
- Public Act 102-0067 (HB 3139) amends the Compassionate Use of Medical Cannabis Program Act by creating provisions regarding cannabis use or administration in park districts.
- This adopted rule concerns Specialized Health Care Delivery Systems and impacts the Illinois Public Aid Code by removing medical daycare and respite care, as well as the corresponding reimbursement.
- A rule implemented the updated Centers for Medicare and Medicaid Services (CMS) requirements for compliance with the 2012 National Fire Protection Association (NFPA) 101 Life Safety Code.

Civil Procedure

- In *Abbinanti v. Presence Central and Suburban Hospitals Network*, the court held that if a party does not offer any argument or meaningful authority in support of an argument, the argument is forfeited therefore affirming the circuit court’s judgment to deny the Plaintiffs emergency motion demanding the Defendant administer ivermectin.
- In *Bailey v. Mercy Hospital & Medical Center*, the court reversed in part the appellate court’s judgment because the circuit court did not abuse its discretion or deny the Plaintiff

a fair trial when it refused to issue their proposed nonpattern jury instruction on loss of chance and pattern jury instruction on informed consent.

- In *Casteel v. Jiminez*, the court affirmed the circuit court's judgement to dismiss the Defendants petition for relief from judgement because the error of conducting a bench, rather than jury, trial fell outside the scope of the relief a court can grant under section 2-1401.
- In *Martin v. Petersen Health Operations, LLC*, the court granted Plaintiff's Motion to Remand the negligence and misconduct claim under the Nursing Home Care Act because the case was not preempted by federal law.
- In *In Re Cook Medical, Inc.*, the court held that the Plaintiffs' counsel could not rely on the catch-all provisions contained in Rule 60(b)(6) to avoid the statute of limitations.
- In *People v. McIntyre*, the appellate court affirmed the circuit courts conviction of the Defendant for unlawful possession of a weapon by a felon because the alleged error asserted by the Defendant, an admonition inaccurately suggesting that withdrawal of a jury waiver was categorically forbidden, was not of the same character or quality as errors that have been deemed structural.
- Public Act 102-0908 (HB 0625) allows a defendant to plead a set-off or counterclaim barred by the statute of limitations or by the statute of repose under certain conditions.
- A rule that was adopted that amends procedural aspects of administrative hearings and proceedings.

Continuing Education

- An abundance of Emergency Rules revising the continuing education (CE) requirements for healthcare providers due to the COVID-19 pandemic.

Controlled Substances

- Public Act 102-0699 (HB 4700) amends the Substance Use Act by replacing certain references and adding licensure categories.
- Public Act 102-0751 (SB 3024) amends the Illinois Controlled Substances Act to describe mechanisms to protect the confidentiality of substance use disorder patients such as how the identifying patient data can be used.
- Public Act 102-0879 (SB 4014) amends the Regulatory Sunset Act and the wholesale Drug Distribution Licensing Act regarding license renewal, expiration, and removal.
- Public Act 102-0902 (SB 3910) amends the Uniform Prescription Drug Information Card Act and provides requirements of which data needs to be included on the card.

- Public Act 102-0962 (HB 4999) amends the Early Intervention Services System Act stating that all early intervention services must be initiated as soon as possible but no later than 30 calendar days after the consent of the parent or guardian has been obtained for the individualized family service plan.
- Public Act 102-1040 (SB 2535) amends the Pharmacy Practice Act to require pharmacists to inform patients that opioids are addictive before dispensing them.
- Public Act 102-1041 (SB 2565) amends the Drug Court Treatment Act to provide that defendants may be ordered to take part in certain mental health treatments.
- Public Act 102-1039 (HB 4556) amends the Overdose Prevention and Harm Reduction Act to modify provisions of the needle and hypodermic syringe access program.
- Public Act 102-1055 (HB 1780) enacts the Drug Take-Back Act.
- A rule that was adopted deleted provisions related to grants.
- A rule that was adopted clarifies the approval and denial process of adult use dispensary licensing.
- This adopted rule relates to the Cannabis Regulation and Tax Act and provides that the Department may deny issuance or renewal of a License or Dispensing Organization License if any major member or stakeholder fails to file and/or pay their taxes.
- This adopted rule relates to the Cannabis Regulation and Tax Act and provides a section on Relocation of an Early Approval Adult Use Dispensing Organization License at a Same Site.
- This adopted rule relates to Alcoholism and Substance Abuse Treatment and Intervention Licenses and creates provisions for COVID Organization-19 Vaccination of Entity Staff.
- This emergency rule impacts the Cannabis Regulation and Tax Act and creates a process to deny cannabis dispensary operational licenses to adults who are the subject of Illinois tax delinquency and to establish the Responsible Vendor Program.
- An emergency rule repeals Subpart B: Responsible Vendor Program of the emergency amendments titled Cannabis Regulation and Tax Act.
- This JCAR objection and suspension is because Subpart B of the Cannabis Regulation and Tax Act does not meet the criteria of 1 Ill. Adm. Code 230.400.
- The JCAR withdrew the Suspension of Subpart B of the Department of Financial and Professional Regulation's emergency rule titled Cannabis Regulation and Tax Act.

- There was a request for expedited corrections for the Alcoholism and Substance Abuse Treatment and Intervention Licenses.

Corporations

- In *Osaghae v. Oasis Hospice & Palliative Care, Inc.*, the court affirmed the trial court's decision and reasoned that there was no error on behalf of the trial court, as the trial court conducted the trial on the merits, nor did it mischaracterize evidence and deny Plaintiff of a fair and equitable trial.

COVID-19

- In *Abbinanti v. Presence Central and Suburban Hospitals*, the court ultimately rejected the appeal of the Plaintiffs, reasoning that the Plaintiffs did not meet the necessary legal standard to receive their requested injunction.
- In *ABW Development, LLC v. Continental Casualty Co.*, the court affirmed that Plaintiff's insurance coverage claims based on COVID-19 were not covered under the property insurance policy because the presence of COVID-19 particles did not constitute "physical loss of or damage to property."
- In *Martin v. Petersen Health Operations, LLC*, the court granted Plaintiff's Motion to Remand the negligence and misconduct claim under the Nursing Home Care Act because the case was not preempted by federal law.
- In *Nowlin v. Pritzker*, the court affirmed and modified the district court's dismissal of the Plaintiffs complaint for a lack of standing to a dismissal without prejudice because they found no abuse of discretion in the court's denial of leave to file a second amended complaint.
- Public Act 102-0667 (SB 1169) amends the Health Care Right of Conscience Act to state that any required COVID-19 safety measurements are not a violation of this act.
- Public Act 102-0788 (HB 4929) amends the Illinois Optometric Practice Act of 1987 by providing that upon completion of the necessary training and certification a licensed optometrist may administer the COVID-19 vaccine to any patient seventeen years or older.
- A rule that was adopted removed the federal OSHA ETS regarding COVID-19 vaccination and testing for employers with more than 100 employees.
- An abundance of Emergency Rules and Executive Orders pertaining to individuals, businesses, healthcare facilities, and other public spaces set restrictions, limitations, and required acts of mitigation to address the burden of the COVID-19 pandemic and to prevent further spread.

- The emergency repeal responds to JCAR's objection and suspension of the Department of Public Health's emergency rulemaking from February 14, 2022, regarding "close contacts" for COVID-19.

Cremation

- Public Act 102-0824 (SB 3092) amends the Crematory Regulation Act and outlines which signatures are needed for cremation authorization.

Criminal Law

- In *Gibbons v. OSF Healthcare System*, the appellate court affirmed the judgement of the circuit court denying the Plaintiff's motion for summary judgement and entering judgement on the Defendants behalf due to a lack of unlawful behavior.
- Public Act 102-0779 (HB 4667) amends the Unified Code of Corrections and the County Jail Act by providing that current or retired deputies and correctional officers qualify as law enforcement officers for purposes of coverage under the federal Law Enforcement Officers Safety Act of 2004.

Custody

- Public Act 102-0834 (SB 3172) amended the Custody Relinquishment Prevention Act and requires that several state departments enter into a 5-year extension of the interagency agreement required by Public Act 98-808.

Data Privacy

- In *Cothron v. White Castle System, Inc.*, the court ruled that the issue did require review by the highest court in the State, citing that it would be a recurrent question regarding the state statute, and reasoned that the requirements for certification of questions for the Illinois Supreme Court were met in this case.
- In *McDonald v. Symphony Park, LLC*, the Supreme Court of Illinois affirmed the judgment of the appellate court and reasoned that the injury faced by the Plaintiff was one that was personal and societal in nature rather than physical or psychological.
- In *Mosby v. Ingalls Memorial Hospital*, the court ruled that employee biometric data cannot be included as information meant to be excluded by BIPA, and thus the case is remanded and the question is answered in the negative.
- In *Tims v. Black Horse Carriers, Inc.*, the court remanded the case with the reasoning that had the legislature intended for the inclusion of all privacy actions or any privacy actions pertaining to publication, it would have reflected so in BIPA's language, but because it does not, such a broad application cannot be construed upon all sections.

- In *Watson v. Legacy Healthcare Financial Services, LLC*, the court ruled that the Plaintiff's suit was not inhibited by the statute of limitations and its analysis of the language in BIPA supported the Plaintiff's claim that BIPA's obligations applied to each and every hand and finger scan rather than simply the initial collection.
- Public Act 102-0751 (SB 3024) amends the Illinois Controlled Substances Act to describe mechanisms to protect the confidentiality of substance use disorder patients such as how the identifying patient data can be used.
- Public Act 102-0833 (SB 3163) amends the Vital Records Act and provides instructions for redacting certifying health professionals on birth certificates.

Dementia

- Public Act 102-0722 (HB 4388) amends the Department of Public Health Powers and Duties Law of the Civil Administration Code of Illinois with the addition of a section regarding emergency medical services (EMS) personnel's training on Alzheimer's disease and other dementias.
- Public Act 102-0747 (SB 2993) amended the Alzheimer's Disease and Related Dementias Services Act by repealing Section 90.
- Public Act 102-1020 (SB 3707) amends the Illinois Act on the Aging and implements dementia training requirements for employees.

Dentistry

- Public Act 102-0963 (HB 4501) amends the Illinois Dental Practice Act to expand the abilities of dental hygienists.

Disabilities

- In *In Re Commitment of Hans T.*, the court reversed the judgment of the circuit court subjecting the Plaintiff to involuntary admission on an outpatient basis, under which he was required to reside in a locked unit of a nursing home for 180 days because the order was essentially for involuntary admission on an inpatient basis which violated the Mental Health and Developmental Disabilities Code.
- In *In Re Jennice L.*, the court reversed the circuit court's order granting the petition for the involuntary admission of psychotropic medication and other medical tests because the circuit court failed to comply with section 2-107.1(a- 5)(4)(D) of the Mental Health and Developmental Disabilities Code when it improperly delegated its duty of assessing the risks and benefits of the medication to the Plaintiff's treating physicians.
- In *Jackson v. TSA Processing Chicago, Inc.*, the court reversed the trial court's decision and remanded for further proceedings on the basis that the Plaintiff did not receive the

original notice until he later received the amended one and the amended notice served as the operative one.

- In *Lange v. City of Oconto*, the court affirmed the district court's decision to deny the Plaintiff's motion for judgement because third-party testimony did not unfairly prejudice the Plaintiff.
- In *Lax v. Mayorkas*, the court affirmed the decision of the district court, stating that Plaintiff filed his complaint on the ninety-first day following receipt of notice, which violated the 90-day period afforded to him.
- In *McCavitt v. Kijakazi*, the court affirmed the district court's decision to deny benefits to the Plaintiff because the changes to 42 U.S.C. 1382c(a)(3)(C) of the Social Security Administration apply "to claims that are pending on or after the effective date."
- In *Pontinen v. U.S. Steel Corp.*, the court found that the Defendant did not violate the Americans with Disabilities Act because the Plaintiffs epileptic condition would pose a direct threat to the health and safety to himself and others while working for the Defendants.
- Public Act 102-0839 (SB 3215) amended the Property Tax Code, the Community Care for Persons with Developmental Disabilities Act, the Counties Code, and the Community Mental Health Act.
- Public Act 102-1069 (HB 4825) amends the Illinois Vehicle Code by providing that there must be space on a vehicle registration application where an applicant, or other approved driver registered to the vehicle, may voluntarily indicate they have a health condition or disability that may impede effective communication with a peace officer.
- This adopted rule is known as the Americans With Disabilities Act Grievance Procedure and establishes a procedure for resolving grievances on behalf of disabled peoples.
- This adopted rule relates to the Illinois Center for Rehabilitation and Education/Community Services for the Blind, Visually Impaired and Deafblind and creates provisions regarding the COVID-19 Vaccination of Illinois Center for Rehabilitation and Education Wood, ICRE-W Personnel.
- This adopted rule relates to the Role of Residential Educational Facilities Operated by the Illinois Department of Human Services and provides that Schools shall develop policies and procedures to address the schools' compliance with adherence to Mandatory Vaccinations.
- A rule that was adopted provides funding to persons eligible for services under Permanent Supportive Housing.

- An adopted rule brings the Medically Complex for the Developmentally Disabled Facilities Code into compliance with the MC/DD Act.
- This emergency rule repeals an emergency rule under the Intermediate Care for the Developmentally Disabled Facilities Code which concerned the involuntary transfer or discharge of a resident as a result of late or nonpayment during the COVID-19 pandemic.
- This emergency rule repeals an emergency rule under the Medically Complex for the Developmentally Disabled Facilities Code which concerned the involuntary transfer or discharge of a resident as a result of late or nonpayment during the COVID-19 pandemic.
- This emergency rule relates to Developmental Disabilities Services and provides changes to the developmental disability provider rate adjustment.
- A JCAR response recommends that a rule about socio-emotional and developmental screenings be implemented more quickly.

Emergency Services

- In *Dawkins v. Fitness International, LLC*, the court held that the Defendant did owe a duty and reasoned that the statutes in question only assign civil liability to those whose failure to use an AED was willful and wanton.
- In *Nartey v. Franciscan Health Hospital*, the court affirmed the district court's motion to dismiss all Plaintiff's claims because the Emergency Medical Treatment and Active Labor Act (EMTALA) can't be used to challenge quality of care because it is not a medical malpractice statute.
- Public Act 102-0983 (HB 5502) amends the Emergency Telephone System Act to add and modify certain definitions and requirements for multi-line telephone systems installed after February 16, 2020.
- An emergency amendment to the Emergency Medical Services Act adds equipment requirements.
- This emergency rule relates to Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center and Acute Stroke Ready Hospital Code and adds bypass and resource limitation status review provisions.

Employment

- In *Country Mutual Insurance Co. v. Under Construction and Remodeling, Inc.*, the court reversed and remanded the circuit court of Cook County's decision to grant summary judgment on behalf of the Plaintiff because the Plaintiff did not demonstrate as a matter of law that it made reasonable efforts to secure the Defendants cooperation during its

investigation and the Defendant willfully refused to cooperate in the Plaintiff's investigation of the employee's worker compensation claim.

- In *Graham v. Board of Education*, the court vacated the judgement of the district court and remanded the case with directions to dismiss for want of a justiciable controversy because the Plaintiff was unable to plead injury.
- In *Mahran v. Advocate Christ Medical Center*, the court affirmed the district court's grant of summary judgment to Defendant after Plaintiff sued under Title VII of the Civil Rights Act of 1964 and the Illinois Human Rights Act for employment discrimination. The court found there was no factual support or objective offensive harassment.
- In *Torrijos v. International Paper Co.*, the court held that the Plaintiff's personal injury action against the Defendant was barred by the exclusive-remedy provision of the Worker's Compensation Act and by the statute of limitations.
- Public Act 102-0942 (4645) enacts the Equity and Representation in Healthcare Act to acknowledge and address the historical and systemic racism and discrimination that exists in access to and quality of healthcare.
- Public Act 102-0671 (HB 0594) amends several acts to provide more diversity in task forces.
- This rulemaking creates the Plumbers Licensing Code and impacts Illinois Plumbing License Law by modifying requirements.

Evidence

- In *Johnson v. Armstrong*, the court held that the Plaintiff's injury was not one that ordinarily occurred absent negligence and the instrument that could have caused the injury were in control of the Defendant, but the appellate court lacked jurisdiction under Rule 304(a) to hear the appeal since *res ipsa loquitur* is not a claim in and of itself.

False Claims Act

- In *U.S. ex rel. Proctor v. Safeway, Inc.*, the court reasoned a footnote is not substantial enough to allocate liability in such a case and therefore affirmed the district court's decision to grant the Defendant summary judgment.
- In *U.S. and State of Illinois ex rel. Prose v. Molina Healthcare of Illinois, Inc.*, the court reversed and remanded the case because the court determined Defendant did commit fraud by submitting materially fraudulent forms for each new enrollee in the Nursing Facility category of patients, there was fraudulent inducement regarding government contracts, and there was implied false certification

Family Medical Leave Act

- In *Anderson v. Nations Lending Corporation*, the court denied Plaintiff's FMLA intervention and retaliation claim because Plaintiff was terminated due to her deficient job performance before her FMLA leave and not because Plaintiff took FMLA leave.

Federal Preemption

- In *Walton v. Roosevelt University*, the court remanded the case because the issue was preempted by federal law. The dispute is governed by a collective bargaining agreement that is governed by federal labor laws and so the case should have been addressed during collective bargaining.

Food Safety

- Public Act 102-1049 (HB 2382) coordinates the creation of a Healthy Food Development Program to expand access to healthy food.
- Public Act 102-1095 (0209) bans the use of gloves in food service establishments.
- Public Act 102-0945 (HB 4665) amended the Regulatory Sunset Act by creating provisions for dietician nutritionists.
- Public Act 102-0761 (HB 4089) amends the School Breakfast and Lunch Program Act by adding a plant-based school lunch option section.
- An adopted rule that impacts the Illinois Public Aid Code and removes temporary exemptions that expanded the Supplemental Nutrition Assistance Program for students in higher education institutions.

Forum Non Conveniens

- In *Malloy v. DuPage Gynecology, S.C.*, the court affirmed that a venue transfer was not required because public and private interest factors do not strongly favor transferring the case due to its benefit to patients who receive the prescription in the original venue.
- In *Wylie v. Schaefer*, the court affirmed the circuit court's denial of the motion to transfer because both public and private interests did not strongly favor transferring the medical malpractice case despite a former defendant being dismissed from the case.

Fraud

- In *St. Lucie County Fire Dist. Firefighters' Pension Trust Fund v. Stericycle, Inc.*, the court upheld the denial of a motion for discovery regarding potential pay-to-play arrangements and vacated the fee for determination of a new fee-award.

Healthcare Facilities

- Public Act 102-0750 (SB3011) amended the University of Illinois Hospital Act by defining a “surgical smoke plume evacuation system.”
- Public Act 102-1089 (SB 1405) amends the Medical Patient Rights Act requiring health care facilities to ensure residents have an opportunity to have at least one visitor.
- An adopted rule that impacts the Illinois Public Aid Code by increasing the reimbursement rates for the medical assistance programs in facilities listed under the ID/DD Community Care Act and the MC/DD Act.
- This adopted rule relates to the Authorized Electronic Monitoring in Long-Term Care Facilities Code and the use of Authorized Electronic Monitoring in healthcare facilities.
- An emergency amendment implements a CMS waiver that exempts qualifying hospitals and allows them to provide limited inpatient services directly to a patient’s home.
- JCAR recommended that the Department of Public Health be “more timely” in implementing Public Acts, specifically regarding developmentally disabled facilities.
- This rule falls under the Health Facilities and Services Operational Rules and reflects changes in accordance with PA-101-650 and P.A. 102-4.

Healthcare Workers

- Public Act 102-0674 (SB 0336) amends the Community Health Worker Certification and Reimbursement Act to establish the Community Health Workers Review Board and its duties to advise the development of the Illinois Community Health Worker Certification Program.
- Public Act 102-0735 (SB 0145) amends the Physician Assistant Practice Act of 1987 to provide that within 60 days of employment, discharge, or assumption of collaboration with a physician assistant, a collaborating physician must file a notice.
- Public Act 102-0785 (HB 4797) amends the Clinical Social Work and Social Work Practice Act by not prohibiting a non-resident of Illinois from performing social work via telehealth in Illinois for a non-resident of Illinois.
- Public Act 102-0786 (HB 4922) amends the Nurse Practice Act by providing if an advanced practice registered nurse with no graduate degree applies for licensure before July 1, 2028, a certified registered nurse anesthetist license may be issued.
- Public Act 102-0844 (SB 3498) amends the Vital Records Act and added “physician assistants” to the list of healthcare professionals throughout the Act.

- Public Act 102-0878 (SB 4013) amended the Regulatory Sunset Act, the Wholesale Drug Distribution Licensing Act, and the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act.
- Public Act 102-0880 (SB 4016) amended the Naprapathic Practice Act regarding naprapathy licensure.
- Public Act 102-0888 (SB 3017) added advanced practice registered nurses and physician assistants to the definition of “eligible health care provider” and added an additional factor for what can be considered a “designated shortage area.”
- Public Act 102-0953 (HB 4769) creates the Behavior Analyst Licensing Act to provide licensure for behavior analysts, assistant behavior analysts, and behavior technicians by the Department of Financial and Professional Regulation
- Public Act 102-0963 (HB 5012) amends the Licensed Certified Professional Midwife Practice act by making a few removals and adding definitions along with stating that the Illinois Midwifery Board must have one member who is an Illinois licensed advanced practice registered nurse who is a certified nurse midwife who provides home birth services.
- Public Act 102-0964 (HB 5013) amends the Birth Center Licensing Act and Medical Assistance Article of the Illinois Public Aid Code to provide certain requirements.
- Public Act 102-0998 (SB 3032) specifies circumstances where institutions of higher education can and cannot without unofficial and official transcripts and establish a financial or physical hardship withdrawal process for students.
- Public Act 102-1006 (SB 3127) requires schools develop an emergency action plan to address serious injuries and acute medical conditions that could harm students and requires the plan be reviewed annually by select school officials.
- Public Act 102-0940 (HB 4629) amends the Illinois Athletic Trainers Practice Act to specify functions of an athletic trainer in healthcare.
- Public Act 102-1011 (SB 3216) amends the Illinois Vehicle Code and added licensed physical therapists to the list of medical professionals who can determine if a person is disabled.
- Public Act 102-1089 (SB 2925) created the Human Services Loan Repayment Act which established the Human Services Professional Loan Repayment Program.
- Public Act 102-1063 (HB 4332) amends the Healthcare Worker Background Check Act to specify the information that must be provided in the Healthcare Worker Registry.

- This adopted rule impacts the Illinois Public Aid Code by modifying the long-term care regional wage adjustor.
- A rule that was adopted allows medical professionals to render the virtual check in service during a public health emergency.
- A rule enacts Public Act 102-0026 regarding healthcare worker background checks.
- An emergency rule impacts the Health Care Worker Background Check Act and temporarily suspends the Act's provision that inhibits a CNA from being hired in light of COVID-19.
- An emergency rule creates provisions for Peer Support Workers (PSW) and a Violence Prevention Community Support Team (VP-CST).

Hospitals

- Public Act 102-0887 (SB 1435) amends the Hospital Licensing Act to provide that certain hospitals serving counties with fewer than 125,000 inhabitants may conduct operations in more than one location, subject to specific requirements.
- An adopted rule that impacts the Illinois Public Aid Code regarding the fee schedule used by HFS in a public health emergency.
- This adopted rule falls under the Hospital Financial Assistance and accommodates the 2021 Health and Human Services Poverty Guidelines.
- An adopted rule provides amendments to hospital discharge procedures, compliance with the Medical Patient Rights Act, and obstetric and neonatal care.
- An emergency rule requires hospitals to provide N-95 masks to licensed practitioners who engage in direct patient care.
- An emergency rule that impacts the Hospital Licensing Act and focuses on expanding access to hospital beds so as to accommodate the needs of the patient population in light of the COVID-19 pandemic.
- An emergency amendment to a rule allows hospitals to increase their bed capacity or re-allocate beds due to the COVID-19 pandemic.
- An emergency rule establishes standards and licenses for temporary alternate care facilities in light of the COVID-19 pandemic.
- This emergency rule relates to Hospital Licensing Requirements and outlines COVID-19 Emergency Provisions for Hospitals and Alternate Care Facilities.

- This rule relates to Hospital Financial Assistance and updates federal income poverty guidelines.

Insurance

- In *ABW Development, LLC v. Continental Casualty Co.*, the court affirmed that Plaintiff's insurance coverage claims based on COVID-19 were not covered under the property insurance policy because the presence of COVID-19 particles did not constitute "physical loss of or damage to property."
- In *Alley 63 v. Society Insurance*, the court reversed the trial court's ruling granting Plaintiff class certification and remanded for further proceedings because there was no physical presence of the virus proven by the Plaintiff to be on their property and thus, they did not have a legitimate claim to contamination coverage.
- In *Firebirds International, LLC v. Zurich American Insurance Company*, the court affirmed the decisions of the trial court and reasoned that the plain language of the insurance policy offered by Defendant does not qualify COVID-19 as a covered cause of loss, as it did not result in physical loss or tangible damage.
- In *Illinois Union Insurance Co. v. Medline Industries, Inc.*, the court affirmed the decision of the circuit court, on the basis that a full retroactive plan was available but not chosen and coverage was therefore not available.
- In *Lee v. State Farm Fire and Casualty Co.*, the court affirmed the judgment of the circuit court by reasoning that the loss experienced by Plaintiff was economic, and not physical in nature, thus precluding it from receiving insurance coverage.
- In *Sweet Berry Cafe, Inc. v. Society Insurance, Inc.*, the court upheld the judgment of the trial court, asserting that the virus itself and the executive order to ban in-person dining both did not cause direct physical loss or damage to the Plaintiff.
- Public Act 102-0768 (HB 4349) amends the State Employees Group Insurance Act of 1971 expands health insurance coverage to cover congenital defects upon birth.
- Public Act 102-0682 (SB 1040) amends the Medical Assistance Article of the Illinois Public Aid Code to provide certain requirements for reopened hospital facilities.
- Public Act 102-0900 (HB 0836) allows the State to research potential misalignment in the healthcare insurance market.
- Public Act 102-0731 (HB 4271) expands insurance coverage to post-mastectomy care.
- Public Act 102-0804 (HB 5254) amends the State Employees Group Insurance Act of 1971 to provide coverage for hormone therapy to treat menopause.

- Public Act 102-0930 (HB 4338) amends the Illinois Insurance Code with the addition of the prenatal vitamins coverage section.
- Public Act 102-0816 (HB 5585) amends the Illinois Insurance Code to provide coverage for home health services.
- Public Act 102-0778 (4595) amends the Illinois Insurance Code regarding drug discount programs.
- Public Act 102-0860 (SB 3819) amends the State Employees Group Insurance Act of 1971 by adding coverage sections regarding pediatric palliative care. It also amends the Health Maintenance Organization Act and the Voluntary Health Services Plans Act.
- Public Act 102-0901 (HB 4703) amends the Illinois Insurance Code by requiring health insurance issuers to ensure that cost-sharing requirements are applied the same when emergency services or covered ancillary services are provided out-of-network as if they were in network and there must be a notice and consent process.
- Public Act 102-0704 (HB 4433) amends The Managed Care Reform and Patient Rights Act regarding health savings accounts.
- Public Act 102-0957 (HB 4941) amends the Illinois Insurance Code by defining a “non-routine change” and with respect to non-routine changes to a fee schedule requiring all impacted contracted health care professionals or health care providers be provided with a notice of the change at least 60 days before the effective date of the change.
- Public Act 102-0979 (HB 5334) amends the Illinois Insurance Code to provide coverage for the cost of BRCA1 and BRCA2 genetic testing.
- Public Act 102-1073 (HB 5318) amends the Illinois Insurance Code to define “prostate cancer screening” and provide coverage for treatment.
- Public Act 102-1093 (SB 2969) amends the Illinois Insurance Code to provide coverage for continuous glucose monitors that are medically necessary to individuals who diagnosed with Type 1 or Type 2 diabetes insurance.
- Public Act 102-1038 (HB 4408) amends the Illinois Insurance Code to not require a co-pay for naloxone hydrochloride.
- A rule that was adopted to amend Section 2001.9(j) to incorporate the standards provided in 215 ILCS 5/356z.17(e)(iii) and make the Department of Insurance rule consistent with the current governing statute.
- A rule that was adopted makes minor edits to Section 4250.130(a) and (c) and adding to the application for registration in Section 4520.130(b).1

- A rule revised the Illinois Insurance Code to reflect changes to 215 ILCS 5/457 regarding filing requirements.
- This rule provides a correction to the Illinois Department of Insurance regarding payment of registration and renewal fees.
- This notice of error relates to Infertility Coverage and cites an inadvertent publication error.

Involuntary Admission

- In *In re. Marcus S.*, the court reversed both orders in favor of Respondent-Appellant reasoning that the State's failure to comply with established standards deprived the Respondent-Appellant of his due process rights and a fair trial.
- In *In re. Marcus S.*, the court reversed both orders in favor of Respondent-Appellant reasoning that the State's failure to comply with established standards deprived the Respondent-Appellant of his due process rights and a fair trial.

LGBTQ

- Public Act 102-0885 (SB 3490) amends the Illinois Act on Aging. It includes duties and member requirements for the Illinois Commission on LGBTQ Aging.

Military

- Public Act 102-0739 (SB 1411) amends the Vital Records Act to provide certain entitlements to individuals who request death certificates for active duty or retired service member of the United States military.

Medical Malpractice

- In *Delegatto v. Advocate Health and Hospitals*, the court affirmed the judgement of the circuit court after finding that a consent form completed by plaintiff clearly and unambiguously informed the plaintiff that "all physicians" were independent contractors and not employees of the defendant.
- In *Malloy v. DuPage Gynecology, S.C.*, the court affirmed that a venue transfer was not required in the medical malpractice case because public and private interest factors do not strongly favor transferring the case due to its benefit to patients who receive the prescription in the original venue.

Medical Records and Information

- In *Robbins v. Med-I Solutions LLC*, the court affirmed the magistrate judge's decision to reject the Plaintiff's res judicata defense because claim preclusion applies defensively, and offensive claim preclusion is nonexistent.

- In *Schutte v. Ciox Health LLC.*, the court affirmed the district court’s denial of the Plaintiffs request for remand because the Defendants had put forth a “plausible good faith estimate” that their amount in controversy exceeded \$5 million and found that a local controversy exception did not apply because the factual allegations in a recent class action against the Defendant were “identical” to the Plaintiffs.
- Public Act 102-0844 (SB 3498) amends the Vital Records Act and added “physician assistants” to the list of healthcare professionals throughout the Act.
- Public Act 102-0877 (SB 4001) repeals a section of the Department of Human Services Act.
- An adopted rule that impacts the Illinois Controlled Substances Act, with the purpose of integrating all Electronic Health Record Systems in Illinois with the Prescription Monitoring Program (PMP) through a secure connection.
- This adopted rule relates to the Immunization Registry Code and outlines the purpose and services of the Registry in COVID-19 vaccination data collection.
- This adopted rule relates to the Health and Hazardous Substances Registry Code and provides data guidelines regarding lead-poisoning related injuries.
- This emergency rule creates the Immunization Registry Code and impacts the Immunization Data Registry Act to consolidate COVID-19 and other immunization information in a digital platform.
- This emergency rule falls under the Immunization Registry Code by removing The Illinois Department of the Lottery and the Office of the Illinois State Treasurer or their designees as entities to whom the Department may release information to, as well as state agencies and partners.

Medicare

- In *Illinois Insurance Guaranty Fund v. Becerra*, the court upheld the dismissal for lack of subject matter jurisdiction because Plaintiff had not exhausted all of CMS’ administrative remedies before bringing the case in federal court.

Mental Health

- In *Quinn v. Wexford Health Sources, Inc.*, the court affirmed the motion for summary judgment for Defendants because there was not sufficient evidence Defendant-Prison did not have procedures to take care of prisoners’ health care needs and that poor treatment does not equate to an intentional lack of care.

- In *In Re Julie M.*, the court held that the 24-hour deadline of section 3-610 of the Mental Health and Developmental Disabilities Code (Code) starts upon admission of a respondent pursuant to article VI of the Code and ends with the proper execution of a second examination and certificate.
- In *In re Julie*, the court affirmed the decision of the county court and ruled that the petition was not untimely upon their review of the Mental Health Code.
- In *Reynolds v. Kijakazi*, the court affirmed the district court's decision to uphold the ALJ's decision regarding Plaintiff's level of disability because disability determinations must be supported by medical records and Plaintiff's medical records lacked substantial evidence of a disability.
- In *In Re Rob W.*, the court affirmed the circuit court of Cook County's judgement to authorize up to 90 days of involuntary medication but reversed the order authorizing up to 180 days of involuntary medication because there was no evidence to support the authorization beyond 90 days.
- Public Act 102-0911 (HB 1321) provides first responders with adequate behavioral and mental health resources for dealing with the trauma they face as a result of their jobs.
- Public Act 102-0830 (SB 3156) amends the Mental Health and Developmental Disabilities Administrative Act and outlined the direct support professional credential pilot program.
- Public Act 102-0913 (HB 1592) addresses the shortage of inpatient psychiatric beds available to patients during and after the COVID-19 pandemic in Illinois.
- Public Act 102-0898 (HB 4306) amends The Children and Family Services Act with the addition of a section regarding holistic mental health care for youth in care task force.
- Public Act 102-0839 (SB 3215) amended the Property Tax Code, the Community Care for Persons with Developmental Disabilities Act, the Counties Code, and the Community Mental Health Act.
- Public Act 102-0866 (SB 3914) amends the School Code regarding mental health or behavioral health complications that can be the basis of sick leave for school employees.
- Public Act 102-0899 (SB 3889) amends the Children's Mental Health Act of 2003. It requires the Children's Mental Health Partnership to advise state agencies on short-term and long-term strategies to provide services for children and their families from birth to 25 years old to address children's mental health needs.
- Public Act 102-1034 (SB 4028) amends the Critical Health Problems and Comprehensive Health Education Act and the Children's Mental Health Act of 2003 by adding education programming requirements and establishing a Children's Mental Health Partnership.

- Public Act 102-1053 (SB 3617) creates the Ensuring a More Qualified, Competent, and Diverse Community Behavioral Health Workforce Act
- A rule brings the Illinois Administrative Code into compliance with Public Act 102-0016 regarding wage increases for direct support persons and frontline staff who support individuals with developmental disabilities.
- An adopted rule impacts the Illinois Public Aid Code by establishing the reimbursement rate for therapeutic visits in facilities certified under the Specialized Mental Health Rehabilitation Act of 2013.
- An adopted rule provides amendments made to the School Code regarding age-appropriate social, emotional, and developmental screenings of school children.
- This adopted rule relates to the Medicaid Community Mental Health Services Program and stipulates that all staff within an entity must be fully vaccinated and tested against COVID-19.
- A JCAR response recommends that a rule about socio-emotional and developmental screenings be implemented more quickly.
- This rulemaking is in regard to Family Assistance and Home-Based Support Programs for Persons with Mental Disabilities to ensure that the language and program oversight is consistent with the current established standards and practices.

Natural Resources

- Public Act 102-0950 (HB 4696) amends the Department of Natural Resources Act by providing that the Department must redirect purchasers of hunting licenses to the First Person Consent organ and tissue donor registry website.

Negligence

- In *Dean v. Wexford Health Sources, Inc.*, the court reversed the lower courts direct judgement but did not upset the jury's findings that the Defendants were negligent because the Plaintiff did not produce enough evidence at trial to hold any of the defendants liable for violating his Eighth Amendment rights.
- In *Gavlin v. Adventist Bolingbrook Hospital*, the court affirmed the trial court's decision to deny the Defendant's motion to dismiss because tolling due to a disability does not terminate when a patient is still alive and disabled.
- In *Love v. U.S.*, the court held that expert testimony is admissible under Rule 702 of the Federal Rules of Evidence.

Nursing

- This emergency rule refers to the Health Care Worker Background Check Code and suspends the provisions that prohibit an individual from being hired as a Certified Nursing Assistant (CNA) if he or she has been inactive in the Health Care Worker Registry.

Nursing Homes

- In *Mason v. St. Vincent's Home, Inc.*, the court affirmed the circuit court's decision to stay Plaintiff's Wrongful Death Act claim and compel arbitration on the negligence claim because the arbitration clause is not unconscionable, and Plaintiff was power of attorney over the deceased when the contract was signed.
- In *Talevski v. Health and Hospital Corporation of Marion County*, the court determined the district court erred in dismissing Plaintiff's Section 1983 claim that Defendant violated the Federal Nursing Home Reform Act (FNHRA). The court determined Congress intended the FNHRA to benefit nursing home residents and conferred individual rights protected by a private cause of action.
- Public Act 102-0947 (HB 4674) amends the Nursing Home Care Act requiring the Department of Public Health to require continuing education for all employees who survey or evaluate a facility by rule guidelines and to offer continuing education opportunities at least quarterly.
- Public Act 102-1007 (SB 3166) requires that employees, nurses, licensed health care professionals, and licensed health professionals be provided information about employee assistance programs for their physical and mental wellbeing by their employers.
- Public Act 102-1018 (SB 3682) created the Reducing Cervical Cancer and Saving Lives Act and amended the Illinois Public Aid Code.
- Public Act 102-1033 (SB 4024) amends the Illinois Act on the Aging regarding hyperlink and title changes.
- Public Act 102-1080 (SB 1633) amends the Nursing Home Care Act to provide that no resident shall be deprived of any rights, benefits, or privileges guaranteed by State or federal law.
- A rule that was adopted incorporated federal regulations and requirements for licensed intermediate care and skilled nursing care facilities regarding patient abuse, neglect, privacy, and confidentiality.
- The rule that was adopted implemented statutory requirements for skilled nursing facilities by updating infectious disease control testing requirements and the requirement that the facilities employ a preventionist.

- A rule implements the Civil Monetary Penalty Reinvestment Program regarding nursing homes.
- A rule implements Public Act 102-0004 which amends the Nursing Home Care Act by requiring long-term care and sheltered care facilities, veterans' homes, and ID/DD communities and facilities develop a policy for water testing.
- This emergency rule impacts the Nursing Home Care Act and requires that Cook County nursing and intermediate care facilities publicize residents' rights.
- This emergency rule repeals an emergency rule which concerned the involuntary transfer or discharge of a resident as a result of late or nonpayment during the COVID-19 pandemic.
- This emergency rule falls under the Skilled Nursing and Intermediate Care Facilities Code and provides guidelines for testing in nursing homes.
- An emergency rule amends the requirements for long term care facilities' infection control policies and procedures.
- This emergency rule relates to the Skilled Nursing and Intermediate Care Facilities Code and provides guidelines to mitigate the spread of COVID-19 in nursing homes.
- An expedited correction was approved because text that had been added to Section 300.3210 in a previously adopted rulemaking, 45 Ill. Reg. 11096, was inadvertently omitted.
- The JCAR considered the proposed rule, 77 Ill. Adm. Code 300; 45 Ill. Reg. 15216, and recommended the Department of Public Health (DPH) revisit the requirements for Infection Preventionists in 6 months.
- JCAR recommended that the Department of Public Health revisit the requirements for infection preventionists in the Skilled Nursing and Intermediate Care Facilities Code.
- JCAR reviewed the emergency rule to the Skilled Nursing and Intermediate Care Facilities Code and made recommendations regarding COVID-19 testing and vaccine requirements.
- JCAR reviewed the emergency rule Intermediate Care for Developmentally Disabled Facilities Code and made recommendations.
- JCAR reviewed the emergency rule Medically Complex for the Developmentally Disabled Facilities Code and JCAR's recommendations.
- This notice for expedited correction involves the Skilled Nursing and Intermediate Care Facilities Code and focuses on resident's rights and identification.

Pharmacy

- Public Act 102-0882 (SB 4018) amended the Wholesale Drug Distribution Licensing Act and the Pharmacy Practice Act. It specified registered pharmacy technician and registered certified pharmacy technician application and duty requirements.
- Public Act 102-1051 (HB 4430) amends the Illinois Clinical Laboratory and Blood Bank Act and Pharmacy Practice Act regarding the examination of specimens and provision of HIV-prophylaxis drugs.
- This adopted rule relates to Medical Payment and provides changes to pricing and payment of prescribed drugs.

Prisoners

- In *Quinn v. Wexford Health Sources, Inc.*, the court affirmed the motion for summary judgment for Defendants because there was not sufficient evidence Defendant-Prison did not have procedures to take care of prisoners' health care needs and that poor treatment does not equate to an intentional lack of care.
- In *Reck v. Wexford Health Services, Inc.*, the court affirmed the district court's grant of summary judgment to Defendants because neither Defendant showed reckless disregard for Plaintiff's illness and neither Defendant could not be held responsible for the facility being understaffed.

Professional Regulation

- Public Act 102-0794 (HB 5047) amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois providing that electronic copies of proof of health care agency may be presented.
- Public Act 102-0812 (HB 5465) creates the Task Force on Internationally-Licenses Health Care Professionals Act.
- Public Act 102-1078 (HB 5575) creates the Comprehensive Licensing Information to Minimize Barriers Task Force Act.
- A rule that was adopted to make amendments to Section 245.200 and 245.205 of the Home Health, Home Services, and Home Nursing Agency Code.
- A rule that was adopted clarifies prior training may be accepted in lieu of the training required under Section 973.140(c).
- A rule that was adopted to amend the definition of "Health Care Professional" in Section 245.20 in the Home Health, Home Services, and Home Nursing Agency Code.

- The JCAR voted to object to the emergency rule 68 Ill. Adm. Code 1325; 45 Ill. Reg. 15104 because the Department of Financial and Professional Regulation did not meet the criteria established under 1 Ill. Adm. Code 230.400A rule that was adopted.
- The JCAR voted to object to the emergency rule 68 Ill. Adm. Code 1470 because the Department of Financial and Professional Regulation did not meet the criteria established under Ill. Adm. Code 230.400 for use of emergency rulemaking.
- This JCAR statement of objection relates to the Orthotics, Prosthetics and Pedorthics Act and arises upon the Department's failure to meet the criteria for review.
- This JCAR statement of objection relates to the Clinical Social Work and Social Work Practice Act and is on the basis of not meeting the criteria for emergency rulemaking by the Department.
- The JCAR recommended that the DPH be timelier in implementing statutory changes.

Public Aid

- Public Act 102-0886 (HB 1950) amends The Illinois Public Aid Code by providing guidelines regarding Safety-Net Hospitals.
- An adopted rule that impacts the Illinois Public Aid Code by providing approval to use other vendors for eyeglasses production.
- This adopted rule falls under Medical Assistance Programs and impacts the Illinois Public Aid Code by providing certain services for eligible individuals that are not otherwise covered under the state plan.
- This adopted rule increased monthly aid to Aged, Blind, or Disabled and impacts the Illinois Public Aid Code.
- A rule that was adopted increased the amount of exempted funds set aside for a prepaid funeral and burial plan.
- A rule that was adopted reduced the time period for allowable deductions.
- A rule that was adopted required the Illinois Department of Healthcare and Family Services to administer and regulate a school-based dental program.
- A rule that was adopted to set the inpatient care rate for all Safety Net Hospitals.
- This emergency rule relates to the Medical Payment and increases the MCO assessment rate for years 2022-2025.

- An executive order amends Executive Order 21 from 2021 regarding combatting homelessness in Illinois and requires the creation of an advisory council to help implement a strategic plan and initiatives.

Public Health

- Public Act 102-0883 (SB 4025) amended the Department of Human Services Act and required the Inspector General to provide a report to the Department of Public Health's Health Care Worker Registry.
- Public Act 102-0919 (HB 3949) amends the Department of Public Health Powers and Duties Law of the Civil Administration Code of Illinois to deem the State's homeless service providers as essential critical infrastructure workers.
- Public Act 102-0967 (HB 5026) amends the Illinois Vehicle Code to remove language requiring the phrase "Susan G. Komen Foundation" to be placed on mammogram licenses.
- Public Act 102-0685 (HB 0370) increases access to safe reproductive health care and dissemination of relevant educational information.
- Public Act 102-1043 (HB 4481) amends the Expressway Camera Act to initiate a camera program that increases the number of cameras along expressways and the Illinois highway system.
- Public Act 102-1048 (HB 4818) amends the Environmental Protection Act by prohibiting the disposal of any Toxic Release Inventory Perfluoroalkyl and Polyfluoroalkyl Substances by incineration.
- Public Act 102-0683 (HB 3401) enacts the Licensed Professional Midwife Practice Act.
- Public Act 102-1052 (HB 5549) amends the African-American HIV/AIDS Response Act to add that funds will provide resources for communities in Illinois to create an HIV/AIDS service delivery system that reduces the disparity of HIV infection and AIDS cases between African-Americans and other population groups.
- Public Act 102-1067 (HB 4729) amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois by requiring the Department to develop and implement a safe gun storage public awareness campaign.
- Public Act 102-0938 (HB 4589) amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois by adding a section to create a Division of Men's Health.
- Public Act 102-1070 (HB 5014) amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois to establish a stroke awareness campaign.

- Public Act 102-0771 (HB 4369) enacts the Lead Poisoning Prevention Act.
- Public Act 102-0345 (HB 1092) creates a Firearms Restraining Order Awareness Program.
- Public Act 102-1037 (HB 4343) amends several acts to include Certified Nursing Assistant Intern Programs and more.
- This adopted rule updates the AIDS Drug Assistance Program and impacts the Ryan White HIV/AIDS Treatment Extension Act of 2009 as well as the Civil Administrative Code of Illinois by updating the Federal Poverty Level numbers from 2020 to 2021 and any relevant and related rules.
- A rule that was adopted enacts Executive Order 2020-21 to establish the Illinois Interagency Task Force on Homelessness.
- A rule that was adopted changes Section 2070.1550 to add dronabinol capsules
- This emergency rule relates to the Control of Communicable Diseases Code and outlines the procedures for mitigating and handling COVID-19 spread on school premises.
- The JCAR voted to object emergency rule 77 Ill. Adm. Code 690 because they did not meet the criteria for emergency rulemaking.
- A notice of corrections adds the reason for emergency rulemaking to 89 Ill. Adm. Code 140.
- The emergency repeal responds to JCAR's objection and suspension of the Department of Public Health's emergency rulemaking from February 14, 2022, regarding "close contacts" for COVID-19.

Qualified Immunity

- In *Taylor v. City of Milford*, the court reversed the district court's grant of summary judgment to Defendant and remanded the case because a reasonable jury could conclude the Defendant-Paramedic violated the deceased's Fourth Amendment right to be free from unreasonable seizure due to unreasonable force.

Radioactive Materials

- This adopted rule relates to Licensing of Radioactive Material and provides guidelines for handling, storing, disposing, and transferring radioactive materials.
- This adopted rule relates to the Medical Use of Radioactive Material and guidelines for licensing, notifications, reporting, written directive procedures, technical requirements and training for intravascular brachytherapy units, manual brachytherapy units, teletherapy units and gamma stereotactic radiosurgery units, and use of sealed sources, are added, edited, and removed.

- This notice of recodification provides that Subpart 1 and Section 335.8010 of the Medical Use of Radioactive Material are recodified.

Reimbursement

- A rule was adopted that updated the Fair Patient Billing Act to reflect 2022 Federal Poverty Guidelines

Res Ipsa Loquitur

- In *Johnson v. Armstrong*, the Supreme Court of Illinois ruled that the appellate court lacked jurisdiction in granting summary judgment and that review of the case would be performed in accordance with the case's standing in October 2020, before the surgeon Defendant's dismissal.

Section 1983 Action

- In *Didonato v. Panatera*, the court affirmed the district court's dismissal of Plaintiff's Section 1983 claim because the off-duty paramedic, who sexually assaulted her and did not properly treat Plaintiff's wounds, was not acting under the color of law as required under Section 1983.
- In *Quad Capital Portfolio A LLC v. AbbVie, Inc.*, the court affirmed the circuit court's grant of summary judgment to the Defendants because Plaintiff did have knowledge of Defendant's fraud regarding the likelihood of the merger occurring during the statute of limitations but did not bring the case during the requisite time period.

Sexual Assault

- Public Act 102-0777 (SB 3023) amended the Sexual Assault Emergency Treatment Act to add new requirements for sexual assault training.
- A rule that was adopted requires the Department of Public Health to adopt rules for the qualification of sexual assault forensic examiners.
- An emergency amendment that impacts the Sexual Assault Survivors Emergency Treatment Act and approves federally qualified health centers (FHQCs) as a provider of medical forensic services to sexual assault survivors.
- This emergency rule relates to the Sexual Assault Survivor Emergency Treatment Code and outline the guidelines for the services to sexual assault survivors at FHQCs.

Shareholder Lawsuit

- In *Staisz v. Resurrection Physicians Provider Group, Inc.*, the court affirmed the motion to dismiss Plaintiff's shareholder lawsuit because Plaintiff did not have standing as a non-shareholder and Defendant did not have a fiduciary duty to Plaintiff.

Sherman Act

- In *Association of American Physicians & Surgeons, Inc. v. American Board of Medical Specialties*, the court affirmed the district court dismissal of Plaintiff's claims because Plaintiff did not provide sufficient evidence that Defendant conspired to grant privileges to Board-certified physicians and Defendant's use of the word "Board" to describe itself does not disparage other businesses.
- In *Marion Diagnostics Center, LLC v. Becton Dickson & Co.*, the court affirmed the district court's grant of the Motion to Dismiss Plaintiffs' claims because Plaintiffs lacked Article III and antitrust standing to sue Defendants.

Social Security

- In *Albert v. Kijakazi*, the court affirmed the district court's ruling on the basis of ALJ's determination that she had residual functional capability (RFC) and if provided certain accommodations, would be able to work.
- In *Grotts v. Kijakazi*, the court affirmed the denial of Social Security benefits and dismissed Plaintiff's challenge that the ALJ improperly evaluated the case because the ALJ properly weighed a variety of treating sources, subjective and objective evidence difference.
- In *Poole v. Kijakazi*, the court reversed and remanded the case back to the Social Security Administration because the denial of benefits was based on two contradictory findings regarding the understanding of "sedentary work."
- In *Prill v. Kijakazi*, the court affirmed the decision of the lower court, siding with the conclusions of the ALJ and reasoning that Plaintiff's medical records and self-reported activities were inconsistent with the level of severity and limitations she claimed to face by her symptoms.
- In *Reynolds v. Kijakazi*, the court affirmed the district court's decision to uphold the ALJ's decision regarding Plaintiff's level of disability because disability determinations must be supported by medical records and Plaintiff's medical records lacked substantial evidence of a disability.
- In *Ruenger v. Kijakazi*, the court vacated the district court's decision and remanded the case for further proceedings, reasoning that the methodology through which the vocation expert obtained such numbers was imprecise.

- In *Wilder v. Kijakazi*, the court rejected each of these arguments and affirmed the decision of the district court, citing that it provided sufficient evidence to deny Plaintiff of the benefits she sought.

Standing

- In *Marion Diagnostics Center, LLC v. Becton Dickson & Co.*, the court affirmed the district court's grant of the Motion to Dismiss Plaintiffs' claims because Plaintiffs lacked Article III and antitrust standing to sue Defendants.
- In *Prosser v. Becerra*, the court determined Plaintiff did not have standing because, although Medicare denied coverage of her treatment, Plaintiff did not suffer the required injury in fact because Plaintiff was not charged for the treatments.
- In *Staisz v. Resurrection Physicians Provider Group, Inc.*, the court affirmed the motion to dismiss Plaintiff's shareholder lawsuit because Plaintiff did not have standing as a non-shareholder and Defendant did not have a fiduciary duty to Plaintiff.

Statute of Limitations

- In *Quad Capital Portfolio A LLC v. AbbVie, Inc.*, the court affirmed the circuit court's grant of summary judgment to the Defendants because Plaintiff did have knowledge of Defendant's fraud regarding the likelihood of the merger occurring during the statute of limitations but did not bring the case during the requisite time period.

Supreme Court

- In *Dobbs v. Jackson Women's Health Org.*, the court reverses the Fifth Circuit's decision to grant the Defendants motion for summary judgement and finds that the Constitution does not prohibit the citizens of each State from regulating or prohibiting abortion.

Surrogacy

- Public Act 102-0744 (SB 2974) adds to the definitions section of the Health Care Surrogate Act.

Training Requirements

- Public Act 102-0777 amended the Sexual Assault Emergency Treatment Act to add new requirements for sexual assault training.
- Public Act 102-1007 (SB 3166) requires that employees, nurses, licensed health care professionals, and licensed health professionals be provided information about employee assistance programs for their physical and mental wellbeing by their employers.

- Public Act 102-1020 (SB 3707) amends the Illinois Act on the Aging and implements dementia training requirements for employees.
- A rule implements statutory requirements for skilled nursing facilities by updating infectious disease control testing requirements and the requirement that the facilities employ a preventionist.
- A rule implements Public Act 101-0542 and requires training on the current methods to draw blood from children and adults with developmental disabilities.

Workers' Compensation

- A rule that was adopted makes minor edits to Section 2905.20 adding to the application for registration.
- A rule updated the Illinois Administrative Code to reflect that a portion of the code was transferred from the Workers' Compensation Commission section to the Department of Insurance section.

Wrongful Death

- In *Seals v. Rush University Medical Center*, the court ruled that the Plaintiff did sufficiently plead her case because the facts were well-pleaded in regard to the mistaken syringes, their inability to properly administer the required dose of medication, and the lack of warnings provided to the Plaintiff, and thus the complaint was sufficient to potentially entitle the Plaintiff to relief.
- In *Quiroz v. Chicago Transit Authority*, the court reversed and remanded this ruling. The reasoning of the court was based on the court's obligation to accept certain facts as true as long as they are well-pleaded.

STATE ADMINISTRATIVE AGENCY AND OTHER STATE GOVERNMENT WEBSITES

Illinois Department on Aging

<https://www2.illinois.gov/aging/Pages/default.aspx>

Illinois Department of Children and Family Services

<http://www.state.il.us/dcf/index.shtml>

Illinois Department of Guardianship and Advocacy Commission

<http://gac.state.il.us/>

Illinois Health Facilities and Services Review Board

<http://www.hfsrb.illinois.gov/>

Illinois Department of Financial and Professional Regulation

<http://www.idfpr.com/>

Illinois Department of Healthcare and Family Services

<https://www.illinois.gov/hfs/Pages/default.aspx>

Illinois Department of Human Rights

<https://www2.illinois.gov/dhr/Pages/default.aspx>

Illinois Department of Human Services

<http://www.dhs.state.il.us/>

Illinois Department of Insurance

<http://insurance.illinois.gov/>

Illinois Department of Labor

<https://www2.illinois.gov/idol/Pages/default.aspx>

Illinois Emergency Management Agency

<http://www.state.il.us/iema>

Illinois Department of Public Health

<http://www.idph.state.il.us/>

ILLINOIS COURTS

Illinois Supreme Court and Appellate Courts

<http://www.state.il.us/court/>

ILLINOIS LEGISLATURE

Illinois General Assembly

<http://www.ilga.gov>

ABORTION

CASE LAW

PLANNED PARENTHOOD OF INDIANA AND KENTUCKY, INC. V. MARION COUNTY PROSECUTOR, 7 F. 4th 594, No. 20-2407 (7th Cir. 2021)

The court upheld an Indiana statute that required medical providers to report complications “arising from” abortions. Plaintiff Planned Parenthood challenged Indiana Senate Enrolled Act No. 340 which required physicians to report to the state any adverse physical or psychological condition arising from induction or performance of an abortion. The district court granted summary judgment to Planned Parenthood and an injunction to stop the statute from being enforced as being void for vagueness. However, the court disagreed and noted that although there are some confusing parts of the statute such as the criminal penalties such as imprisonment and the lack of mens rea requirement, these points of confusion are not dispositive. Although the statute provided minimal guidance for practitioners about what the expected conduct is, the court noted that a discernable core of the statute is all that is required. The court determined there was a discernable core that it would be reasonable for physicians to report complications (even if they are rare) that stem from abortions. The court also noted the state agency had not issued guidance about the statute yet and, as an appellate court, it should not strike down the statute without the state having an opportunity to weigh in on it. Furthermore, there was no evidence that the statute had been or would be applied arbitrarily or discriminatory. Therefore, the court reversed the district court’s grant of summary judgment for Plaintiff, vacated the permanent injunction, and remanded the case.

(<https://casetext.com/case/planned-parenthood-of-ind-ky-inc-v-marion-cnty-prosecutor>)

WHOLE WOMAN’S HEALTH ALLIANCE V. ROKITA, 553 F. Supp. 3d 500, No. 21-2480 (7th Cir. 2021).

The court of Appeals for the 7th Circuit granted Defendant’s motion to stay parts of the district court’s injunction that prevented officials from enforcing five provisions of Indiana law: (1) physician-only law for medication abortion, (2) all second-trimester abortions must be performed in a hospital or ambulatory surgical center requirement, (3) in-person counseling prior to abortion requirement, (4) in-person physical examination prior to abortion requirement, and (5) the ban on telemedicine in abortion procedures. All five of the contested parts of the law have been upheld by the U.S. Supreme Court. Although Plaintiffs argued that advancements in videoconferencing and telemedicine make it possible to remove the in-person meeting requirement, the decision to overturn U.S. Supreme Court precedent rests solely in the hands of the U.S. Supreme Court.

(<https://casetext.com/case/whole-womans-health-all-v-rokita-5>)

See also: SUPREME COURT

ANTITRUST

CASE LAW

ASS'N OF AM. PHYSICIANS & SURGEONS, INC. V. AM. BD. OF MED. SPECIALTIES, 15 F. 4th 831 No. 20-3534 (7th Cir. 2021)

The court affirmed the district court's decision to grant the defendants motion to dismiss because the plaintiff failed to state a plausible claim. In an amended complaint, the plaintiff alleged that the defendant orchestrated a nationwide conspiracy to restrain trade in the market for medical care. According to the plaintiff, the defendant conspired with hospitals and health insurers nationwide to condition the granting of staff privileges and in-network status on physicians' continued participation in their Maintenance of Certification MOC program which violates § 1 of the Sherman Act. The district court granted the defendants motion to dismiss and explained that pleading a violation of § 1 of the Sherman Act requires a plaintiff to allege that the defendant: 1) entered into an agreement that 2) unreasonably restrains trade in the relevant market and 3) caused the plaintiff an antitrust injury. The district court concluded that the plaintiff's claims that the defendant had conspired with insurers and hospitals nationwide to require physician participation in the MOC program pointed only to parallel conduct and the plaintiff provided no facts that there was a nationwide agreement. The plaintiff appealed. However, the court found that the plaintiff's complaint failed to state a § 1 claim. The plaintiff did no more than point to an allegation of parallel conduct and a bare assertion of conspiracy. The plaintiff requested another chance to amend their complaint, but the plaintiff already had the opportunity to amend its complaint, therefore, the court affirmed the district court's decision to grant the defendants motion to dismiss.

(<https://cases.justia.com/federal/appellate-courts/ca7/20-3072/20-3072-2021-10-08.pdf?ts=1633714313>)

ILLINOIS V. HITACHI, LTD., 2021 IL App (1st) 200176

The court affirmed the judgement of the circuit court of Cook County to grant summary judgement in favor of the defendant. This appeal arose from a *parens patriae* action brought by the defendant on behalf of Illinois indirect purchasers of products containing cathode ray tubes (CRTs), alleging violations of the Illinois Antitrust Act (Act). Following disputes with the claims administrator as to its eligibility, the appellant intervened in that action and filed a motion "for determination of valid claims," requesting that the court return [its] claims to 'non-deficient' status and deem them valid. The defendant moved for summary judgment, in part based on evidence showing that the plaintiff had grossly inflated the number of eligible products it purchased. The court denied the plaintiff's motion "for determination of valid claims" and granted the defendant's motion for summary judgment, concluding that the plaintiff's claim was inaccurate, and all other motions were denied as "moot." The plaintiff appealed the circuit court's order, arguing that the court erred in granting summary judgement because it was entitled to compensation and there was no legal basis to deny its claim and they were not afforded the opportunity to revise their claim. However, the plaintiff provided no authority that would allow it to amend its

claim. The court determined that the trial court properly granted summary judgement due to the plaintiffs inflated claim and opted not to provide an advisory opinion.

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/ad5a650b-2992-41a4-87ae-8a32ac947a81/State%20v.%20Hitachi,%20Ltd.,%202021%20IL%20App%20\(1st\)%20200176.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/ad5a650b-2992-41a4-87ae-8a32ac947a81/State%20v.%20Hitachi,%20Ltd.,%202021%20IL%20App%20(1st)%20200176.pdf))

CHILDREN'S HEALTH

PUBLIC ACTS

The Illinois Food, Drug, and Cosmetic Act [410 ILCS 620/21.5]

PUBLIC ACT 102-0681, EFFECTIVE December 10, 2021.

House Bill 3490

This Public Act amends the Illinois Food, Drug, and Cosmetic Act. Regarding default beverages for children's meals the act states that by default, a restaurant should include the following beverage, as one option of many, with a children's meal: nonfat of 1% dairy milk containing no more than 130 calories per container or serving as offered for sale. Additionally, a beverage listed or shown on a restaurant menu or in-store advertisement for a children's meals shall be one of those listed in subsection (b). An executive officer of a certified local public health department or his or her designee may charge and collect civil penalties under subsection 21.5(g).

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0681>)

The Children and Family Services Act [20 ILCS 505/5a]; The Illinois Public Aid Code [305 ILCS 5/9A-11]; The Early Intervention System Services Act [325 ILCS 20/3]

PUBLIC ACT 102-0926, EFFECTIVE May 27, 2022.

House Bill 4242

This Public Act amends the Children and Family Services Act. The Act states that the rates paid to daycare providers through the Department of Children and Family Services (DCFS) shall be equivalent to the rates paid to childcare providers through the Department of Human Services under the childcare assistance program, taking into consideration base rates and any relevant rate enhancements. Per available resources, the Illinois Department shall give childcare services to parents and/or relatives who are working, employed, or in approved education or training programs. Categories of families include, but are not limited to: youth in care - will receive one additional 12-month child care eligibility period after the parenting youth in care's case with the DCFS is closed, regardless of income, employment, or participation in an education or training program; and families who receive services on behalf of the Extended Family Support Program, regardless of income, employment, or participation in an education or training program. Starting on October 1, 2023, and then continuing each subsequent October 1, the DCFS should report the number of children who were provided childcare via provision on behalf of DCFS during the preceding fiscal year to the General Assembly. This report should include the ages of children, the type of care they received, and the duration of care. The Act clarifies the definition of "eligible infants and toddlers", stating that this category includes any child

below the age of 3 who has been subject to neglect or abuse as defined by the federal Child Abuse Prevention and Treatment Act.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0926>)

The Children and Family Services Act [20 ILCS 505/5.26 new]; [225 ILCS 10/2.22a]; [225 ILCS 10/4]

PUBLIC ACT 102-0763, EFFECTIVE January 1, 2023.

House Bill 4304

This Public Act amends the Children and Family Services Act with the addition of a section regarding foster children exit interviews. The amendment stipulated that every child aged 5 and over leaving a foster home should be given an exit interview. The interview must be given by a caseworker, mental health provider, or clinician from the Department's Division of Clinical Practice and must be conducted within 5 days of the child leaving the foster home. If the child mentions abuse or neglect in line with the Abused and Neglected Child Act, the interviewer must comply with the provisions of that Act. If the child mentions a licensing issue or any information that suggests a licensing violation, the interviewer must inform the licensing agency. The interview must be documented under (i) the foster parent's licensing file; (ii) the child's case file; (iii) the child's service plan; and (iv) provided to the child's guardian ad litem and attorney appointed under Section 2-17 of the Juvenile Court Act of 1987. If the interview is clinically contraindicated, the child's caseworker, mental health provider (if any), and the caseworker's supervisor will consult to make this determination. If no mental health provider exists for the child, the caseworker must meet with the Department's Division of Clinical Practice to make this determination. The decision and reasoning for the decision must be documented in writing under (i) the foster parent's licensing file; (ii) the child's case file; and (iii) the child's service plan. The information gathered during an interview must take into consideration the child's age, maturity, and circumstances for leaving. All information relevant to the interviewer should be recorded. At minimum the interview must assess (a) how the child's basic needs were met at home; (b) the child's access to the caseworker, therapist, or guardian ad litem; (c) the child's safety and comfort in the home; and (d) the level of normalcy experienced by the child in the home. The development of procedures for interviews shall be established by the Department by January 1, 2023, and summaries of each interview should be posted by the Department on its webpage starting July 1, 2023, and quarterly thereafter. The Child Care Act of 1969 is amended with the addition of a provision under the section regarding quality-of-care concerns applicants. The addition provides that "quality of care concerns applicant" means an applicant for a foster care license or renewal of a license where the applicant or anyone in the applicant's household has requested a youth in care's removal from the home, either orally or in writing, on 5 or more occasions. Another amendment under a section regarding license requirement; application; notice, provides that the preliminary application will be reviewed by the Department for (i) information regarding prior licensing complaints; (ii) information about any prior child abuse and neglect investigations; (iii) information about involuntary foster home holds placed by the Department; and (iv) information regarding all child exit interviews as provided in section 5.26 of the Children and Family Services Act, regarding the home.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0763>)

Student Confidential Reporting Act, Freedom of Information Act [5 ILCS 140/7]

Illinois State Police Law of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-620 new] Juvenile Court Act of 1987 [705 ILCS 405/1-7] [705 ILCS 405/5-915]

PUBLIC ACT 102-0752, EFFECTIVE January 1, 2023

Senate Bill 3936

This Public Act creates the Student Confidential Reporting Act. The Illinois State Police, in coordination with the Illinois Emergency Management Agency, State Board of Education, Department of Human Services, and the Department of Children and Family Services, will establish a program that receives reports from the public about potential self-harm or harm to others directed at school students, employees, or Illinois schools. The program must include a Safe2Help Illinois helpline to receive the reports which must be available 24 hours a day, 365 days a year. The Department of Innovation and Technology will operate a website to provide information about mental health. Once implemented, any pre-existing state or locally operated school violence helpline will work cooperatively with the Safe2Help Illinois hotline. The Illinois State Police is responsible for the operational oversight of the program and make sure program personnel have received the required training: (1) crisis management, (2) knowledge of mental health resources, (3) matters determined by Illinois State Police to be necessary for the program, and (4) handling of criminal intelligence information. Any reports that are submitted will be maintained by the Illinois State Police for at least 5 years. Any report that is generated is confidential and can't be released except under circumstances outlined in the Public Act or the Juvenile Court Act of 1987. Therefore, anyone who voluntarily discloses information from a report commits a Class C misdemeanor. However, there are exemptions to the confidentiality policy. Information may be disclosed (1) by the Illinois State Police, law enforcement agency, school, or a community mental health service program or employee during their duties without revealing who submitted the report unless they are in imminent danger, (2) with the reporter's permission or their parents if they are a minor, (3) pursuant to a court order. A person who is charged with a crime as a result of a report can petition the court to disclose the report and include identifying information. However, the court may place restrictions on how the report can be used and if some of it needs to be redacted. If the State's Agency has reason to believe the report was false, the State's Attorney can petition the court to disclose the report, including identifying information. However, the court can also place restrictions on the release of the report in this circumstance. To fund the program, the Illinois State Police can receive money or other assets from any source for deposit into State Police Operations Assistance Fund for specific purposes: (1) to pay the costs of administering the act, (2) the costs of personnel to staff the program, (3) equipment and software, (4) promote public awareness of the program, (5) support delivery of training and education on the program's topics. The Illinois State Police may also accept funding from a wide variety of other sources for the program. One or multiple contracts may be used to implement this Public Act. The Safe2Help Illinois program manager, in coordination with the Illinois State Police and the State Board of Education, must prepare an annual report that must be filed no later than 90 days after the calendar year ends. The report must contain (1) number of reports submitted to the program, (2) number of reports that were forwarded from the program to law enforcement and school officials, (3) number of reports that resulted in referrals to human services, (4) nature of reports and the information that was submitted according to Illinois State Police's categories, (5) analysis of effectiveness of

program at achieving its goals. A Safe2Help Illinois helpline employee, law enforcement agency, or law enforcement official acting in good faith in their job is immune from civil or criminal liability that might occur as a result of handling tips to the program. However, the immunity does not apply if the conduct was intentional. This Public Act amends the Freedom of Information. The Public Act by adding information prohibited from being disclosed under subsections (a) and (b) of Section 15 of the Student Confidential Reporting Act to the list of circumstances where information may be exempt from inspection and copying. This Public Act amends the Illinois State Police Law of the Civil Administrative Code of Illinois by requiring that the Illinois State Police establish a school helpline program according to the Student Confidential Reporting Act's requirements. This Public Act also amends the Juvenile Court Act of 1987. The Public Act added that if a juvenile law enforcement record was submitted through the statewide confidential reporting system maintained by the Illinois State Police, the record will be maintained for 5 years.

(<https://ilga.gov/legislation/publicacts/102/102-0752.htm>)

State Employees Group Insurance Act of 1971 [5 ILCS 375/6.11]

Counties Code [55 ILCS 5/5-1069.3]

Illinois Municipal Code [65 ILCS 5/10-4-2.3]

School Code [105 ILCS 5/10-22.3f]

Illinois Insurance Code [215 ILCS 5/356z.53 new]

Health Maintenance Organization Act [215 ILCS 125/5-3]

Limited Health Service Organization Act [215 ILCS 130/4003]

Voluntary Health Services Plans Act [210 ILCS 165/10]

PUBLIC ACT 102-0860, EFFECTIVE January 1, 2023

Senate Bill 3819

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0860>)

See also: INSURANCE

The Abused and Neglected Child Reporting Act [325 ILCS 5/4]

PUBLIC ACT 102-0861, EFFECTIVE January 1, 2023

Senate Bill 3833

This Public Act amends the Abused and Neglected Child Reporting Act. The Public Act added physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants to the list of medical personnel who are mandatory reporters under “medical personnel.” It also added athletic trainers under recreation or athletic program or facility personnel.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0861>)

The Children's Mental Health Act of 2003 [405 ILCS 49/1] [405 ILCS 49/5]

PUBLIC ACT 102-0899, EFFECTIVE January 1, 2023

Senate Bill 3889

This Public Act amends the Children's Mental Health Act of 2003. The Children's Mental Health Partnership must advise state agencies on short-term and long-term strategies to provide services for children and their families from birth to 25 years old to address children's mental health needs. The recommendations may include (1) increasing public awareness of children's mental health and wellness to decrease stigma and increase

support, (2) improve coordination of programs, services, and policies throughout state agencies to provide better practices, (3) funding and resources for children's mental health prevention and early identification, (4) research practices and programs to make state policymakers, practitioners and the public aware of children's mental health issues, (5) monitor the programs, services, and policies, (6) grow, retain, diversify, and support the workforce that serves children, especially with professional development services for those who work with child and family mental health, (7) support the design, creation, and evaluation of a children's mental health system of care that addresses mental health concerns, and (8) improve system to meet emergency and residential placement needs for kids with serious mental and behavioral challenges. The Partnership is in charge of updating the Children's Mental Health Plan and advising state agencies on how to implement the plan. The Partnership must be made up of specific members of state agencies, political organizations, and the public according to requirements specified in the Public Act. The Partnership must meet by January 31, 2023, to discuss the changes implemented by the Public Act. The Partnership also has the power to convene and appoint special committees or study groups to assist. Additional Partnership duties include (1) conducting research to determine gaps in children's mental health services, (2) develop policy statements on children's mental health issues, (3) recommend policies and provide information on programs to deliver services, (4) use funding to create or research programs to address children's mental health (although the Partnership itself cannot provide direct services), (5) submit an annual report before December 30 of each year on the Plan's progress, recommendations, and rules to the Governor and the General Assembly, (6) employ an Executive Director. The Partnership may accept monetary gifts or grants from the federal government or agencies, from charitable foundations, and professional associations. On or before January 1, 2027, the Partnership will make recommendations to the Governor and General Assembly about updates to the Children's Mental Health Act. (<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0899>)

See also: MENTAL HEALTH

The Critical Health Problems and Comprehensive Health Education Act [105 ILCS 110/3] The Children's Mental Health Act of 2003 [405 ILCS 49/5]
PUBLIC ACT 102-1034, EFFECTIVE January 1, 2023
Senate Bill 4028

This Public Act amends the Critical Health Problems and Comprehensive Health Education Act and the Children's Mental Health Act of 2003. The required educational programming established by the Act must include how and where to find mental health resources and treatment in Illinois. The Act also established the Children's Mental Health Partnership that must have an adjunct council that meets at least 4 times per year and has no more than 6 youth between the ages of 14-25 and 4 representatives of 4 different community organizations focused on youth mental health. Of the community-based organizations focused on youth, one must be led by an LGBTQ-identified person, one must be led by a person of color, and one must be led by a woman. At least one of the representatives must be LGBTQ-identified, at least one must be a person of color, and at least one must be a woman. The Chair of the Partnership will appoint the council members who will make recommendations to the Partnership about mental health issues.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1034>)

See also: MENTAL HEALTH

The Autism Spectrum Disorder Reporting Act [410 ILCS 201/32 new] [410 ILCS 201/33 new]
PUBLIC ACT 102-1091, EFFECTIVE January 1, 2023

Senate Bill 4006

This Public Act amends the Autism Spectrum Disorder Reporting Act. The Public Act added a section on reporting and access to applied behavior analysis. It requires that by no later than December 31 of each year, the Department of Healthcare and Family Services (HFS) will submit a report to the General Assembly about the state's fiscal year and provide information about access to applied behavior analysis therapy for individuals on the autism spectrum. The report must include, at minimum, (1) the number of providers enrolled in the Illinois Medical Assistance Program who are certified to provide applied behavior analysis therapy in either the fee-for-service or managed care systems, (2) the number of HFS enrolled children in Illinois with an autism spectrum disorder diagnosis who receive the applied behavior analysis therapy under the fee-for-service or managed care delivery system, (3) depending on data's availability, the number of HFS-enrolled kids in Illinois who have an autism spectrum disorder diagnosis, the number of prior authorization service denials for applied behavior analysis therapy services, and the number of appeals of those denials, and (5) recommendations on how to improve provider networks and enrollee access. The Public Act also added a section about education and outreach materials. HFS must develop and distribute educational and outreach materials on autism spectrum disorder. These materials must be tailored to common literacy levels to help explain autism services and how to access those services to parents of kids who have autism spectrum disorder.

<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1091>)

The School Breakfast and Lunch Program Act [105 ILCS 125/5.5 new]

PUBLIC ACT 102-0761, EFFECTIVE August 1, 2023.

House Bill 4089

<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0761>)

See also: FOOD SAFETY

ADOPTED RULES

Illinois Public Aid Code [305 ILCS 5/12-13]

SPECIALIZED HEALTH CARE DELIVERY SYSTEMS (89 Ill. Adm. Code 146)

45 Ill. Reg. 10015, EFFECTIVE July 26, 2021

This amendment concerns Specialized Health Care Delivery Systems and impacts the Illinois Public Aid Code. The amendment removes medical daycare and respite care, as well as the corresponding reimbursement under the Children's Community-Based Health Care Center Fee Schedule as a service covered under the Code.

https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_2.pdf)

Alternative Health Care Delivery Act [210 ILCS 3]

Children's Community-Based Health Care Code (77 Ill. Adm. Code 260)

45 Ill. Reg. 13925, EFFECTIVE October 25, 2021

This rulemaking establishes the updated Centers for Medicare and Medicaid Services (CMS) requirements for compliance with the 2012 National Fire Protection Association (NFPA) 101 Life Safety Code. The rule allows for children to be admitted to a Children's Community-Based Health Care Center (facility) for more than 14 days if an extended authorization for the stay is approved by the Division of Specialized Care for Children for a family emergency. Family emergencies can include (but are not limited to) funerals, primary caregiver recording from a medical event, or if more time is needed for the services. The rule also clarified the eligibility requirements for respite care admissions and said that the facility's physician or APRN must review the child's documentation prior to admission. The documentation must include the physician's signed medical plan of care or documentation provided by a caregiver such as a primary care physician, an APRN, or a specialist. The APRN will confirm the information when the child is admitted and enter it into the electronic medical record. The rule also clarified several eligibility requirements for transitional care admissions. The child must have both a representative and a plan in place to go to a safe residence after being discharged from transitional care; if the child does not have a primary health care provider, the site physician will be the primary care provider until one is found; if a child is being referred from an acute care or intermediate care hospital, the facility's case manager which may include the site APRN must complete preadmission assessment; a child transferring from an ICU must be stable on a ventilator for at least 3 weeks with no significant setting changes such as breath rate, pressure changes, mode, oxygen requirements, change in the amount of time on a ventilator before admission; for children transferring from a PICU, the child must be stable on a home ventilator for one week with no significant changes; if the child's vaccinations are not current, the facility must make sure the child has a catch-up vaccination plan; equipment and supplies must be present 24 hours prior to admission unless the child's equipment is with the child when they are being transferred from the hospital. The rule also clarified two of the requirements for when children are ineligible for admission scheduled supplemental oxygen greater than 40% FiO₂ (unless the child is in hospice care) or endotracheal intubation. The facility must also make sure that the child's home medical equipment is managed by an identified durable medical equipment company that can provide proof of service. The rule also clarified certain requirements for medical oversight: the facility must make sure there are comprehensive multidisciplinary rounds that are led by a provider twice per week and a physician must attend these rounds at least once per week with the remaining round being completed by an APRN; the site provider or designee must be on call 24 hours a day; the medical advisory committee will develop and write down annual goals and meet quarterly to review quality indicators; the medical advisory committee will review all updates or amendments to clinical policies and procedures and the documentation of these reviews must be on file at the facility for at least 5 years. The rule also made changes to some of the medication administration requirements: each multi-dose medication container must now also have the health care provider's name and the medication's expiration date; non-prescription medications can be given to a child under a physician or health care provider's orders; the facility must have a written policy and procedure for the administration, storage, and disposal of controlled substances. The rule also made clarifications to some of the personnel requirements: annual tuberculosis testing must be tracked, and employees' annual influenza shots must be tracked. The rule also

made clarifications to the food services requirements: all children must have a nutrition plan approved by either their primary care physician or the primary health care provider before admission; if the child refuses the provided food, a reasonable and nutritionally appropriate alternative must be offered; adequate supplies of food must be available for each child according to their nutrition plan. The rule also clarified some of the requirements for the physical plant: new facilities must meet the requirements in the NFPA 101, Life Safety Code, Chapter 32, “New Residential Board and Care Occupancies,” and references under Chapter 2; existing facilities must meet requirements in NFPA 101, Life Safety Code, Chapter 33, Existing Residential Board and Care Occupancies, and references under Chapter 2. The rule also made clarifications to some of the quality assessment and improvement requirements: there must be monitoring of clinical costs per day; identification of serious safety events and implementation of a corrective action plan must occur within 30 days after the event.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_45.pdf)

CIVIL PROCEDURE

CASE LAW

ABBINANTI V. PRESENCE CENTRAL AND SUBURBAN HOSPITALS NETWORK, 2021 IL App (2d) 210763.

The court affirmed the judgment of the circuit court of Kane County to deny the plaintiffs emergency motion seeking a temporary restraining order requiring the defendant to administer the medication ivermectin to them despite it being against hospital policy. The trial court focused on whether the plaintiffs had shown the requirements for a TRO: a protectable right, irreparable harm, an inadequate remedy at law, and a likelihood of success on the merits. In their argument, the plaintiffs relied almost entirely on section 10.8(a)(3) of the Hospital Licensing Act (Act) to argue that a hospital may not “unreasonably exercise control, direct, or interfere with the employed physician’s exercise and execution of his or her professional judgment in a manner that adversely affects the employed physician’s ability to provide quality care to patients.” However, the trial court found that it did not give patients the right to receive whatever medical treatment they wanted if that treatment was against hospital policy. Plaintiffs additionally argued that, as patients, the Abbinantis had an express contract with the hospital pursuant to the hospital’s written statement of “patient rights and responsibilities.” That document noted patients’ rights to, among other things, have “reasonable access to care.” The trial court found that it did not give patients the right to receive whatever medical treatment they wanted if that treatment was against hospital policy. Overall, the trial court found that neither section 10.8 of the Act nor the defendant’s statement of patient rights and responsibilities gave rise to an enforceable legal right to receive medical care that contravened the defendant’s policies. On appeal, the plaintiffs did not raise any argument that the trial court incorrectly interpreted the Act, but instead asserted that the Act applies to the plaintiffs and that the proper remedy for a violation of the Act is to override a hospital’s policies. The plaintiffs did not support their argument with any citation to relevant authority. If a party does not offer any argument or meaningful authority in support of an argument, the argument is forfeited. Therefore, the court affirmed the circuit court of Kane County’s decision.

<https://law.justia.com/cases/illinois/court-of-appeals-second-appellate-district/2021/2-21-0763.html>)

BAILEY V. MERCY HOSPITAL & MEDICAL CENTER, 2021 IL 126748

The court reversed in part the appellate court's judgment because the circuit court did not abuse its discretion or deny the plaintiff a fair trial when it refused to issue her proposed nonpattern jury instruction on loss of chance and pattern jury instruction on informed consent. The court rejects the appellate court's conclusion that a new trial was warranted in this case. The plaintiff died two days after seeking treatment at defendant's emergency department and her estate sued for wrongful death and medical negligence, arguing that the plaintiff died of toxic shock syndrome and sepsis caused by a retained tampon, which could have been treated by antibiotics if timely diagnosed. A jury returned a verdict in favor of all defendants. On appeal, the appellate court found that the circuit court abused its discretion and denied plaintiff a fair trial by refusing to issue a nonpattern jury instruction on the loss of chance doctrine and a pattern jury instruction on informed consent in the underlying wrongful death and medical malpractice action. The defendants appealed this decision. The court found that when a jury is instructed on proximate cause through a pattern jury instruction, the lost chance doctrine, as a form of proximate cause, is encompassed within that instruction. Additionally, Illinois law recognizes "four essential elements a plaintiff must prove in a malpractice action based upon the doctrine of informed consent: '(1) the physician had a duty to disclose material risks; (2) he failed to disclose or inadequately disclosed those risks; (3) as a direct and proximate result of the failure to disclose, the patient consented to treatment she otherwise would not have consented to; and (4) plaintiff was injured by the proposed treatment.'" However, it was never alleged that the plaintiff consented to medical treatment without being adequately informed and that the treatment injured her. The proposed jury instruction did not identify any treatment the plaintiff received or any injury she received from that treatment. Therefore, the circuit court properly determined that a pattern jury instruction on informed consent was not required in this case.

<https://law.justia.com/cases/illinois/supreme-court/2021/126748.html>)

See also: MEDICAL MALPRACTICE

CASTEEL V. JIMINEZ, 2022 IL App (1st) 201288.

The court affirms the circuit court's judgment to dismiss the defendants petition for relief from judgment because the section 2-1401 petition was time-barred, and the underlying judgment was not void. After a partial summary judgment against the defendant as to liability as a tortfeasor for common-law negligence and battery, based on shooting the plaintiff in their legs, and bench trial on damages, for which the defendant failed to appear, the defendant filed a petition for relief from judgment. The defendant appealed from the circuit court's order that dismissed his petition filed pursuant to section 2-1401 of the Code of Civil Procedure. The defendant argued that, despite a two-year limitation period, a party may bring a section 2-1401 petition challenging a judgment on the basis that it was void at any time, and the voidness allegation substitutes for the meritorious defense and due diligence requirements. The defendant asserted that the court's failure to honor a jury demand itself renders a judgment void, thus excusing compliance with the usual two-year limitation period. However, the court found that a void judgment is one entered by a court

without jurisdiction. In a civil lawsuit that does not involve an administrative tribunal or administrative review, jurisdiction consists solely of subject matter or personal jurisdiction. Therefore, the error of conducting a bench, rather than jury, trial fell outside the scope of the relief a court can grant under section 2-1401. The exception for void judgments did not apply because the circuit court had both subject matter and general jurisdiction.

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/374eafaa-231e-4ad4-a964-62d1f0f9b646/Casteel%20v%20Jiminez,%202022%20IL%20App%20\(1st\)%20201288.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/374eafaa-231e-4ad4-a964-62d1f0f9b646/Casteel%20v%20Jiminez,%202022%20IL%20App%20(1st)%20201288.pdf))

MARTIN V. PETERSEN HEALTH OPERATIONS, LLC, 1:20-cv;1449, (C.D. Ill. Sep. 22, 2021)

Plaintiff sued Defendant-Nursing Home after Plaintiff's mother died of COVID-19 while she lived at Defendant-Nursing Home. Plaintiff sued in state court and claimed the nursing committed gross negligence and willful misconduct under the Nursing Home Care Act. Defendant-Nursing Home removed the case to federal court, and Plaintiff moved to remand the case back to state court. Plaintiff claimed Defendant-Nursing Home did not take necessary precautions to prevent the spread of COVID-19 among the nursing home residents and these inactions substantially contributed to her mother's death. Specifically, Plaintiff claimed there were too few nurses, Defendant-Nursing Home made nurses care for too many patients during each shift, did not provide enough personal protective equipment for employees, did not screen residents for COVID-19 symptoms, and did not report changes in Plaintiff's mother's condition to her doctor or Plaintiff. Defendant-Nursing Home claims that removal to federal court was correct on multiple grounds. Under 28 U.S.C. 1442, Defendant-Nursing Home claimed it acted as a federal officer because it was acting under the specific direction of federal authorities regarding how to prevent, treat and contain COVID-19. However, the court found there was no evidence of a special relationship between Defendant-Nursing Home and the government. Defendant-Nursing Home is just a regulated private entity that needs to comply with federal laws and regulations. Therefore, removal under 1442 was improper. Defendant-Nursing Home also claimed the removal was proper under 28 U.S.C. 1441 because there was a federal question at issue. However, the court found that neither the complete preemption, embedded federal question jurisdiction, or artful pleading niches within the well-pleaded complaint rule applied. Defendant-Nursing Home claimed the federal PREP Act implemented the federal question; however, the court disagreed and said Defendant-Nursing Home interpreted the PREP Act far too broadly. Therefore, the court granted Plaintiff's Motion to Remand.

(<https://casetext.com/case/martin-v-petersen-health-operations-llc>)

See also: COVID-19

PEOPLE V. McINTYRE, 2022 IL App (2d) 200535.

The court affirms the Circuit Court of Winnebago County's conviction of the defendant for unlawful possession of a weapon by a felon. The Defendant argues on appeal that his jury waiver was invalid because, due to the trial court's erroneous admonition, he was left with the mistaken impression that there was no possibility that he could withdraw the waiver. Although the defendant did not object to the trial court's admonitions during the waiver colloquy or raise the issue in his post-trial motion, the defendant argued that the

error was reviewable under the plain-error rule. Specifically, the defendant sought review under the second prong of the plain error rule, which applies when “[the] error is so serious that it affected the fairness of the defendant’s trial and challenged the integrity of the judicial process.” The second prong of plain error can be equated with “structural error.” A structural error is “a systemic error which serves to erode the integrity of the judicial process and undermine the fairness of the defendant’s trial. However, the court found that the alleged error, an admonition inaccurately suggesting that withdrawal of a jury waiver was categorically forbidden, was not of the same character or quality as errors that have been deemed structural.

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/fa58b76f-47ff-4af9-85b9-2a10a95443ff/People%20v.%20McIntyre,%202022%20IL%20App%20\(2d\)%20200535.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/fa58b76f-47ff-4af9-85b9-2a10a95443ff/People%20v.%20McIntyre,%202022%20IL%20App%20(2d)%20200535.pdf))

See also: CRIMINAL LAW

SEALS V. RUSH UNIVERSITY MEDICAL CENTER., N.E. 3d, 2021 Ill. App (1st) 200558

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/7975ccf9-88f7-42c8-86bc-f5ee6cd88e08/Seals%20v.%20Rush%20University%20Medical%20Center,%202021%20IL%20App%20\(1st\)%20200558.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/7975ccf9-88f7-42c8-86bc-f5ee6cd88e08/Seals%20v.%20Rush%20University%20Medical%20Center,%202021%20IL%20App%20(1st)%20200558.pdf))

See also: WRONGFUL DEATH

TIMS V. BLACK HORSE CARRIERS, INC., N.E. 3d, 2021 Ill. App (1st) 200563

(<https://law.justia.com/cases/illinois/court-of-appeals-first-appellate-district/2021/1-20-0563.html>)

See also: DATA PRIVACY

PUBLIC ACTS

The Code of Civil Procedure [735 ILCS 5/13-207]

PUBLIC ACT 102-0908, EFFECTIVE May 27, 2022.

House Bill 0625

This Public Act amends section 13-207 of the Code of Civil Procedure regarding counterclaims and set offs. Per the amendment, a defendant can plead a set-off or counterclaim barred by the statute of limitations or by the statute of repose while held and owned by him or her, to any action, the cause of which was owned by the plaintiff or person under whom he or she claims, before such set-off for counterclaim was so bored, and not otherwise. Additionally, this amendment applies to claims following the effective date of May 27, 2022, as well as to claims filed with the intention of precluding a defendant the opportunity to file a counterclaim within the original limitation period.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0908>)

ADOPTED RULES

Administrative Procedure Act [5 ILCS 100]

PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS (77 Ill. Adm. Code 100)

46 Ill. Reg. 8192, EFFECTIVE May 5, 2022.

This amendment relates to Practice and Procedure in Administrative Hearings and impacts the Administrative Procedure Act. The amendments add and delete certain definitions for relevant terminology within the Act. Further, there are modifications made to referenced materials. The section regarding hearings requested by complainants is modified to include the recognition of two new sections of the ID/DD Community Care Act throughout the provisions. Under contested cases, the notification of a hearing must include: 1) a citation to the legal authority for conducting the hearing; 2) an advisory to complainants concerning the rules of procedure under which the hearing will be conducted; 3) the name of the Administrative Law Judge who will preside over the prehearing conference; and 4) date, time and call-in information for the prehearing conference. Several stipulations regarding motions to continuance are stricken per the amendments and videoconferencing is incorporated in the Act to accommodate the pandemic limitations. The requisite form of paper is also modified and stricken in terms of measurements. The section about prehearing conferences is amended to reflect that such conferences are scheduled by the prehearing judge to be in person or electronic, and the issues discussed at such conferences are also modified to include the prospects for settlement of the matter and the length of time anticipated by both parties to reach a resolution and a hearing date. Post the prehearing, a date should be set by the judge for an evidentiary hearing. Failure to comply with the administrative judge's rulings may result in one of several orders listed by the amendments. In addition, the administrative law judge shall have the authority to prohibit the participation of any person who impedes the administrative law judge from being able to conduct a hearing. Provisions regarding collusion of parties are stricken through the amendments, as are certain previous requirements for the report. A miscellaneous provision establishes that documents that contain un-redacted personal information may not be entered into evidence. All previous provisions regarding motions are stricken and a new one provides that all Motions brought in a proceeding taking place under the SFIA shall conform to the requirements for Motions set forth under Section 100.8. Similarly with discovery, past provisions are stricken and the new one stipulates that all discovery in SFIA cases shall proceed according to the provisions for discovery under Section 100.12.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_21.pdf)

CONTINUING EDUCATION**EMERGENCY RULES**

Optometric Practice Act of 1987 [225 ILCS 80]

Civil Administrative Code of Illinois [20 ILCS 2105-15(a)(7)]

OPTOMETRIC PRACTICE ACT OF 1987 (68 Ill. Adm. Code 1320)

46 Ill. Reg. 5776, EFFECTIVE March 25, 2022

This emergency amendment will last 150 days. In response to the COVID-19 pandemic, it removes the online limitation on continuing education for optometrists. The Illinois Administrative Rules on Optometry only allow 4 online hours of CE. The emergency amendment removes the 4-hour limitation on correspondence and online courses and

allows live webinars during the current renewal period which has a deadline of March 31, 2022.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_15.pdf)

Illinois Optometric Practice Act of 1987 [225 ILCS 80]

Civil Administrative Code of Illinois - Section 2015-15(7) [20 ILCS 2105/2105-15(7)]

OPTOMETRIC PRACTICE ACT OF 1987

46 Ill. Reg. 10687, EFFECTIVE June 3, 2022

This emergency amendment updates the continuing education (CE) requirements for optometrists by removing the 4-hour limitation on online and live webinars. This allows optometrists to meet their continuing education requirements online so that they can renew their licenses and avoid falling behind in their standard of care.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_25.pdf)

CONTROLLED SUBSTANCES

PUBLIC ACTS

Substance Use Disorder Act [5 ILCS 100/5-45.24]

PUBLIC ACT 102-0699, EFFECTIVE April 19, 2022

House Bill 4700

This Act amends the Substance Use Disorder Act. It replaces all reference to "minorities" with "marginalized community members" and provides a non-exhaustive list of marginalized community members. Additionally, it provides that the licensure categories of intervention services include DUI Evaluation, DUI Risk Education, Designated Program, Harm Reduction Program, and Recovery Homes for persons in any stage of recovery from a substance use or gambling disorder. Harm reduction programs may also include overdose prevention sites and services which may be issued if and when legal authorization is adopted to allow for these services and upon adoption of administrative or funding rules that govern the delivery of the services.

(<https://www.ilga.gov/legislation/publicacts/102/102-0699.htm>)

The Illinois Controlled Substances Act [720 ILCS 570/318]

PUBLIC ACT 102-0751, EFFECTIVE January 1, 2023

Senate Bill 3024

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0751>)

See also: DATA PRIVACY

The Regulatory Sunset Act [5 ILCS 80/4.33] [5 ILCS 80/4.38]

Wholesale Drug Distribution Licensing Act [225 ILCS 120/15] [225 ILCS 120/15.5 new] [225 ILCS 120/21 new] [225 ILCS 120/27] [225 ILCS 120/30] [225 ILCS 120/31 new] [225 ILCS 120/35] [225 ILCS 120/40] [225 ILCS 120/50] [225 ILCS 120/57] [225 ILCS 120/70] [225 ILCS 120/75] [225 ILCS 120/80] [225 ILCS 120/85] [225 ILCS 120/11] [225 ILCS 120/105] [225 ILCS 120/110] [225 ILCS 120/115] [225 ILCS 120/120] [225 ILCS 120/125] [225 ILCS 120/135] [225 ILCS 120/140] [225 ILCS 120/155] [225 ILCS 120/165] [225 ILCS 120/200] [225 ILCS 120/3 rep.]

PUBLIC ACT 102-0879, EFFECTIVE May 13, 2022

Senate Bill 4014

This Public Act amends the Regulatory Sunset Act by removing the Wholesale Drug Distribution Licensing Act as one of the Acts that will be repealed on January 1, 2023. Instead, the Act will be repealed on January 1, 2028. The Public Act amends the Wholesale Drug Distribution Licensing Act. It added definitions for “address of record” and “email address of record” to the definitions section. It also defined “suspicious order” as including (1) an unusual size order of a controlled substance, an order of a controlled substance that is abnormally different from a normal pattern, and (3) orders of controlled substances of unusual frequency. All applicants and licensees are required to (1) provide a value address and email address of record to the Department of Financial and Professional Regulation (Department) and (2) inform the Department of any change to the address and email address of record. All licensees are also required to report a suspicious order under 21 USC 832 to the Department. In the license application, applicants must include their social security number, individual taxpayer identification number, or their unique identifying number. Applications for granting a license or renewal of a license must be made to the Department in writing or electronically using forms provided by the Department, including the fee, and all required information. If a licensee practices while the license is expired or on inactive status, they will be considered to be practicing without a license and be subject to discipline. A wholesale drug distributor or third-party logistics provider who has an expired license for more than one year may not have their license restored. Instead, they must apply for a new license and meet all of the requirements. However, if the license has expired for less than one year, they may apply for a license renewal. When written notice is required to be provided by the Department to a licensee during an investigation or hearing process, the written notice requirement may be satisfied through email to the licensee’s email address of record or mail to the address of record. The Department has the power to subpoena and compel the production of documents, papers, files, books, and records related to these hearings or investigations. The Secretary of the Department has the authority to appoint hearing officers who are licensed attorneys in Illinois regarding drug licensure. If the Secretary disagrees with the hearing officer or the State Board of Pharmacy (Board) findings, they may issue an order in contravention of the recommendation. The Department is not required to certify any record to the court, file an answer in court, or otherwise appear in court in a judicial review proceeding unless the Department has received payment from the plaintiff for costs for the record. It is grounds for dismissal for the plaintiff to fail to file a receipt.

(<https://ilga.gov/legislation/publicacts/102/102-0879.htm>)

The Uniform Prescription Drug Information Card Act [215 ILCS 138/15] [215 ILCS 139/15]

PUBLIC ACT 102-0902, EFFECTIVE January 1, 2024

Senate Bill 3910

This Public Act amends the Uniform Prescription Drug Information Card Act. The Public Act specifies that the health benefit plan can issue physical or electronic cards. It also added requirements to the data that must be on the front of the card: (1) the regulatory entity that has authority over the plan, (2) any deductible, (3) any out-of-pocket maximum limitation, (4) a toll-free phone number and website where the benefit holder can seek customer

assistance, provider assistance, and information prescription drug benefits under the plan, and (5) the benefit holder's name. However, for dental plans, the card does not need to contain information about the regulatory entity that has authority over the plan, the deductible information, or the out-of-pocket maximum information.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0902>)

Early Intervention Services System Act [325 ILCS 20/11]

PUBLIC ACT 102-0962, EFFECTIVE July 1, 2022

House Bill 4999

This Act amends the Early Intervention Services System Act. In accordance with rules adopted by the Department of Human Services, all early intervention services must be initiated as soon as possible but no later than 30 calendar days after the consent of the parent or guardian has been obtained for the individualized family service plan.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0962.pdf>)

Pharmacy Practice Act [225 ILCS 85/19.1]

Illinois Controlled Substances Acts [720 ILCS 570/312]

PUBLIC ACT 102-1040, EFFECTIVE January 1, 2023

Senate Bill 2535

This Act amends the Pharmacy Practice Act. It provides that a pharmacist must inform patients that opioids are addictive before dispensing them and must offer to dispense an opioid antagonist too. This Act makes the same changes to the Illinois Controlled Substances Act.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-1040.pdf>)

The Illinois Insurance Code [215 ILCS 5/424], [215 ILCS 5/513b1]; The Illinois Public Aid Code [305 ILCS 5/5-5.12], [305 ILCS 5/5-36]

PUBLIC ACT 102-0778, EFFECTIVE July 1, 2022.

House Bill 4595

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0778>)

See also: INSURANCE

Drug Court Treatment Act [730 ILCS 166/5]

PUBLIC ACT 102-1041, EFFECTIVE June 2, 2022

Senate Bill 2565

This Act amends the Drug Court Treatment Act. It defines "validated clinical assessment" as a validated assessment tool administered by a qualified clinician to determine the treatment needs of participants. "Validated clinical assessment" includes assessment tools required by public or private insurance. It provides that a defendant may be ordered to complete mental health counseling, comply with physician recommendations regarding medications, and receive follow up treatment for a mental health diagnosis, but that the court must prioritize the least restrictive treatment option, this includes, but is not limited to, Jail-based custodial treatment. Additionally, the court must consider the least restrictive treatment option when ordering mental health or substance use disorder treatment for participants and the results of clinical and risk assessments in accordance with the Illinois Supreme Court Problem-Solving Court Standards. Partnerships between the State of

Illinois and community mental health or behavioral health centers shall be prioritized whenever possible. This Act makes the similar changes to the Veterans and Service Members Court Treatment Act. The Act provides that peer recovery coaches should be individuals with lived experience, and they will work to help facilitate participant experience. It makes similar changes to the Mental Health Court Treatment Act. Lastly, it provides that a person is ineligible for a drug court, veterans and service members court, or mental health court program if the person has been convicted of home invasion, aggravated vehicular hijacking, or aggravated driving under the influence that resulted in the death of another person or when the violation was a proximate cause of the death.

(<https://www.ilga.gov/legislation/publicacts/102/102-1041.htm>)

See also: MENTAL HEALTH

The Overdose Prevention and Harm Reduction Act [410 ILCS 710/5]; [410 ILCS 710/10 new]
PUBLIC ACT 102-1039, EFFECTIVE June 2, 2022.

House Bill 4556

This Public Act amends the Overdose Prevention and Harm Reduction Act. Regarding the needle and hypodermic syringe access program, the listed objectives include, but are not limited to, access to on-site drug adulterant testing supplies. Further, a participant or employee of the program may be charged for possession of drug adulterant testing supplies obtained from or returned to the program or a pharmacy, hospital, clinic, other health care facility or medical office that dispenses the supplies in accordance with Section 10 or for any residual amounts of controlled substances, which also applies to any person using drug testing supplies procured in accordance with Section 10 of this Act. Lastly, an approved healthcare professional may dispense drug adulterant testing supplies to any person. Any supplies distributed must be stored in licensed health care facilities or at the medical offices of a healthcare professional, and in a manner that limits access to the supplies to approved health care professionals. Drug adulterant testing supplies purchased from a retail store may only be purchased from the pharmacy section. No quantity of supplies greater than necessary to conduct 5 assays of suspected substances in such supplies may be provided in one transaction.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1039>)

The Compassionate Use of Medical Cannabis Program Act [410 ILCS 130/30]; [410 ILCS 130/31 new]

PUBLIC ACT 102-0067, EFFECTIVE July 9, 2021.

House Bill 3139

This Public Act amends the Compassionate Use of Medical Cannabis Program Act. Regarding limitations and penalties, the act does not permit any person to engage in, and does not preclude the imposition of any civil, criminal, or other penalties for engaging in using cannabis, except as provided under Section 22-23 of the School Code and Section 31 of this Act, in any public place, and except as provided under Section 22-23 of the School Code and Section 31 of this Act, knowingly in close physical proximity to anyone under 18 years of age. The Act also presents a new section regarding administration to persons with disabilities in park district programs. The section defines “park district” as defined in Section 1-3 of the Park District Code. “Park district” includes the Chicago Park District as defined by the Chicago Park District Act, any special recreational association created by a

park district through an intergovernmental agreement, and any nonprofit organization authorized by the park district or special recreational association to administer a program for persons with disabilities on its behalf. "Program participant" is defined as a person with disabilities who is a registered qualifying patient and who participates in the summer camp, educational program, or other similar program provided by a park district for persons with disabilities. A park district can allow a program participant's parent, guardian, or caregiver to provide medical cannabis, or a product infused with it to the participant on the premises of the park district if both are program cardholders. The product should be removed from the park district premises after administration. A parent, guardian, or caregiver cannot administer the medical cannabis infused product in ways deemed disruptive to the park's program or activities by the park district. A park district cannot reprimand a participant who is given medical cannabis infused product by a parent, guardian, or caregiver or deny the participant's eligibility to attend a program or activity in the park because they require the provision of a medical cannabis infused product. Park district staff are not required to administer a medical cannabis infused product to a participant. If a park district's authorization of the use of medical cannabis would cause them to lose federal funding, it is not required to do so.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1039>)

ADOPTED RULES

Illinois Controlled Substances Act [720 ILCS 570/316, 317, 318, 319, 320 and 321]
ELECTRONIC PRESCRIPTION MONITORING PROGRAM (77 Ill. Adm. Code 2080)
45 Ill. Reg. 8351, EFFECTIVE June 24, 2021

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_28.pdf)

See also: MEDICAL RECORDS AND INFORMATION

Illinois Controlled Substances Act [720 ILCS 570/100]
Schedule of Controlled Substances (77 Ill. Adm. Code 2070)
45 Ill. Reg. 13018, EFFECTIVE October 4, 2021

This rulemaking adds dronabinol capsules to Schedule III of the Controlled Substances list and changes Section 2070.1550 to apply to "dronabinol (oral solution)" instead of "dronabinol (synthetic)." This is to clarify what the controlled substance schedules are for these medications and to ensure that Illinois' Schedule of Controlled Substances reflects changes to federally scheduled controlled substances.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_42.pdf)

Cannabis Regulation and Tax Act [410 ILCS 705]
CANNABIS REGULATION AND TAX ACT (68 Ill. Adm. Code 1291)
45 Ill. Reg. 16320, EFFECTIVE December 7, 2021

This amendment relates to the Cannabis Regulation and Tax Act. The amendments provide new and updated definitions for relevant terminology as well as a tax delinquency section. This section provides that the Department may deny issuance or renewal of a Conditional Adult Use Dispensing Organization License or Adult Use Dispensing Organization

License if any major member or stakeholder fails to file and/or pay their taxes. If the Illinois Department of Revenue determines that an applicant is delinquent in their taxes, they will notify the applicant and the applicant will have 60 days upon receipt of notice to prove that they are no longer delinquent. If they do not, their application for issuance or renewal will be denied.

https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_5_2.pdf

CANNABIS REGULATION AND TAX ACT (68 Ill. Adm. Code 1291)

46 Ill. Reg. 2660, EFFECTIVE January 28, 2022

This amendment relates to the Cannabis Regulation and Tax Act. The amendment provides a section on Relocation of an Early Approval Adult Use Dispensing Organization License at a Same Site. Same-Site Licensees are permitted to relocate their dispensaries if the proposed location is within the same geographic district as the Same-site Licensee's existing associated medical cannabis dispensing organization registration issued under the Compassionate Use of Medical Cannabis Program Act is authorized to operate; the Same-site Licensee's existing location is within the boundaries of a unit of local government that prohibits the retail sales of adult use cannabis; or the Same-site Licensee has obtained a signed statement from an official from the unit of local government where it is located. Applications for relocation must be reviewed and approved or denied within 30 days, and if 30 days pass with no approval or denial, the application is automatically approved. Applications must be submitted with the required paperwork and will not be considered complete until all of the required materials are sent. Floorplans for relocated facilities must also be submitted to and approved by the Department, as well as sitewide inspections prior to the commencement of services.

https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_7.pdf

Illinois Vehicle Code [625 ILCS 5] and the Alcoholism and Other Drug Dependency Act [20 ILCS 301]

ALCOHOLISM AND SUBSTANCE ABUSE TREATMENT AND INTERVENTION LICENSES (77 Ill. Adm. Code 2060)

46 Ill. Reg. 2945, EFFECTIVE February 4, 2022

This amendment relates to Alcoholism and Substance Abuse Treatment and Intervention Licenses and impacts Illinois Vehicle Code and the Alcoholism and Other Drug Dependency Act. The amendments create provisions for COVID Organization-19 Vaccination of Entity Staff. There are definitions for relevant terminology listed within the Act. The subsections provide that all staff members be vaccinated against COVID-19, with at least the first dose for those who are entirely unvaccinated. Proof of full vaccination must be submitted by the outlined acceptable methods. Exemptions for vaccination against COVID-19 must be made by the organization if it is medically contraindicated or would infringe upon a religious practice or belief. Those staff who are not vaccinated by September 19, 2021, must undergo weekly COVID-19 testing at minimum, and testing should be made available on-site, consistent with other requirements in the section. Those who test positive must be excluded in alignment with the federal and local regulations. Signage regarding availability of testing and maintenance of records of fully vaccinated

staff must be provided by the organization. Lastly, the organization must maintain documentation of each staff member's vaccination history for COVID-19 in their medical records and educate the staff on potential risks associated with the COVID-19 vaccination. (https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_8.pdf)

See also: COVID-19

The Drug Take Back Act; The Freedom of Information Act [5 ILCS 140/7]; The Environmental Protection Act [415 ILCS 5/22.15]; [415 ILCS 5/22.55]

PUBLIC ACT 102-1055, EFFECTIVE UPON BECOMING LAW

House Bill 1780

This Public Act enacts the Drug Take-Back Act. All covered manufacturers must enact this program in compliance with the Act. Pharmacies are not required to participate. The program must cover its own administrative and operational fees. An authorized site must accept all covered drugs from its consumers during normal business hours. The drugs must be stored in compliance with state law. The Act also outlines requirements for program managers, the process of gaining agency approval to participate in the program, the yearly promotion system, the annual programs report and what must be included, funding, registration fees, antitrust immunity, and a home rule. The Freedom of Information Act is amended to remove provisions regarding take-back and mail-back programs and signage. (<https://www.ilga.gov/legislation/publicacts/102/102-1055.htm>)

EMERGENCY RULES

Cannabis Regulation and Tax Act [410 ILCS 705]

CANNABIS REGULATION AND TAX ACT (68 Ill. Adm. Code 1291)

45 Ill. Reg. 9586, EFFECTIVE July 15, 2021

This emergency amendment impacts the Cannabis Regulation and Tax Act. The purpose of the amendment is to create a process to deny cannabis dispensary operational licenses to adults who are the subject of Illinois tax delinquency and to establish the Responsible Vendor Program, applications for which will be reviewed by the Illinois Department of Financial and Professional Regulation. The initial amendments are in regard to the addition or adjustment of several relevant definitions within the act. Regarding tax delinquency, the amendments provide that the Department does not grant a Conditional Adult Use Dispensing Organization License or Adult Use Dispensing Organization License to any principal officer, board member, and/or person having a financial or voting interest of 5% or greater in the licensee, applicant, or the license holder that has failed to file or pay taxes to the State. The Department will notify the individual after review and determination by the Illinois Department of Revenue. Upon receipt, the individual has 60 days to prove they are no longer considered delinquent regarding taxes, and if they do not, they will be denied the issuance or renewal of a license. The establishment of the Responsible Vendor Program sets forth an application and approval process which specifies the information required in the application, the requisite signature of a representative to ensure truth and honest applications, and the time period for submission. Denial of an application may cite a lack of qualification, misrepresentation of information, failure to provide all requested materials, and lack of understanding or misunderstanding of laws. Upon reception of an

approval notice, which are not transferable or assignable, allow for training to commence. The curriculum for training will consist of (1) health and safety concerns of cannabis use; (2) training on laws and regulations on driving while under the influence; (3) sales to minors prohibition; (4) quantity limits on sales to purchasers; (5) acceptable forms of identification; (6) safe storage of cannabis; (7) compliance with all regulatory tracking system requirements; (8) waste management and disposal; (9) health and safety standards; (10) security surveillance requirements; (11) inspections by state and local licensing and enforcement authorities; (12) purchaser privacy; (13) packaging and labeling requirements; and (14) current educational information. Curriculums are required to be updated within 30 days of an amendment. Programs must maintain certain requirements to keep approval on behalf of the department, including: (1) providing training that will include a minimum of two (2) hours of classroom instruction time for individuals who are required to complete a Responsible Vendor Program; (2) providing a pre-test and post-test to participants to assess the Program's effectiveness and to assess any increase in knowledge in the curriculum areas described in Section 12921.110.; (3) maintaining a roster of individuals who have completed a Responsible Vendor Program; (4) issuing a certification of completion to each individual who successfully completes the program; (5) submitting a semi-annual report to the Department by June 15 for the reporting period of January 1 through June 30, and by January 15 for the reporting period of July 1 through December 31; (6) submitting a fee schedule indicating the cost of the program, if any. The responsible vendor provider must notify the Department within five days of any change to the fee schedule; 7) notify the Department before a new trainer begins providing instruction of the provider's responsible vendor program. The program providers should maintain electronic records of each training including any materials, enrollments rosters, completion certificates, storage and transfer records, approval notifications, and any other relevant records. The amendments also provide the categories of individuals who must complete a responsible vendor program and those who do not, as well as timelines for those who are required to complete such programs.

https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_31.pdf

Cannabis Regulation and Tax Act [410 ILCS 705]

Cannabis Regulation and Tax Act (68 Ill. Adm. Code 1291)

45 Ill. Reg. 11851, EFFECTIVE September 16, 2021

This emergency rule repeals Subpart B: Responsible Vendor Program of the emergency amendments titled Cannabis Regulation and Tax Act because it did not address a valid emergency.

https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_40.pdf

Cannabis Regulation and Tax Act [410 ILCS 705]

Cannabis Regulation and Tax Act (68 Ill. Adm. Code 1291)

45 Ill. Reg. 13149, EFFECTIVE October 12, 2021

This emergency rule clarifies that once the Department of Financial and Professional Regulation approves/denies an adult use dispensary licensee's request to change locations, the licensee must also be approved to become operational after completion of any construction or

remodeling at the new location by submitting building/site inspection applications. This has no statutory deadline, but the emergency rule does create a new mandate on the Department to approve/deny floorplans within 10 days of receipt and schedule the building and site inspections within 10 days of those being received. This three-step process will ensure dispensaries do not incur expense for construction or build out prior to approval of the relocation; and that approval of the new location is not denied because construction or build out is not complete.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_43.pdf)

Illinois Vehicle Code [625 ILCS 5]

Alcoholism and Other Drug Dependency Act [20 ILCS 301]

Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060)
45 Ill. Reg. 11737, EFFECTIVE September 16, 2021

This emergency rule adds a new section to 77 Ill. Adm. Code 2060 that establishes mandatory COVID-19 vaccination and testing requirements.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_40.pdf)

See also: COVID-19

JOINT COMMITTEE ON ADMINISTRATIVE RULES STATEMENTS OF SUSPENSIONS

Cannabis Regulation and Tax Act [410 ILCS 705]

Cannabis Regulation and Tax Act (68 Ill. Adm. Code 1291)

45 Ill. Reg. 12206, EFFECTIVE August 18, 2021

The Joint Committee withdrew the Suspension of Subpart B of the Department of Financial and Professional Regulation's emergency rule titled Cannabis Regulation and Tax Act (68 Ill. Adm. Code 1291; 45 Ill. Reg. 9586), contingent upon, and effective with, the Department adopting the agreed-upon modifications to this emergency rule.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_40.pdf)

CANNABIS REGULATION AND TAX ACT (68 Ill. Adm. Code 1291)

45 Ill. Reg. 10881, EFFECTIVE August 18, 2021

This objection and suspension are in regard to Subpart B of the Cannabis Regulation and Tax Act. Subpart B is suspended because it does not meet the criteria of 1 Ill. Adm. Code 230.400. The rule was adopted in regard to DFPR's implementation of the Responsible Vendors Program, but adequate explanation of why the emergency rule was necessary to adopt was not provided. The rulemaking guidelines were not followed and ICAR finds that a valid emergency did not exist.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_36.pdf)

REQUEST EXPEDITED CORRECTIONS

Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060) 46 Ill. Reg. 10705, Expedited Correction EFFECTIVE February 4, 2022

This is a request for expedited corrections for Alcoholism and Substance Abuse Treatment and Intervention Licenses, Section 2060.314. The expedited correction revised section 2060.314 heading to “COVID-19 Vaccination of Organization.”

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2_5.pdf)

CORPORATIONS

CASE LAW

OSAGHAE V. OASIS HOSPICE & PALLIATIVE CARE, INC., N.E. 3d, 2021 Ill. App (1st) 200515

Plaintiffs, the Osaghaes, appealed the ruling of the trial court which ruled in favor of the Defendants, Oasis Hospice and Palliative Care, Inc. The court refers to section 12.56 of the Illinois Business Corporation Act of 1983 (Act) (805 ILCS 5/12.56 (West 2016)), which outlines the remedies available to shareholders of nonpublic, closely held corporations when a deadlock that harms the corporation occurs between the shareholders. The questions faced before the court were: (1) whether the non-exclusivity provision of section 12.56(c) of the Act, which provides that the remedies set forth in the Act “shall not be exclusive of other legal and equitable remedies which the court may impose” (id. § 12.56(c)), permits a trial court to order an involuntary buyout of a non petitioning party’s shares as an alternative remedy to dissolution; (2) whether the involuntary buyout of a non petitioning party’s shares, as an alternative remedy to dissolution, constitutes an illegal forfeiture; (3) whether the corporation at issue in this case had standing to seek relief under section 12.56 of the Act; and (4) whether the trial court failed to conduct an evidentiary trial on the counterclaim brought under section 12.56 of the Act. The court affirmed the trial court’s decision for the following reasons. Firstly, the court explains that the buyout remedy does not serve as the only option provided to shareholders, meaning that the trial court’s order to sell Plaintiff’s shares was not in conflict with the sections in question. Secondly, the court answers that the trial court’s order did not constitute an illegal forfeiture or abuse of discretion because the decision qualified as an equitable remedy under the Act. Next, the court ruled that Defendant did not have standing to seek relief under the Act, as the trial court’s order to purchase Plaintiff’s shares did not equate to granting Defendant with the independent standing to request relief. Lastly, the court held that there was no error on behalf of the trial court, as the trial court conducted the trial on the merits, nor did it mischaracterize evidence and deny Plaintiff of a fair and equitable trial.

(<https://law.justia.com/cases/illinois/court-of-appeals-first-appellate-district/2021/1-20-0515.html>)

COVID-19

CASE LAW

ABBINANTI V. PRESENCE CENTRAL AND SUBURBAN HOSPITALS NETWORK, N.E. 3d, 2021 Ill. App (2nd) 210763

Plaintiffs, Michael Abbinanti and Luisa Faso, filed for an emergency motion in pursuit of a mandatory injunction, specifically a temporary restraining order, that will mandate the Defendant, Presence Central and Suburban Hospitals Network, to administer ivermectin to patients Sebastian and Maria Abbinanti, on behalf of whom the Plaintiffs serve as health care agents. The trial court denied this request and the Plaintiffs appealed, to which the court affirmed the decision of the trial court. Ivermectin is a drug that some physicians suggested the use of for treatment of COVID-19, however the FDA, AMA, APA, and ASHSP have warned against and opposed such administration of the drug. The Abbinantis were admitted to the ICU following diagnoses of COVID-19, and the Plaintiffs, as their health care agents, consulted with their doctor, Dr. Lipov, who approved the Plaintiffs' request to administer ivermectin. The Defendant, however, had established a policy against the provision of ivermectin as treatment for covid patients in its hospitals, rendering Dr. Lipov unable to provide the drug to the Abbinantis per the Plaintiffs' plea. The court ultimately rejected the appeal of the Plaintiffs, reasoning that the Plaintiffs did not meet the necessary legal standard to receive their requested injunction. The court further reasoned that the Plaintiffs were unable to prove that the relief they sought would advance the purpose of a TRO, which is to maintain the status quo until a complete hearing may be held, not change it. Additionally, they failed to prove that Dr. Lipov ever had the authority to exercise judgment beyond the guidelines of the hospital and its standard of care when examining and treating patients. As such, he would not be able to administer the medication against the established hospital policy anyway. In accordance with these reasons, the court affirmed the ruling of the circuit court.

(<https://cases.justia.com/illinois/court-of-appeals-second-appellate-district/2021-2-21-0763.pdf?ts=1640826648>)

ABW DEVELOPMENT, LLC V. CONTINENTAL CASUALTY CO., N.E. 3d, 2022 IL App (1st) 210930

(<https://www.crowell.com/files/ABW-Development-Order.pdf>)

See also: INSURANCE

ALLEY 63, INC. V. SOCIETY INSURANCE, N.E. 3d, 2022 Ill. App (2nd) 210401

(<https://cases.justia.com/illinois/court-of-appeals-second-appellate-district/2022-2-21-0401.pdf?ts=1648685489>)

See also: INSURANCE

FIREBIRDS INTERNATIONAL, LLC V. ZURICH AMERICAN INSURANCE CO., N.E. 3d, 2022 Ill. App (1st) 210558

(<https://law.justia.com/cases/illinois/court-of-appeals-first-appellate-district/2022/1-21-0558.html>)

See also: INSURANCE

LEE V. STATE FARM FIRE AND CASUALTY CO., N.E. 3d, 2022 Ill. App (1st) 210105

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/31b9c8ca-77ed-41db-8182-cf2555905226/Lee%20v.%20State%20Farm%20Fire%20&%20Casualty%20Co.,%202022%20IL%20App%20\(1st\)%20210105.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/31b9c8ca-77ed-41db-8182-cf2555905226/Lee%20v.%20State%20Farm%20Fire%20&%20Casualty%20Co.,%202022%20IL%20App%20(1st)%20210105.pdf))

See also: INSURANCE

MARTIN V. PETERSEN HEALTH OPERATIONS, LLC, 1:20-cv;1449, (C.D. Ill. Sep. 22, 2021) (<https://casetext.com/case/martin-v-petersen-health-operations-llc>)

See also: CIVIL PROCEDURE

NOWLIN V. PRITZKER, 34 F.4th 629 No. 21-1479 (7th Cir. 2022)

The court affirmed and modified the district court’s dismissal of the plaintiff’s complaint to a dismissal without prejudice because they found no abuse of discretion in the court’s denial of leave to file a second amended complaint. During the COVID-19 pandemic, Illinois Governor J. B. Pritzker issued a series of executive orders that required Illinois residents to shelter in place at their residences, compelled “non-essential” businesses temporarily to cease or reduce their operations and prohibited gatherings of more than 10 people. Several individuals joined with some Illinois businesses to sue the Governor. After granting the plaintiffs one opportunity to amend their complaint, the district court found that they lacked standing to sue. The court also concluded that it would be futile to allow a second amendment because, even if it had erred about the existence of a justiciable case or controversy, the plaintiffs could not state a claim upon which relief could be granted. On appeal the court found, with respect to five out of the six counts, that the plaintiffs did not satisfy the criteria for Article III standing due to a failure to plead concrete and particularized injuries-in-fact. The remaining count attempted to state a claim under the Takings Clause, but the plaintiffs did not state a claim upon which relief could be granted. The Takings Clause states that property shall not ‘be taken for public use, without just Compensation,’ however, the plaintiffs did not allege any physical invasion or direct appropriation of their property. The preferred or intended use of many business properties was limited or even prohibited by the Governor’s COVID orders, but those orders did not deprive the plaintiffs of all uses to which their premises might be put. Therefore, the court affirms the district court’s decision to dismiss the plaintiff’s complaint to deny leave to file a second amended complaint.

(<https://law.justia.com/cases/federal/appellate-courts/ca7/21-1479/21-1479-2022-05-20.html>)

See also: STANDING

SWEET BERRY CAFE, INC. V. SOCIETY INSURANCE, INC., N.E. 3d, 2022 Ill. App (2nd) 210088

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/858f506f-6edd-42fc-bb0d-c83c06a92601/Sweet%20Berry%20Caf%c3%a9,%20Inc.%20v.%20Society%20Insurance,%202022%20IL%20App%20\(2d\)%20210088.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/858f506f-6edd-42fc-bb0d-c83c06a92601/Sweet%20Berry%20Caf%c3%a9,%20Inc.%20v.%20Society%20Insurance,%202022%20IL%20App%20(2d)%20210088.pdf))

See also: INSURANCE

PUBLIC ACTS

Health Care Right of Conscience Act [745 ILCS 70/13.5 new]

PUBLIC ACT 102-0667, EFFECTIVE June 1, 2022

Senate Bill 1169

This Act amends the Health Care Right of Conscience Act. It provides that any person or public official, or for any public or private association, agency, corporation, entity, institution, or employer that takes any measures or impose any requirements intended to prevent contraction or transmission of COVID-19 or any pathogens that result in COVID-19 or any of its subsequent iterations is not a violation of this Act. Nor is it a violation to enforce such measures or requirements. This applies to all actions commenced or pending on or after June 1, 2022.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0667.pdf>)

Illinois Optometric Practice Act of 1987 [225 ILCS 80/31 new]

Public Act 102-0788, EFFECTIVE May 13, 2022

House Bill 4929

This Act amends the Illinois Optometric Practice Act of 1987. It provides that, upon completion of the necessary training and certification unless training was completed under a proclamation issued by the Secretary of Financial and Professional Regulation on March 24, 2021, a licensed optometrist, not an assistant, may administer the COVID-19 vaccine to any patient seventeen years or older. The optometrist administering immunizations may also initiate and administer epinephrine or diphenhydramine by injection or the treatment of a severe allergic reaction to an immunization. The vaccine shall be covered and reimbursed at no less than the rate the vaccine is reimbursed when ordered and administered by a physician. The vaccination must be documented in the patient's record and include vaccine administered; site of injection; name, dose, manufacturer, lot number, and beyond-use date of the vaccine; the name and address of the patient's primary health care provider named by the patient; a notation that the patient was presented with the appropriate vaccine information statement prior to administration of each vaccine; and any adverse events that followed the vaccination. The Department of Financial and Professional Regulation may adopt any rules necessary to implement this Act.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0788.pdf>)

See also: HEALTHCARE WORKERS

ADOPTED RULES

820 ILCS 219

Health and Safety (56 Ill. Adm. Code 350)

45 Ill. Reg. 3482, EFFECTIVE September 17, 2021

The federal OSHA ETS regarding COVID-19 vaccination and testing for employers with more than 100 employees was withdrawn by the Federal Occupational Safety and Health Administration on January 26, 2022. This rulemaking removes language that applies to the emergency temporary standard.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_10.pdf)

Immunization Data Registry Act [410 ILCS 527]

IMMUNIZATION REGISTRY CODE (77 Ill. Adm. Code 689)

46 Ill. Reg. 2680, EFFECTIVE January 28, 2022

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_7.pdf)

See also: MEDICAL INFORMATION

Community Services Act [405 ILCS 30] and the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705].

MEDICAID COMMUNITY MENTAL HEALTH SERVICES PROGRAM (59 Ill. Adm. Code 132)

46 Ill. Reg. 2937, EFFECTIVE February 4, 2022

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_8.pdf)

See also: MENTAL HEALTH

Disabled Persons Rehabilitation Act [20 ILCS 2405/3(b), (f), (k) and 12]

ILLINOIS CENTER FOR REHABILITATION AND EDUCATION/COMMUNITY SERVICES FOR THE BLIND, VISUALLY IMPAIRED AND DEAFBLIND (89 Ill. Adm. Code 730)

46 Ill. Reg. 2954, EFFECTIVE February 4, 2022

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_8.pdf)

See also: DISABILITY

Illinois Vehicle Code [625 ILCS 5] and the Alcoholism and Other Drug Dependency Act [20 ILCS 301]

ALCOHOLISM AND SUBSTANCE ABUSE TREATMENT AND INTERVENTION LICENSES (77 Ill. Adm. Code 2060)

46 Ill. Reg. 2945, EFFECTIVE February 4, 2022

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_8.pdf)

See also: CONTROLLED SUBSTANCE

Illinois Housing Development Act [20 ILCS 3805] COVID-19 Affordable Housing Grant Program Act [310 ILCS 126]

COVID-19 AFFORDABLE HOUSING GRANT PROGRAM (47 Ill. Adm. Code 3689)

46 Ill. Reg. 5975, EFFECTIVE March 31, 2022

This rulemaking serves as the administrator of the COVID-19 Affordable Housing Grant Program funds [310 ILCS 126]. It addresses parameters for using the funds to fill funding gaps in affordable housing developments that are eligible for federal low-income housing tax credits. An owner of a qualified development is eligible to apply for a grant only if it has received or is receiving an allocation of low-income housing tax credits at the same time. The owner can apply for the grant as part of its application for 9% LIHTC competitive allocation or a 4% LIHTC rolling allocation. In that application, the owner must include the reason for the application and certification that the qualified development is eligible for a grant under the Affordable Housing Grant Act due to a funding gap in the

financing structure. The maximum grant amount available is 35% of total development costs. However, the authority is not prohibited from increasing the grant amount beyond the limitation if the owner applies for additional funds and it's determined that the funding is needed to maintain financial stability or economic viability. Prioritization for the grant will be given to areas that are disproportionately impacted by COVID-19 due to the number of positive COVID-19 cases, developments during construction involving contracts with certified disadvantaged business enterprises and certified underrepresented business enterprises, developments involving project labor agreements with local building trades, and developments involving either contracts or subcontractors with registered apprenticeship or pre-apprenticeship program. Anyone who is awarded the grant is bound by the restrictions, monitoring, and owner's reporting requirements in the Act.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_16.pdf)

EMERGENCY RULES

Hospital Licensing Act [210 ILCS 85]

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

45 Ill. Reg. 8096, EFFECTIVE June 15, 2021

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_2_7.pdf)

See also: HOSPITALS

Hospital Licensing Act [210 ILCS 85]

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

45 Ill. Reg. 8503, EFFECTIVE June 20, 2021

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_2_8.pdf)

See also: HOSPITALS

Health Care Worker Background Check Act [225 ILCS 46]

HEALTHCARE WORKER BACKGROUND CHECK CODE (77 Ill. Adm. Code 955)

45 Ill. Reg. 8109, EFFECTIVE June 20, 2021

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_2_7.pdf)

See also: HEALTHCARE WORKERS

Illinois Lottery Law [20 ILCS 1605/21.14], Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-628] and Illinois Administrative Procedure Act [5 ILCS 100/5-45.12]

JOINT RULES OF THE DEPT. OF THE LOTTERY AND THE DEPT. OF PUBLIC HEALTH ON THE CORONAVIRUS VACCINE INCENTIVE PUBLIC HEALTH PROMOTION (77 Ill. Adm. Code 997)

45 Ill. Reg. 9194, EFFECTIVE July 1, 2021

This emergency rule impacts the Illinois Lottery Law, Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois, and Illinois Administrative Procedure Act. The rule will expire after 150 days of the effective date or upon repeal. The

rule requires the Department of Lottery and the Department of Public Health (IDPH) to timely establish the Coronavirus Vaccine Incentive Public Health Promotion. The general provisions stipulate that the Departments create and offer awards as a means of encouraging Illinois residents to get vaccinated against COVID-19. Prizes total \$10 million and target both youth and adult populations. The program functions as a public campaign to raise awareness and entries for the award are automatic upon the reception of one dose of the COVID-19 vaccine in Illinois. The rule provides specific and separate duties for both Departments. Prior to drawing, the IDPH will filter I-CARE for relevant drawing parameters; remove duplicate entries; assign a sequential number to each entry; and determine the total number of entries. The Department of Lottery will conduct each drawing using a random number generator to select the given number of winners and will maintain a record of winners. The winner will be contacted by email by the IDPH and will be required to complete an authorization form. If a winner is ineligible or unable to be contacted, the IDPH will bypass and choose the next winner. Winners must claim their prize by the deadline date and can be disqualified. The prizes are not exchangeable or transferable and winners are solely responsible for the applicable taxes to prizes. If the winner owes state obligations, the prize money will be allocated to that first. The rule provides those who are ineligible to enter the promotion and provides a cash drawing schedule as well as a scholarship drawing schedule. There are 11 eligible regions from which the winners will be drawn, and a map depicting this region is provided.

https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_2_9.pdf

Immunization Data Registry Act [410 ILCS 527]

IMMUNIZATION REGISTRY CODE (77 Ill. Adm. Code 689)

45 Ill. Reg. 9607, EFFECTIVE July 16, 2021

https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_1.pdf

See also: MEDICAL INFORMATION

Nursing Home Care Act [210 ILCS 45]

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)

45 Ill. Reg. 10087, EFFECTIVE July 25, 2021

https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_2.pdf

See also: NURSING HOMES

ID/DD Community Care Act [210 ILCS 47]

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE (77 Ill. Adm. Code 350)

45 Ill. Reg. 10102, EFFECTIVE July 25, 2021

https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_2.pdf

See also: DISABILITY

MC/DD Act [210 ILCS 46]

MEDICALLY COMPLEX FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE
(77 Ill. Adm. Code 390)

45 Ill. Reg. 10115, EFFECTIVE July 25, 2021

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_32.pdf)

See also: DISABILITY

Nursing Home Care Act [210 ILCS 45]

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)

45 Ill. Reg. 10847, EFFECTIVE August 19, 2021

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_36.pdf)

See also: NURSING HOMES

Illinois Housing Development Act [20 ILCS 3805]

COVID-19 Affordable Housing Grant Program (47 Ill. Adm. Code 369)

45 Ill. Reg. 11732, EFFECTIVE September 16, 2021

This emergency rule will address the Affordable Housing Grant Program parameters for use of the funds to fill funding gaps in affordable housing developments that are eligible for federal low-income housing tax credits. The grant funds will help developers to overcome increased construction costs related to the COVID-19 pandemic-created supply shortages (in lumber and other materials) and to jump-start a housing recovery. These funds will also incentivize and attract private equity and private lending and will allow the State to more fully use and draw down unused federal resources for affordable housing.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_40.pdf)

Community Services Act [405 ILCS 30]

Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705]

Medicaid Community Mental Health Services Program (59 Ill. Adm. Code 132)

45 Ill. Reg. 11735, EFFECTIVE, September 16, 2021

This emergency rule adds a new section to the 59 Ill. Adm. Code 132 that establishes mandatory COVID-19 vaccination and testing requirements.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_40.pdf)

See also: MENTAL HEALTH

Illinois Vehicle Code [625 ILCS 5]

Alcoholism and Other Drug Dependency Act [20 ILCS 301]

Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060)

45 Ill. Reg. 11737, EFFECTIVE September 16, 2021

This emergency rule adds a new section to 77 Ill. Adm. Code 2060 that establishes mandatory COVID-19 vaccination and testing requirements.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_0.pdf)

See also: CONTROLLED SUBSTANCES

Disabled Persons Rehabilitation Act [20 ILCS 2405/3(b), (f), (k) and 12].

Illinois Center for Rehabilitation and Education/Community Services for the Blind, Visually Impaired and Deafblind (89 Ill. Adm. Code 730)

45 Ill. Reg. 11791, EFFECTIVE September 16, 2021

This emergency rule adds a new section to 89 Ill. Adm. Code 730 that establishes mandatory COVID-19 vaccination and testing requirements.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_0.pdf)

Disabled Persons Rehabilitation Act [20 ILCS 2405/10 and 11]

Role of Residential Educational Facilities Operated by the Illinois Department of Human Services (89 Ill. Adm. Code 750)

45 Ill. Reg. 11793, effective September 16, 2021

This emergency rule adds language to 89 Ill. Adm. Code 750 to require adherence to the Illinois State Board of Education's rules regarding Mandatory Vaccinations for School Personnel as outlined in 23 Ill. Adm. Code 6.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_0.pdf)

School Code [105 ILCS 5/2-3.6]

Mandatory Vaccination for School Personnel (23 Ill. Adm. Code 6)

45 Ill. Reg. 11843, EFFECTIVE September 17, 2021

The emergency rules create a new Part 6 to implement Executive Order 2021-20.

These rules provide schools and school districts with sufficient clarity and detail regarding implementation of the executive order which requires all school personnel to either receive the COVID-19 vaccine or undergo at least weekly testing. These rules provide the necessary support for schools and school districts to protect the health and safety of students, school personnel, and their broader communities during the ongoing COVID-19 pandemic.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_0.pdf)

Hospital Licensing Act [210 ILCS 85]

Hospital Licensing Requirements (77 Ill. Adm. Code 250)

45 Ill. Reg. 11907, EFFECTIVE September 17, 2021

This emergency rule adds a new section to 77 Ill. Adm. Code 250 that requires all hospitals to require their staff to be fully vaccinated against COVID-19 or be tested if they decline the vaccine for medical or religious reasons.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_0.pdf)

Assisted Living and Shared Housing Act [210 ILCS 9]
Assisted Living and Shared Housing Establishment Code (77 Ill. Adm. Code 295)
45 Ill. Reg. 11924, EFFECTIVE September 15, 2021

This emergency rule amends requirements for long term care facilities' infection control policies and procedures, by adding a new Section 295.4047 that requires establishments to develop written policies and procedures for educating establishment staff on the COVID-19 vaccination, and for administering the vaccine to staff. Deadlines for educating and administering the vaccine to existing staff and new hires are provided, as well as requirements for written policies and procedures, record-keeping and reporting requirements, and enforcement measures.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_40.pdf)

Nursing Home Care Act [210 ILCS 45]
Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)
45 Ill. Reg. 11941, EFFECTIVE September 17, 2021

This emergency rule amends requirements for long term care facilities' infection control policies and procedures by adding a new Section 300.698 that requires facilities to develop written policies and procedures for educating facility staff on the COVID-19 vaccination, and for administering the vaccine to staff. Deadlines for educating and administering the vaccine to existing staff and new hires are provided, as well as requirements for written policies and procedures, record-keeping and reporting requirements, and enforcement measures. The rule requires certified facilities to comply with recently updated federal requirements for COVID-19 testing under 42 CFR 483.80(h). Additionally, Section 300.698 is being added to the list of requirements that have the status of "high risk designation" in Section 300.282.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_40.pdf)

Nursing Home Care Act [210 ILCS 45]
Sheltered Care Facilities Code (77 Ill. Adm. Code 330)
45 Ill. Reg. 11964, EFFECTIVE September 15, 2021

This emergency rule amends requirements for long term care facilities' infection control policies and procedures by adding a new Section 330.794 that requires facilities to develop written policies and procedures for educating facility staff on the COVID-19 vaccination, and for administering the vaccine to staff. Deadlines for educating and administering the vaccine to existing staff and new hires are provided, as well as requirements for written policies and procedures, record-keeping and reporting requirements, and enforcement measures. The rule requires certified facilities to comply with recently updated federal requirements for COVID-19 testing under 42 CFR 483.80(h). Additionally, Section 330.794 is being added to the list of requirements that have the status of "high risk designation" in Section 330.282.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_40.pdf)

See also: NURSING HOMES

ID/DD Community Care Act [210 ILCS 47]

Intermediate Care for Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)

45 Ill. Reg. 12012, EFFECTIVE September 15, 2021

This emergency rule amends requirements for long term care facilities' infection control policies and procedures by adding a new Section 350.769 that requires facilities to develop written policies and procedures for educating facility staff on the COVID-19 vaccination, and for administering the vaccine to staff. Deadlines for educating and administering the vaccine to existing staff and new hires are provided, as well as requirements for written policies and procedures, record-keeping and reporting requirements, and enforcement measures.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_0.pdf)

Community Living Facilities Licensing Act [210 ILCS 35]

Community Living Facilities Code (77 Ill. Adm. Code 370)

45 Ill. Reg. 12041, EFFECTIVE September 15, 2021

This emergency rule adds two Sections that provide for infection control in facilities, and one Section that requires all staff to be fully vaccinated against COVID-19 or, for those exempted, be tested.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_0.pdf)

Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]

Specialized Mental Health Rehabilitation Facilities Code (77 Ill. Adm. Code 380)

45 Ill. Reg. 12058, EFFECTIVE September 15, 2021

This emergency rule amends requirements for long term care facilities' infection control policies and procedures by adding a new Section 380.643 that requires establishments to develop written policies and procedures for educating establishment staff on the COVID-19 vaccination, and for administering the vaccine to staff. Deadlines for educating and administering the vaccine to existing staff and new hires are provided, as well as requirements for written policies and procedures, record-keeping and reporting requirements, and enforcement measures.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_0.pdf)

See also: MENTAL HEALTH

MC/DD Act [210 ILCS 46]

Medically Complex for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 390)

45 Ill. Reg. 12079, EFFECTIVE September 15, 2021

This emergency rule amends requirements for long term care facilities' infection control policies and procedures by adding a new Section 390.759 that requires establishments to develop written policies and procedures for educating establishment staff on the COVID-19 vaccination, and for administering the vaccine to staff. Deadlines for educating and administering the vaccine to existing staff and new hires are provided, as well as requirements for written policies and procedures, record-keeping and reporting

requirements, and enforcement measures. Additionally, Section 390.759 is being added to the list of requirements that have the status of "high risk designation" in Section 390.282. (https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_0.pdf)

Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center and Acute Stroke Ready Hospital Code (77 Ill. Adm. Code 515)

45 Ill. Reg. 12108, effective September 17, 2021

This emergency rule amends requirements for long term care facilities' infection control policies and procedures by adding a new Section 515.865 that requires establishments to develop written policies and procedures for educating establishment staff on the COVID-19 vaccination, and for administering the vaccine to staff. Deadlines for educating and administering the vaccine to existing staff and new hires are provided, as well as requirements for written policies and procedures, record-keeping and reporting requirements, and enforcement measures.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_0.pdf)

See also: EMERGENCY SERVICES

Communicable Disease Report Act [745 ILCS 45]

Department of Public Health Act [20 ILCS 2305]

Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

45 Ill. Reg. 12123, effective September 17, 2021

This emergency rule amends Section 690.10 to delete the definition for "Isolation, Modified" and "Quarantine, Modified" and to revise the definition of "Quarantine." This emergency rule amends Section 690.361 to provide detailed procedures for handling the occurrence of COVID-19 in schools. Additionally, this emergency rule amends Sections 690.1380 and 690.1385 to clarify that nothing in that Section limits the ability of schools, employers, or other institutions to conduct or require physical examinations, tests or require vaccinations.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_0.pdf)

Nursing Home Care Act [210 ILCS 45]

Skilled nursing and intermediate care facilities code (77 Ill. Adm. Code 300)

45 Ill. Reg. 12889, effective September 17, 2021

This emergency rule amends requirements for long term care facilities' infection control policies and procedures, including updated COVID-19 testing requirements and updated incorporated materials from the CDC that address COVID-19 infection control.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_1.pdf)

Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

45 Ill. Reg. 13108, EFFECTIVE September 28, 2021

This emergency rulemaking outlines the COVID-19 training requirements for skilled nursing and intermediate care facilities, including the requirement that frontline clinical and management staff at these facilities must complete a free Targeted COVID-19 Training Program. The training has five specific modules designed for frontline clinical staff and 10 modules designed for nursing home management. The deadline for completing the training is within 14 days of being hired.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_2.pdf)

Assisted Living and Shared Housing Act [210 ILCS 9]

Assisted Living and Shared Housing Establishment Code (77 Ill. Adm. Code 295)

45 Ill. Reg. 13702, EFFECTIVE October 14, 2021

This emergency rulemaking outlines the COVID-19 training requirements for skilled nursing and intermediate care facilities, including the requirement that frontline clinical and management staff at these facilities must complete a free Targeted COVID-19 Training Program. The Centers for Medicare & Medicaid Services developed this training in consultation with the Centers for Disease Control and Prevention and expert stakeholders. The training has five specific modules designed for frontline clinical staff and 10 modules designed for nursing home management. The deadline for completing the training is within 14 days of being hired.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_4.pdf)

See also: NURSING HOMES

Nursing Home Care Act [210 ILCS 45]

SHELTERED CARE FACILITIES CODE (77 Ill. Adm. Code 330)

45 Ill. Reg. 13711, EFFECTIVE October 14, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_44.pdf)

See also: NURSING HOMES

Nursing Home Care Act [210 ILCS 45]

ILLINOIS VETERANS' HOMES CODE [77 Ill. Adm. Code 340]

45 Ill. Reg. 13725, EFFECTIVE October 14, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_44.pdf)

See also: NURSING HOMES

ID/DD Community Care Act [210 ILCS 47]

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE (77 Ill. Adm. Code 350)

45 Ill. Reg. 13735, EFFECTIVE October 14, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_44.pdf)

See also: NURSING HOMES

Community Living Facilities Code [210 ILCS 35]

COMMUNITY LIVING FACILITIES CODE (77 Ill. Adm. Code 370)

45 Ill. Reg. 13750, EFFECTIVE October 14, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_44.pdf)

See also: NURSING HOMES

Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]

SPECIALIZED MENTAL HEALTH REHABILITATION FACILITIES CODE (77 Ill. Adm. Code 380)

45 Ill. Reg. 13761, EFFECTIVE October 14, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_44.pdf)

See also: NURSING HOMES

MC/DD Act [210 ILCS 46]

MEDICALLY COMPLEX FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE (77 Ill. Adm. Code 390)

45 Ill. Reg. 13769, EFFECTIVE October 14, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_44.pdf)

See also: NURSING HOMES

Nursing Home Care Act [210 ILCS 45]

Public Act 102-0640

Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

45 Ill. Reg. 14003, EFFECTIVE October 22, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_45.pdf)

See also: NURSING HOMES

Nursing Home Care Act [210 ILCS 45]

Public Act 102-640

Sheltered Care Facilities Code (77 Ill. Adm. Code 330)

45 Ill. Reg. 14022, EFFECTIVE October 22, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_45.pdf)

See also: NURSING HOMES

Nursing Home Care Act [210 ILCS 45]

Public Act 102-0640

Illinois Veterans' Homes Code (77 Ill. Adm. Code 340)

45 Ill. Reg. 14039, EFFECTIVE October 22, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_45.pdf)

See also: NURSING HOMES

Hospital Licensing Act [210 ILCS 85]

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

45 Ill. Reg. 14519, EFFECTIVE November 4, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: HOSPITALS

Assisted Living and Shared Housing Act [210 ILCS 9]

ASSISTED LIVING AND SHARED HOUSING ESTABLISHMENT CODE (77 Ill. Adm. Code 295)

45 Ill. Reg. 14532, EFFECTIVE November 5, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: NURSING HOMES

Nursing Home Care Act [210 ILCS 45]

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)

45 Ill. Reg. 14550, EFFECTIVE November 5, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: NURSING HOMES

Nursing Home Care Act [210 ILCS 45]

SHELTERED CARE FACILITIES CODE (77 Ill. Adm. Code 330)

45 Ill. Reg. 14569, EFFECTIVE November 5, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: NURSING HOMES

Nursing Home Care Act [210 ILCS 45]

ILLINOIS VETERANS' HOMES CODE (77 Ill. Adm. Code 340)

45 Ill. Reg. 14597, EFFECTIVE November 5, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: NURSING HOMES

ID/DD Community Care Act [210 ILCS 47]

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE (77 Ill. Adm. Code 350)

45 Ill. Reg. 14616, EFFECTIVE November 5, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: NURSING HOMES

Community Living Facilities Licensing Act [210 ILCS 35]

COMMUNITY LIVING FACILITIES CODE (77 Ill. Adm. Code 370)

45 Ill. Reg. 14647, EFFECTIVE November 5, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: NURSING HOMES

Community Living Facilities Licensing Act [210 ILCS 35]

COMMUNITY LIVING FACILITIES CODE (77 Ill. Adm. Code 370)

45 Ill. Reg. 14647, EFFECTIVE November 5, 2021

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: NURSING HOMES

Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]

SPECIALIZED MENTAL HEALTH REHABILITATION FACILITIES CODE (77 Ill. Adm. Code 380)

45 Ill. Reg. 14665, EFFECTIVE November 4, 2021

https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf**See also: NURSING HOMES****MC/DD Act [210 ILCS 46]****MEDICALLY COMPLEX FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE (Ill. 77 Adm. Code 390)**

45 Ill. Reg. 14688, EFFECTIVE November 4, 2021

https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf**See also: NURSING HOMES****Nursing Home Care Act [210 ILCS 45]****SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)**

45 Ill. Reg. 15127, EFFECTIVE November 9, 2021

https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_48.pdf**See also: NURSING HOMES****Hospital Licensing Act [210 ILCS 85]**

Public Act 102-0004

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

45 Ill. Reg. 15115, EFFECTIVE November 12, 2021

https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_48.pdf**See also: HOSPITALS****Hospital Licensing Act [210 ILCS 85]****HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)**

45 Ill. Reg. 15375, EFFECTIVE November 17, 2021

https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_49.pdf**See also: HOSPITALS****Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]**

Public Act 102-0022

SEXUAL ASSAULT SURVIVORS EMERGENCY TREATMENT CODE (77 Ill. Adm. Code 545)

45 Ill. Reg. 15387, EFFECTIVE November 28, 2021

https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_49.pdf**See also: SEXUAL ASSAULT****Immunization Data Registry Act [410 ILCS 527]****IMMUNIZATION REGISTRY CODE (77 Ill. Adm. Code 689)**

45 Ill. Reg. 16382, EFFECTIVE December 13, 2021

https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_52.pdf

See also: MEDICAL RECORDS AND INFORMATION

Communicable Disease Report Act [745 ILCS 45] and Department of Public Health Act [20 ILCS 2305]

CONTROL OF COMMUNICABLE DISEASES CODE (77 Ill. Adm. Code 300)

46 Ill. Reg. 1956, EFFECTIVE January 12, 2022

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_5.pdf)

See also: PUBLIC HEALTH

Hospital Licensing Act [210 ILCS 85]

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

46 Ill. Reg. 1911, EFFECTIVE January 13, 2022

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_5.pdf)

See also: HOSPITALS

Civil Administrative Code of Illinois [20 ILCS 665/1-14], [20 ILCS 665/9] and State Finance Act [30 ILCS 105/8.25]

ILLINOIS PROMOTION ACT PROGRAMS (14 Ill. Adm. Code 510)

46 Ill. Reg. 1895, EFFECTIVE January 14, 2022

This emergency amendment relates to the Illinois Promotion Act Programs and impacts the Civil Administrative Code of Illinois and the State Finance Act. The emergency relates to the COVID-19 pandemic and its subsequent impact on tourism. The amendments add definitions for relevant terminology within the Act. Further, provisions are deleted for form of application and added for application procedures to accommodate electronic application delivery. The amendments also add and delete eligible, and ineligible uses of funds, limitations to funding per project and allocation of those funds, and matching funding provisions. Several provisions regarding selection and evaluation of applications are deleted.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_5.pdf)

Nursing Home Care Act [210 ILCS 45]

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)

46 Ill. Reg. 1928, EFFECTIVE January 16, 2022

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_5.pdf)

See also: HOSPITALS

Health Care Worker Background Check Act [225 ILCS 46]

HEALTH CARE WORKER BACKGROUND CHECK CODE (77 Ill. Adm. Code 955)

46 Ill. Reg. 2763, EFFECTIVE January 28, 2022

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_7.pdf)

See also: NURSING

Hospital Licensing Act [210 ILCS 85]

Hospital Licensing Requirements (77 Ill. Adm. Code 250)

46 Ill. Reg. 3208, EFFECTIVE February 14, 2022

This emergency rule requires hospitals to require all staff to be fully vaccinated against COVID-19 or be tested weekly.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_9.pdf)

Assisted Living and Shared Housing Act [210 ILCS 9].

Assisted Living and Shared Housing Establishment Code (77 Ill. Adm. Code 295)

46 Ill. Reg. 3225, EFFECTIVE February 12, 2022

This emergency rule includes updated requirements for facilities' infection control policies, procedures and updated incorporated materials that address COVID-19 infection control. The emergency rule also requires written policies and procedures for COVID-19 testing and vaccination of facility staff to reflect federal guidance and to require twice weekly testing for staff who are not up to date on COVID-19 vaccinations along with appropriate penalties.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_9.pdf)

Nursing Home Care Act [210 ILCS 45]

Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

46 Ill. Reg. 3243, EFFECTIVE February 14, 2022

This emergency rule includes requirements related to COVID-19 vaccination of facility staff to reflect federal guidance and to require twice weekly testing for staff who are not up to date on COVID-19 vaccinations along with appropriate penalties.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_9.pdf)

Nursing Home Care Act [210 ILCS 45]

Sheltered Care Facilities Code (77 Ill. Adm. Code 330)

46 Ill. Reg. 3266, EFFECTIVE February 12, 2022

This emergency rule includes updated requirements for facilities' infection control policies, procedures and updated incorporated materials that address COVID-19 infection control. The emergency rule also requires written policies and procedures for COVID-19 testing and vaccination of facility staff to reflect federal guidance and to require twice weekly testing for staff who are not up to date on COVID-19 vaccinations along with appropriate penalties.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_9.pdf)

Nursing Home Care Act [210 ILCS 45]

Illinois Veterans' Homes Code (77 Ill. Adm. Code 340)

46 Ill. Reg. 3297, EFFECTIVE February 12, 2022

This emergency rule includes requirements related to COVID-19 vaccination of facility staff to reflect federal guidance and to require twice weekly testing for staff who are not up to date on COVID-19 vaccinations along with appropriate penalties.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_9.pdf)

ID/DD Community Care Act [210 ILCS 47]

Intermediate Care for Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)

46 Ill. Reg. 3315, EFFECTIVE February 12, 2022

This emergency rule includes updated requirements for facilities' infection control policies, procedures and updated incorporated materials that address COVID-19 infection control. The emergency rule also requires written policies and procedures for COVID-19 testing and vaccination of facility staff to reflect federal guidance and to require twice weekly testing for staff who are not up to date on COVID-19 vaccinations along with appropriate penalties.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_9.pdf)

Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS49]

Specialized Mental Health Rehabilitation Facilities Code (77 Ill. Adm. Code 380)

46 Ill. Reg. 3365, EFFECTIVE February 12, 2022

This emergency rule includes updated requirements for facilities' infection control policies, procedures and updated incorporated materials that address COVID-19 infection control. The emergency rule also requires written policies and procedures for COVID-19 testing and vaccination of facility staff to reflect federal guidance and to require twice weekly testing for staff who are not up to date on COVID-19 vaccinations along with appropriate penalties.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_9.pdf)

ID/DD Community Care Act [210 ILCS 47]

Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)

46 Ill. Reg. 3315, EFFECTIVE February 12, 2022

This emergency rule includes updated requirements for facilities' infection control policies, procedures and updated incorporated materials that address COVID-19 infection control. The emergency rule also requires written policies and procedures for COVID-19 testing and vaccination of facility staff to reflect federal guidance and to require twice weekly testing for staff who are not up to date on COVID-19 vaccinations along with appropriate penalties.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_9.pdf)

Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center, and Acute Stroke Ready Hospital Code (77 Ill. Adm. Code 515)

46 Ill. Reg. 3419, EFFECTIVE February 14, 2022

This emergency rule amends requirements for emergency medical service (EMS) providers' policies and procedures by adding a new Section 515.865 that requires providers to develop written policies and procedures for educating establishment staff on the COVID-19 vaccination, and for administering or providing the vaccine to staff. Deadlines for educating and administering the vaccine to existing staff and new hires are provided, as well as requirements for written policies and procedures, record-keeping and reporting requirements, and enforcement measures.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_9.pdf)

Communicable Disease Report Act [745 ILCS 45]; Department of Public Health Act [20 ILCS 2305]

Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

46 Ill. Reg. 3434, EFFECTIVE February 14, 2022

This emergency rule deletes the terms "Isolation, Modified" and "Quarantine, Modified" and to revise the definition of "Quarantine" from Section 690.10. This emergency rule also amends Section 690.361, to provide detailed procedures for handling the occurrence of COVID-19 in schools. Additionally, this emergency rule amends Sections 690.1380 and 690.1385 to clarify that nothing in that Section limits the ability of schools, employers, or other institutions to conduct or require physical examinations, tests or vaccinations.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_9.pdf)

Occupational Safety and Health Act [820 ILCS 219]

Health and Safety (56 Ill. Adm. Code 350)

46 Ill. Reg. 3598, EFFECTIVE February 15, 2022

The federal OSHA ETS regarding COVID-19 vaccination and testing for employers with more than 100 employees was withdrawn by the Federal Occupational Safety and Health Administration on January 26, 2022. This emergency rule removes its peremptory adoption of that standard.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_10.pdf)

Nursing Home Care Act [210 ILCS 45]

Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

46 Ill. Reg. 4136, effective February 25, 2022

This emergency rulemaking outlines the COVID-19 training requirements for skilled nursing and intermediate care facilities, including the requirement that frontline clinical and management staff at these facilities must complete a free Targeted COVID-19 Training Program. The Centers for Medicare & Medicaid Services developed this training in consultation with the Centers for Disease Control and Prevention and expert stakeholders. The training has five specific modules designed for frontline clinical staff and 10 modules designed for nursing home management. The deadline for completing the training is within 14 days of being hired.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_11.pdf)

Assisted Living and Shared Housing Act [210 ILCS 9]

Assisted Living and Shared Housing Establishment Code (77 Ill. Adm. Code 295)

46 Ill. Reg. 5333, EFFECTIVE March 13, 2022

This emergency rulemaking outlines the COVID-19 training requirements for skilled nursing and intermediate care facilities, including the requirement that frontline clinical and management staff at these facilities must complete a free Targeted COVID-19 Training Program. The Centers for Medicare & Medicaid Services developed this training in consultation with the Centers for Disease Control and Prevention and expert stakeholders. The training has five specific modules designed for frontline clinical staff and 10 modules designed for nursing home management. The deadline for completing the training is within 14 days of being hired.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_1_3.pdf)

Nursing Home Care Act [210 ILCS 45]

Sheltered Care Facilities Code (77 Ill. Adm. Code 330)

46 Ill. Reg. 5342, EFFECTIVE March 13, 2022

This emergency rulemaking outlines the COVID-19 training requirements for skilled nursing and intermediate care facilities, including the requirement that frontline clinical and management staff at these facilities must complete a free Targeted COVID-19 Training Program. The Centers for Medicare & Medicaid Services developed this training in consultation with the Centers for Disease Control and Prevention and expert stakeholders. The training has five specific modules designed for frontline clinical staff and 10 modules designed for nursing home management. The deadline for completing the training is within 14 days of being hired.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_1_3.pdf)

Nursing Home Care Act [210 ILCS 45]

Illinois Veterans' Homes Code (77 Ill. Adm. Code 340)

46 Ill. Reg. 5357, EFFECTIVE March 13, 2022

This emergency rulemaking outlines the COVID-19 training requirements for skilled nursing and intermediate care facilities, including the requirement that frontline clinical and management staff at these facilities must complete a free Targeted COVID-19 Training Program. The Centers for Medicare & Medicaid Services developed this training in consultation with the Centers for Disease Control and Prevention and expert stakeholders. The training has five specific modules designed for frontline clinical staff and 10 modules designed for nursing home management. The deadline for completing the training is within 14 days of being hired.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_1_3.pdf)

ID/DD Community Care Act [210 ILCS 47]

Intermediate Care for Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)

46 Ill. Reg. 5367, EFFECTIVE March 13, 2022

This emergency rulemaking outlines the COVID-19 training requirements for skilled nursing and intermediate care facilities, including the requirement that frontline clinical and management staff at these facilities must complete a free Targeted COVID-19 Training Program. The Centers for Medicare & Medicaid Services developed this training in consultation with the Centers for Disease Control and Prevention and expert stakeholders. The training has five specific modules designed for frontline clinical staff and 10 modules designed for nursing home management. The deadline for completing the training is within 14 days of being hired.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_13.pdf)

Community Living Facilities Act [210 ILCS 35]

Community Living Facilities Code (77 Ill. Adm. Code 370)

46 Ill. Reg. 5384, EFFECTIVE March 13, 2022

This emergency rulemaking outlines the COVID-19 training requirements for skilled nursing and intermediate care facilities, including the requirement that frontline clinical and management staff at these facilities must complete a free Targeted COVID-19 Training Program. The Centers for Medicare & Medicaid Services developed this training in consultation with the Centers for Disease Control and Prevention and expert stakeholders. The training has five specific modules designed for frontline clinical staff and 10 modules designed for nursing home management. The deadline for completing the training is within 14 days of being hired.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_13.pdf)

Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center and Acute Stroke Ready Hospital Code (77 Ill. Adm. Code 515)

46 Ill. Reg. 10000, EFFECTIVE May 26, 2022

This emergency rule will allow the Department of Public Health to closely monitor bypass and immediately notify EMS staff of hospital bypass requests and status which has become necessary due to the COVID-19 pandemic. This will ensure that critically ill patients are transported to the closest hospital and that multiple hospitals in a geographic location do not go on bypass simultaneously. This emergency rule will allow EMS providers to purchase new ambulances in accordance with national standards.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_24.pdf)

Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]

SPECIALIZED MENTAL HEALTH REHABILITATION FACILITIES CODE (77 Ill. Adm. Code 380)

46 Ill. Reg. 5395, EFFECTIVE March 13, 2022

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_13.pdf)

See also: MENTAL HEALTH

MC/DD Act [210 ILCS 46]

MEDICALLY COMPLEX FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE
(77 Ill. Adm. Code 390)

46 Ill. Reg. 5403, EFFECTIVE March 13, 2022

https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_13.pdf**See also: MENTAL HEALTH**

Nursing Home Care Act [210 ILCS 45]

Public Act 102-0640

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES ACT (77 Ill. Adm. Code 300)

46 Ill. Reg. 5554, EFFECTIVE March 21, 2022

https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_14.pdf**See also: NURSING HOMES**

Nursing Home Care Act [210 ILCS 45]

Public Act 102-0640

SHELTERED CARE FACILITIES CODE (77 Ill. Adm. Code 330)

46 Ill. Reg. 5573, EFFECTIVE March 17, 2022

https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_14.pdf**See also: NURSING HOMES**

Nursing Home Care Act [210 ILCS 45]

Public Act 102-0640

ILLINOIS VETERANS' HOMES CODE (77 Ill. Adm. Code 340)

46 Ill. Reg. 5590, EFFECTIVE March 21, 2022

https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_14.pdf**See also: NURSING HOMES**

Hospital Licensing Act [210 ILCS 85]

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

46 Ill. Reg. 6808, EFFECTIVE April 16, 2022

https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_18.pdf**See also: HOSPITALS**

Hospital Licensing Act [210 ILCS 85]

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

46 Ill. Reg. 10950, EFFECTIVE June 12, 2022

https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_26.pdf**See also: HOSPITALS****EXECUTIVE ORDERS**

*This executive order is issued in light of the COVID-19 pandemic and re-issues the following executive orders: 2020-04, 2020-09, 2020-11, 2020-12, 2020-15, 2020-20, 2020-21, 2020-23, 2020-24, 2020-27, 2020-29, 2020-30, 2020-36, 2020-40, 2020-45, 2020-50, 2020-68, 2021-03,

2021-12, and 2021-13 and extended through August 21, 2021. Executive order 2020-04 regarding closure of James R. Thompson Center and waiver of sick leave requirement for State employees' sections 2 and 3 are reissued. 2020-09 regarding Telehealth is amended to reflect that a covered health care provider and/or covered entity subject to the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 that uses technology to offer Telehealth services to the extent consistent with the March 17, 2020 guidance issued by the U.S. Department of Health and Human Services – Office of Civil Rights that was entitled "Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency". Executive Order 2021-12 which concerns Phase 5 reopening is amended and re-issued to follow CDC guidelines in K-12 schools, students, and teachers. All other executive orders listed are re-issued in their entirety [Executive Order 2021-15, July 23, 2021] (<https://www.illinois.gov/content/dam/soi/en/web/coronavirus/documents/executiveorder-2021-15.pdf>)

*This executive order is issued in light of the COVID-19 pandemic and focuses on school, day care, and long-term care facility virus spread mitigation measures. The section focused on school required that K-12 schools take proactive measures such as wearing facemasks regardless of vaccination status indoors by all those over 2 and also implement strategies like social distancing, handwashing, testing, etc. to the extent possible and in accordance with CDC guidelines. The section regarding day care facilities echoes these same requirements. The long term care facilities and nursing homes section focuses on masks for prevention of spread, regardless of vaccination status. [Executive Order 2021-18, August 4, 2021] (<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2021-18.pdf>)

*This revised executive order is issued in light of the COVID-19 pandemic and focuses on school, day care, and long-term care facility virus spread mitigation measures. The section focused on school required that K-12 schools take proactive measures such as wearing facemasks regardless of vaccination status indoors by all those over 2 and also implement strategies like social distancing, handwashing, testing, etc. to the extent possible and in accordance with CDC guidelines. The section regarding day care facilities echoes these same requirements. The long term care facilities and nursing homes section focuses on masks for prevention of spread, regardless of vaccination status. [Executive Order 2021-18, August 9, 2021] (<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2021-18.pdf>)

*This executive order is issued in response to the COVID-19 pandemic. The following executive orders are re-issued: 2020-04, 2020-09, 2020-11, 2020-12, 2020-15, 2020-20, 2020-21, 2020-23, 2020-24, 2020-27, 2020-30, 2020-36, 2020-40, 2020-45, 2020-50, 2020-68, 2021-03, 2021-12, 2021-13, and 2021-18, effective August 20, 2021. Executive Order 2021-13 is amended to reflect that nothing in the order shall preclude a person or entity with a legal right to pursue an eviction or possessory action from challenging the truthfulness of a tenant's, lessee's, sub-lessee's, or resident's declaration in court, as permitted by law and the applicable Court's rules. Executive Order 2021-18 regarding mitigation measures is also amended to provide that the current executive order supersedes any and all contrary provisions of past orders, and those that are not contrary may

remain in effect. All other orders are re-issued in their entirety through September 18, 2021. [Executive Order 2021-19, August 20, 2021]

(<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2021-19.pdf>)

*This executive order requires all individuals in Illinois who are age two or over and able to medically tolerate a face covering will be required to cover their nose and mouth with a face covering when in an indoor public place. All individuals, including those fully vaccinated, must continue to be required to wear a face covering (1) on planes, buses, trains, and other forms of public transportation and in transportation hubs such as airports and train and bus stations; (2) in congregate facilities such as correctional facilities and homeless shelters; and (3) in healthcare settings. The executive order requires all Health Care Workers, School Personnel, and Higher Education Personnel must have, at a minimum, the first dose of a two-dose COVID-19 vaccine series or a single-dose COVID-19 vaccine by September 19, 2021, and the second dose of a two-dose COVID-19 vaccine series within 30 days following administration of their first dose in a two-dose vaccination series. Health Care Workers, School Personnel, and Higher Education Personnel who are not fully vaccinated against COVID-19 must be tested for COVID-19 weekly, at a minimum, on-site at their respective facilities. The order provides the same rules for all contractors and vendors who work at State-owned or operated congregate must have both doses of a two-dose COVID-19 vaccine series or a single-dose COVID-19 vaccine by no later than October 4, 2021. The order provides an exhaustive list of vaccine exemptions as well. Nothing in this executive order prohibits any entity, public or private, from implementing a requirement that personnel, contractors, students or visitors be fully vaccinated without providing the alternative to test on a weekly basis, consistent with applicable law. [Executive Order 2021-22, September 3, 2021] (<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2021-22.pdf>)

*Reissuing the entirety or part of Executive Orders Executive Orders 2020-04 (Waiver of sick leave requirement for State employees), 2020-09 (Telehealth), 2020-11 (Illinois Department of Corrections notification period), 2020-12 (Health care worker background checks; Illinois Department of Juvenile Justice notification period), 2020-15 (Suspending provisions of the Illinois School Code), 2020-20 (Public assistance requirements), 2020-21 (Furlough of Illinois Department of Corrections inmates), 2020-23 (Actions by the Illinois Department of Financial and Professional Regulation for licensed professionals engaged in disaster response), 2020-24 (Illinois Department of Human Services Forensic Treatment Program), 2020-27 (Cadavers testing positive for COVID-19), 2020-30 (Expired consular identification documents; electronic filings for the Illinois Human Rights Commission), 2020-36 (Marriage licenses), 2020-40 (Child Labor Law), 2020-45 (Cannabis licenses), 2020-50 (Resuming transfers from county jails to Illinois Department of Corrections), 2020-68 (Cannabis registry identification card renewals), 2021-03 (Regional mitigation metrics), 2021-12 (Phase 5 reopening), 2021-13 (Residential eviction moratorium), 2021-18 (Mitigation measures), and 2021-22 (Vaccination and testing requirements). [Executive Order 2021-23, September 17, 2021] (<https://coronavirus.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2021-23.pdf>)

*This executive order provides exclusion mandates for confirmed, probable, and close contacts of COVID-19 cases in schools. This requires all schools to exclude any person with a confirmed case or probable case of COVID-19 for a minimum of 10 days following onset date if symptomatic or date of test if asymptomatic and exclude any person who was in close contact with COVID-19 for a minimum of 14 days or as otherwise directed by the school's local health Authority. Additionally, this executive order requires all schools to make remote learning available. Nothing in this executive order prohibits a local health authority from issuing orders for isolation or quarantine. [Executive Order 2021-24, September 17, 2021]
(<https://coronavirus.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2021-24.pdf>)

*This executive order reissues the following executive orders through November 13, 2021: 2020-04 (waiver of sick leave requirement for state employees- Section 3), 2020-09 (telehealth- Sections 9 and 10), 2020-11 (Illinois Department of Corrections notification period- Section 4), 2020-12 (health care worker background checks and Illinois Department of Juvenile Justice notification period- Section 3), 2020-15 (suspend provisions of Illinois School Code- Sections 5, 6, 7, 8, 9), 2020-20 (public assistance requirements), 2020-21 (furlough of Illinois Department of Corrections inmates), 202-23 (Illinois Department of Financial and Professional Regulation actions for licensed professionals participating in disaster response), 2020-24 (Illinois Department of Human Services Forensic Treatment Program investigation of Illinois Department of Human Services employees), 2020-27 (cadavers testing positive for COVID-19), 2020-30 (expired consular identification documents and electronic filings for Illinois Human Rights- Sections 1, 4, 5, 6), 2020-36 (marriage licenses), 2020-40 (child labor law- Sections 2 and 4), 2020-45 (cannabis licenses), 2020-50 (resume transfers from county jails to Illinois Department of Corrections), 2020-68 (cannabis registry identification card renewals), 2021-03 (regional mitigation metrics), 2021-12 (phase 5 reopening), 2021-18 (mitigation measures), 2021-22 (vaccination and testing requirements- amended Section 5.b to require all state employees at state-owned or operated congregate facilities must have first dose of two-doses of vaccine or one dose of single-dose by October 26, 2021 and have the second dose by November 30, 2021 and Section 5.c. to require that all contractors and vendors who work at state-owned operated congregate facilities must have a first dose of two-doses of vaccine or one dose of single-dose by October 26, 2021, and have the second dose by November 30, 2021), 2021-24 (school exclusion), 2021-25 (amendment to 2021-24). The Executive Order also added a savings clause that if any part of the Executive Order is determined to be invalid by a court in the proper jurisdiction, that invalidation will not impact the other parts of the Executive Order. [Executive Order 2021-27, October 15, 2021]
(<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/coronavirus-disaster-proc-10-15-2021.pdf>)

*This Executive Order is in response to the Joint Committee on Administrative Rules (JCAR)'s objection to the Illinois Housing Development Authority's emergency rule, the COVID-19 Affordable Housing Grant Program because it refers to program documents for grant program requirements that should be in the rule. Sec. 1-70 of the IAPA requires all agency statements of general applicability that either implement, apply, interpret, or prescribe law or policy impacting people's rights outside the agency to be maintained in a rule. The JRAC also advised that the IHDA work with JRAC's staff before filing emergency rules. The Executive Order implements vaccination and testing requirements for licensed daycare center workers. All licensed daycare

center workers must have at least the first of a two-dose COVID-19 vaccine or a single-dose COVID-19 vaccine by December 3, 2021. The workers opt for the two-dose COVID-19 vaccine, they need to have the second dose by January 3, 2022. The workers must provide proof of their vaccination status by providing (1) a CDC COVID-19 vaccination card or photo of the card, (2) documentation of the vaccine from either a health care provider or an electronic health record, or (3) state immunization records. The licensed day centers must maintain records regarding proof of vaccination and testing for all workers who are employed by or volunteer with the facility. Workers and volunteers who are not fully vaccinated must be tested at least weekly. Individuals who may be exempt from the requirement to be fully vaccinated are those for whom (1) the vaccine is medically contraindicated or (2) the vaccination would require the individual to violate a sincerely held religious belief, practice, or observance. Additionally, the Executive Order does not prohibit any public, private, or local government entity from implementing a vaccination or testing requirement for its workers, contractors, or visitors that are stricter than the requirements in this Executive Order. If any part of the Executive Order is held to be invalid by a court, the rest of the Executive Order is severable and can still be applied without the invalidated section. [Executive Order 2021-28, October 22, 2021]

(<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2021-28.pdf>)

*This Executive Order was issued by the Governor of Illinois in response to the COVID-19 pandemic. It suspends requirements for the restoration of an inactive or expired license of 5 years or less that are outlined in Sections 50(b), (c), and (f) for the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act (225 ILCS 107). These suspended requirements are: proof of meeting continuing education, certification of active practice in another jurisdiction, and the payment of a fee. It also suspends requirements for the restoration of an inactive or expired license of 5 years or less for social workers and clinical social workers that are outlined in Sections 11(b) and (b-5) of the Clinical Social Work and Social Work Practice Act (225 ILCS 20). These suspended requirements are proof of fitness, certification of active practice in another jurisdiction, and payment of a fee. It also suspends requirements in Section 13 of the Clinical Psychologist Licensing Act (225 ILCS 15) for the restoration of inactive or expired licenses of less than 5 years for clinical psychologists. These suspended requirements are proof of fitness, certification of active practice in another jurisdiction, and the payment of a fee. [Executive Order 2021-31, November 22, 2021]

(<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2021-31.pdf>)

*This Executive Order is issued in light of the continuing spread of COVID-19 and its subsequent health and economic consequences. The order re-issues Executive Orders 2020-04, 2020-09, 2020-11, 2020-12, 2020-15, 2020-20, 2020-21, 2020-23, 2020-24, 2020-27, 2020-30, 2020-36, 2020-40, 2020-45, 2020-50, 2020-68, 2021-03, 2021-12, 2021-18, 2021-22, 2021-24, 2021-25, 2021-28, and 2021-31. Executive Orders 2020-09 (Telehealth), 2020-68 (Cannabis registry identification card renewals), 2021-12 (Phase 5 reopening), 2021-18 (Mitigation measures), 2021-22 (Vaccination and testing requirements), 2021-24 (School exclusion), 2021-28 (Day care vaccination and testing requirements) are amended in part, and Executive Orders 2020-15 (Suspending provisions of the Illinois School Code), 2020-24 (Illinois Department of Human Services Forensic Treatment Program), 2020-30 (Expired consular identification documents;

electronic filings for the Illinois Human Rights Commission), 2020-40 (Child Labor Law) are re-issued in certain sections. All remaining orders are re-issued in their entirety and all orders are extended through January 8, 2022. [Executive Order 2021-32, December 10, 2021]

(<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/coronavirus-disaster-proc-12-10-2021.pdf>)

*This Executive Order is issued in light of the ongoing COVID-19 pandemic and its subsequent health and economic effects. The order re-issues Executive Orders: 2020-04, 2020-09, 2020-11, 2020-12, 2020-15, 2020-20, 2020-21, 2020-23, 2020-24, 2020-27, 2020-30, 2020-36, 2020-40, 2020-45, 2020-50, 2020-68, 2021-03, 2021-12, 2021-18, 2021-22, 2021-24, 2021-25, 2021-28, and 2021- 31 and extended through February 5, 2022. Executive Orders 2020-09 (Telehealth), 2021-12 (Phase 5 reopening), 2021-18 (Mitigation measures), 2021-28 (Day care vaccination and testing requirements), 2021-24 (School exclusion), are amended in part and then re-issued. Executive Order 2021-22 (Vaccination and testing requirements) is amended to reflect that higher education institutions exclude students unvaccinated against COVID-19 if they fail to comply with testing requirements. Executive Orders 2020-04 (Waiver of sick leave requirement for State employees), 2020-11 (Illinois Department of Corrections notification period), 2020-12 (Health care worker background checks; Illinois Department of Juvenile Justice notification period), 2020-15 (Suspending provisions of the Illinois School Code), 2020-24 (Illinois Department of Human Services Forensic Treatment Program), 2020-30 (Expired consular identification documents; electronic filings for the Illinois Human Rights Commission), and 2020-40 (Child Labor Law) are re-issued in part. All other Executive Orders are re-issued in their entirety. [Executive order 2022-1, January 7, 2022]

(<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2022-01.pdf>)

*This Executive Order is issued in light of the continued spread of the COVID-19 virus, specifically the Omicron strain, and the significant population of people who are yet to be vaccinated. The Order sets forth Exclusion Mandates for Confirmed, Probable, and Close Contacts of COVID-19 Cases in Schools. These provisions include a list of relevant terminology and their definitions as well as steps to be taken to ensure the safety of students and school personnel when dealing with confirmed or probable cases, close contact, and symptomatic individuals. Further the Order requires all schools to make remote instruction available for students who are unable to attend school in-person due to COVID-19 diagnoses or exposure. [Executive order 2022-3, January 11, 2022]

(<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2022-03.pdf>)

*This Executive Order is issued in light of the ongoing spread of the COVID-19 pandemic and its subsequent health and economic impacts. The Order re-issues Executive Orders 2020-04, 2020-09, 2020-11, 2020-12, 2020-15, 2020-20, 2020-21, 2020-23, 2020-24, 2020-26, 2020-27, 2020-30, 2020-36, 2020-40, 2020-45, 2020-50, 2020-68, 2021-03, 2021-12, 2021-18, 2021-22, 2021-28, 2021-31, and 2022- 03 and extended through February 5, 2022. Executive Orders 2020-26 (Hospital capacity) is amended in part to reflect that hospitals licensed by IDPH may establish an ACF to provide room and board, nursing, and diagnosis or treatment to COVID-19 patients, or to non-COVID-19 patients in order to increase regional hospital capacity to respond to COVID-19

pursuant to emergency rules promulgated by IDPH. Executive Orders 2020-09 (Telehealth), 2020-68 (Cannabis registry identification card renewals), 2021-12 (Phase 5 reopening), 2021-18 (Mitigation measures), 2021-22 (Vaccination and testing requirements), 2021-28 (Day care vaccination and testing requirements) are amended and re-issued. Executive Orders 2020-04 (Waiver of sick leave requirement for State employees), 2020-11 (Illinois Department of Corrections notification period), 2020-12 (Health care worker background checks; Illinois Department of Juvenile Justice notification period), 2020-15 (Suspending provisions of the Illinois School Code), 2020-24 (Illinois Department of Human Services Forensic Treatment Program), 2020-30 (Expired consular identification documents; electronic filings for the Illinois Human Rights Commission), 2020-40 (Child Labor Law) are re-issued in part. The remaining orders are re-issued in their entirety. [Executive order 2022-4, January 13, 2022]

<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2022-04.pdf>

*Reissuing the entirety or part of Executive Orders 2020-04 (Waiver of sick leave requirement for State employees), 2020-09 (Telehealth), 2020-11 (Illinois Department of Corrections notification period), 2020-12 (Health care worker background checks; Illinois Department of Juvenile Justice notification period), 2020-15 (Suspending provisions of the Illinois School Code), 2020-20 (Public assistance requirements), 2020-21 (Furlough of Illinois Department of Corrections inmates), 2020-23 (Actions by the Illinois Department of Financial and Professional Regulation for licensed professionals engaged in disaster response), 2020-24 (Illinois Department of Human Services Forensic Treatment Program), 2020-26 (Hospital capacity), 2020-27 (Cadavers testing positive for COVID-19), 2020-30 (Expired consular identification documents; electronic filings for the Illinois Human Rights Commission), 2020-36 (Marriage licenses), 2020-40 (Child Labor Law), 2020-45 (Cannabis licenses), 2020-50 (Resuming transfers from county jails to Illinois Department of Corrections), 2020-68 (Cannabis registry identification card renewals), 2021-03 (Regional mitigation metrics), 2021-12 (Phase 5 reopening), 2021-18 (Mitigation measures), 2021-22 (Vaccination and testing requirements);, 2021-28 (Day care vaccination and testing requirements), 2021-31 (Day care vaccination and testing requirements);, and 2022-03 (School exclusion). [Executive Order 2022-5, February 4, 2022]

<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2022-05.pdf>

*This executive order rescinds Sections 1(a) and 2(a) of Executive Order 2021-18 and Section 1 of Executive Order 2021-22. This executive order also requires all long-term care facilities to continue to follow guidance issued by the CDC and IDPH regarding the use of face coverings in congregate facilities. All individuals, regardless of vaccination status, shall continue to be required to wear a face covering (1) where federally required; (2) on planes, buses, trains and other forms of public transportation and in transportation hubs such as airports and train and bus stations; (3) in congregate facilities such as correctional facilities and homeless shelters; and (4) in healthcare settings. This provision does not apply to buses or vans operated by public or private school systems, and early care and education/childcare programs. Nothing in this executive order prohibits an individual from choosing to wear a face covering; a public or private entity from choosing to require face coverings in certain settings; nor does it impact the applicability of a collective bargaining agreement regarding face coverings. [Executive Order 2022-6, February 28, 2022]

<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2022-06.pdf>)

*Reissuing the entirety or part of Executive Orders 2020-04 (Waiver of sick leave requirement for State employees), 2020-09 (Telehealth), 2020-11 (Illinois Department of Corrections notification period), 2020-12 (Health care worker background checks; Illinois Department of Juvenile Justice notification period), 2020-15(Suspending provisions of the Illinois School Code), 2020-20 (Public assistance requirements), 2020-21 (Furlough of Illinois Department of Corrections inmates), 2020-23 (Actions by the Illinois Department of Financial and Professional Regulation for licensed professionals engaged in disaster response), 2020-24 (Illinois Department of Human Services Forensic Treatment Program), 2020-26 (Hospital capacity), 2020-27 (Cadavers testing positive for COVID-19), 2020-30 (Expired consular identification documents; electronic filings for the Illinois Human Rights Commission), 2020-36 (Marriage licenses), 2020-45 (Cannabis licenses), 2020-50 (Resuming transfers from county jails to Illinois Department of Corrections), 2020-68 (Cannabis registry identification card renewals), 2021-03 (Regional mitigation metrics), 2021-12 (Phase 5 reopening), 2021-18 (Mitigation measures), 2021-22 (Vaccination and testing requirements), 2021-28 (Day care vaccination and testing requirements), 2021-31 (Day care vaccination and testing requirements), and 2022-06 (Face covering requirements) [Executive Order 2022-7, March 4, 2022]

<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2022-07.pdf>)

*This Executive Order relates to COVID-19. The Executive Order amends Section 2 of Executive Order 2022-06 regarding face covering requirements. It removed the requirement that all people, regardless of vaccination status, must wear masks on planes, buses, trains, and other forms of public transportation and transportation hubs including airports, train, and bus stations. [Executive Order 2022-11, April 20, 2022]

<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2022-11.pdf>)

*This executive order re-issues previous Executive Orders through May 28, 2022. The Executive Orders that are re-issued include: 2020-09 (Section 9 and 10 - telehealth), 2020-12 (Section 1 - health care worker background checks), 2020-20 (public assistance requirements), 2020-21 (furlough of Illinois Department of Corrections inmates), 2020-23 (actions by Illinois Department of Financial and Professional Regulation for licensed professionals engaged in disaster response), 2020-24 (Sections 1 and 3- Illinois Department of Human Services Forensic Treatment Program), 2020-26 (Section 1, 2(a), (d), (f), (g), 3, 5, 6, 7, 8, 9, and 10 - hospital capacity), 2020-27 (cadavers testing positive for COVID-19), 2020-30 (Sections 1, 4, 5 and 6 - expired consular identification documents and electronic filings for the Illinois Human Rights Commission), 2020-36 (marriage licenses), 2020-50 (resuming transfers from county jails to Illinois Department of Corrections), 2021-12 (Phase 5 reopening and a revision to the face covering section stating that face masks must be worn “where federally required” but omits planes, buses, trains, public transportation, and hubs of public transportation), 2021-18 (mitigation measures), 2021-22 (Sections 2, 3, 4, 5, 6, 7, 8, and 9 - vaccinations and testing requirements), 2021-28 (day care vaccination and testing requirements), 2021-31 (suspending requirements for social workers), 2022-06 (face covering

requirements), and 2022-11 (face covering requirements). [Executive Order 2022-12, April 29, 2022]

(<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2022-12.pdf>)

*Reissuing the entirety or part of Executive Orders Executive Orders 2020-09 (Telehealth), 2020-12 (Health care worker background checks), 2020-20 (Public assistance requirements), 2020-21 (Furlough of Illinois Department of Corrections inmates), 2020-23 (Actions by the Illinois Department of Financial and Professional Regulation for licensed professionals engaged in disaster response), 2020-24 (Illinois Department of Human Services Forensic Treatment Program), 2020-26 (Hospital capacity), 2020-30 (Expired consular identification documents; electronic filings for the Illinois Human Rights Commission), 2020-50 (Resuming transfers from county jails to Illinois Department of Corrections), 2021-12 (Phase 5 reopening), 2021-18 (Mitigation measures), 2021-22 (Vaccination and testing requirements), 2021-28 (Day care vaccination and testing requirements), 2021-31 (Suspending requirements for social workers), 2022-06 (Face covering requirements), and 2022-11 (Face covering requirements) [Executive Order 2022-13, May 27, 2022]

(<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2022-13.pdf>)

*This executive order re-issues several previous COVID-19 executive orders. The following executive orders were re-issued through July 24, 2022: 2020-09 (telehealth- Sections 9 and 10), 2020-20 (public assistance requirements), 2020-21 (furlough of Illinois Department of Corrections inmates), 2020-23 (actions by the Illinois Department of Financial and Professional Regulation for licensed professionals engaged in disaster response), 2020-24 (Illinois Department of Human Services Forensic Treatment Program - Sections 1 and 3), 2020-3- (expired consular identification documents: electronic filings for the Illinois Human Rights Commission- Sections 1, 4, 5, and 6), 2021-12 (phase 5 reopening), 2021-18 (mitigation measures), 2021-22 (vaccination and testing requirements- Sections 2, 3, 4, 5, 6, 7, 8, and 9), 2021-28 (day care vaccination and testing requirements), 2021-31 (suspending requirements for professional counselors, clinical professional counselors, social workers and clinical social workers, and clinical psychologists), and 2022-06 (face covering requirements). [Executive Order 2022-14, June 24, 2022]

(<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2022-14.pdf>)

This Executive Order relates to the COVID-19 pandemic. It re-issued the following Executive Orders through April 30, 2022: 2020-04 (Section 3 of the waiver of sick leave requirement for state employees), 2020-09 (telehealth Sections 9 and 10), 2020-11 (Section 4 of the Illinois Department of Corrections notification period through April 30, 2022), 2020-12 (health care worker background check and Illinois Department of Juvenile Justice notification period - Sections 1 and 3), 2020-15 (suspending provisions of Illinois School Code- Sections 5, 6, 7, 8, and 9), 2020-20 (public assistance requirements), 2020-21 (furlough of Illinois Department of Corrections inmates), 2020-23 (Illinois Department of Financial and Professional Regulation action for licensed professionals in disaster response), 2020-24 (Sections 1 and 3 of Illinois Department of Human Services Forensic Treatment Program), 2020-26 (Section 1, 2(a), (d), (f), (g), 3, 5, 6, 7, 8, 9, and 10), 2020-27 (cadavers testing positive for COVID-19), 2020-30 (expired consular

identification documents and electronic filings for Illinois Human Rights Commission Sections 1, 4, 5, and 6), 2020-36 (marriage licenses), 2020-50 (resuming transfers from county jails to Illinois Department of Corrections), 2021-12 (Phase 5 reopening), 2021-188 (mitigation measures), 2021-18 (amended Section 1 and 2 to recommend that schools and day cares follow federal guidelines to limit COVID-19 spread), 2021-22 (vaccination and testing requirements Sections 2, 3, 4, 5, 6, 7, 8, 9,), 2021-31 (suspending requirements for social workers), 2022-06 (face covering requirements). [Executive Order 2022-10, April 1, 2022]

(<https://www.illinois.gov/content/dam/soi/en/web/illinois/documents/government/executive-order-2022-10.pdf>)

NOTICE OF CORRECTIONS

Assisted Living and Shared Housing Act [210 ILCS 9]

Assisted Living and Shared Housing Establishment Code (77 Ill. Adm. Code 295)

46 Ill. Reg. 4955, EFFECTIVE March 18, 2022

The Notice is being corrected to reflect "weekly" testing for COVID-19 instead of "twice weekly" testing. The last sentence will read: "The emergency rulemaking also updates requirements regarding written policies and procedures for COVID-19 testing and vaccination of facility staff to reflect recent changes in federal guidance and to require weekly testing for staff who are not fully vaccinated against COVID-19 and provides for appropriate penalties."

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_1_2.pdf)

Nursing Home Care Act [210 ILCS 45]

Sheltered Care Facilities Code (77 Ill. Adm. Code 330)

46 Ill. Reg. 4956, EFFECTIVE March 18, 2022

The Notice is being corrected to reflect "weekly" testing for COVID-19 instead of "twice weekly" testing. The last sentence will read: "The emergency rulemaking also updates requirements regarding written policies and procedures for COVID-19 testing and vaccination of facility staff to reflect recent changes in federal guidance and to require weekly testing for staff who are not fully vaccinated against COVID-19 and provides for appropriate penalties."

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_1_2.pdf)

Community Living Facilities Act [210 ILCS 35]

Community Living Facilities Code: (77 Ill. Adm. Code 370)

46 Ill. Reg. 4957, EFFECTIVE March 18, 2022

The Notice is being corrected to reflect "weekly" testing for COVID-19 instead of "twice weekly" testing. The last sentence will read: "The emergency rulemaking also updates requirements regarding written policies and procedures for COVID-19 testing and vaccination of facility staff to reflect recent changes in federal guidance and to require weekly testing for staff who are not fully vaccinated against COVID-19 and provides for appropriate penalties."

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_1_2.pdf)

Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]

Specialized Mental Health Rehabilitation Facilities Code (77 Ill. Adm. Code 380)

46 Ill. Reg. 4958, EFFECTIVE March 18, 2022

The Notice is being corrected to reflect "weekly" testing for COVID-19 instead of "twice weekly" testing. The last sentence will read: "The emergency rulemaking also updates requirements regarding written policies and procedures for COVID-19 testing and vaccination of facility staff to reflect recent changes in federal guidance and to require weekly testing for staff who are not fully vaccinated against COVID-19 and provides for appropriate penalties."

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_1_2.pdf)

Communicable Disease Report Act [745 ILCS 45] and Department of Public Health Act [20 ILCS 2305]

CONTROL OF COMMUNICABLE DISEASES CODE (77 Ill. Adm. Code 690)

46 Ill. Reg. 6968, EFFECTIVE April 22, 2022

This emergency repeal will be effective for 150 days. It's in response to JCAR's objection and suspension of the Department of Public Health's emergency rulemaking from February 14, 2022. The Department disagreed with JCAR's conclusion, but still decided to repeal the rule. The rule related to defining "close contacts," and COVID-19 prevention and exposure in school settings. This rulemaking repeals the emergency rule that addressed dangerously contagious or infectious disease outbreaks. The repeal only applies to the emergency amendments, and so the underlying Code rules remain effective.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_19.pdf)

See also: **PUBLIC HEALTH**

CRIMINAL LAW

CASE LAW

GIBBONS V. OSF HEALTHCARE SYSTEM, 2022 IL App (2d) 210038.

The court affirmed the judgment of the circuit court of Winnebago County denying the plaintiffs motion for summary judgement and entering judgement on the defendant's behalf. After an emergency hospitalization, plaintiff charged defendants with false imprisonment, assault, and medical battery. The plaintiff later settled with two of the defendants, leaving only the false imprisonment claim. Defendant filed cross-motions for summary judgment on that claim and was granted judgement. Plaintiff appealed and argued that trial court improperly granted relief to the defendant based upon its belief that he acted in good faith and, as such, could not be held liable. Plaintiff argues that good faith cannot apply where the defendant participated in daily acts that caused her illegal confinement, including his preparation of seven first inpatient certificates. However, the court found that plaintiff had not established that the defendant restrained her, that he failed to comply with Section 3-601 of the Mental Health Code, 405 ILCS 5/3-600 (West 2014), or that, if he

did, his actions were not taken in good faith. As his actions in treating plaintiff were not unlawful, the trial court properly granted summary judgment in the defendant's favor on plaintiff's false-imprisonment claim.

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/cc574210-621f-4ae1-95dd-3ad1caa67993/Gibbons%20v.%20OSF%20Healthcare%20System,%202022%20IL%20App%20\(2d\)%20210038.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/cc574210-621f-4ae1-95dd-3ad1caa67993/Gibbons%20v.%20OSF%20Healthcare%20System,%202022%20IL%20App%20(2d)%20210038.pdf))

See also: MEDICAL MALPRACTICE

PEOPLE V. McINTYRE, 2022 IL App (2d) 200535

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/fa58b76f-47ff-4af9-85b9-2a10a95443ff/People%20v.%20McIntyre,%202022%20IL%20App%20\(2d\)%20200535.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/fa58b76f-47ff-4af9-85b9-2a10a95443ff/People%20v.%20McIntyre,%202022%20IL%20App%20(2d)%20200535.pdf))

See also: CIVIL PROCEDURE

PUBLIC ACTS

Unified Code of Corrections and the County Jail Act [720 ILCS 5/24-2]

PUBLIC ACT 102-0779, EFFECTIVE January 1, 2023

House Bill 4667

This Act amends the Unified Code of Corrections and the County Jail Act. It provides that current or retired deputies, county correctional officers, and correctional officers of the Department of Corrections qualify as law enforcement officers in Illinois for purposes of coverage under the federal Law Enforcement Officers Safety Act of 2004. If they are otherwise compliant with the applicable laws of this State governing the implementation and administration of the Act, they shall have all rights and privileges it grants. This Act makes the same changes to the Criminal Code of 2012.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0779.pdf>)

The Crematory Regulation Act [410 ILCS 18/20] [410 ILCS 18/25] [410 ILCS 18/55]

PUBLIC ACT 102-0824, EFFECTIVE January 1, 2023

Senate Bill 3092

This Public Act amends the Crematory Regulation Act. The Public Act specifies the required signature for cremation authorization, the attestation to the accuracy of the cremation authorization form, the authorizing agent's signature, the signature confirming the receipt of the cremated remains, which can be obtained in either paper or electronic format.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0824.pdf>)

DATA PRIVACY

CASE LAW

COTHRON V. WHITE CASTLE SYSTEM, INC., 20 F.4th 1156, No. 20-3202, (7th Cir. 2022)

Plaintiff, Lana Cothron, filed a class action lawsuit against White Castle System, Inc. (Defendant) for violation of the Illinois Biometric Information Privacy Act (BIPA) citing

that Defendant failed to obtain her consent prior to utilizing a fingerprint-scanning system. Defendant argued that the claim was barred by the statute of limitations because Plaintiff's first fingerprint scan, in 2008, was when the claim initially accrued. Plaintiff countered by arguing that each individual finger scan accrued as a new claim in violation of BIPA. The district court rejected Defendant's argument but qualified the question for interlocutory appeal. Plaintiff asked the court to certify the question of whether the claims accrued once or per every finger scan for review by the Illinois Supreme Court. The court ruled that the issue did require review by the highest court in the State, citing that it would be a recurrent question regarding the state statute. The court reasoned that the requirements for certification of questions for the Illinois Supreme Court were met in this case. Specifically, there was no precedent before the court to provide guidance and the answer to the question would determine the case's result. Because the Illinois Supreme Court had yet to determine whether these claims accrue repeatedly or not under BIPA, the question is accordingly certified. If the answer is affirmative, Plaintiff's action against Defendant can continue, but if the answer is negative, it cannot. The court further explains that factors such as its "genuine uncertainty" about the answer, the question's purely legal and frequent nature, along with its specificity and regular application to Illinois case law, prove its sufficiency to be a certified question. Accordingly, further proceedings are stayed while the Supreme Court reviews the question.

<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2021/D12-20/C:20-3202:J:Sykes:aut:T:op:N:2808281:S:0>

MOSBY V. INGALLS MEMORIAL HOSPITAL, N.E. 3d, 2022 Ill. App (1st) 200822

Plaintiffs, Lucille Mosby and Yana Mazya (individually and on behalf of all others similarly situated), filed class action suits against Defendants - The Ingalls Memorial Hospital, UCM Community Health & Hospital Division, Inc., and Becton, Dickinson, and Company (Group 1) and Northwestern Lake Forest Hospital, Northwestern Memorial Healthcare, Omnicell, Inc., and Becton, Dickinson, and Company (Group 2), respectively. Both groups filed interlocutory appeals pursuant to Illinois Supreme Court Rule 308 (eff. Oct. 1, 2019) regarding similar issues, but the court only answered that submitted by Group 2. The question reviewed by the court was, "Does finger-scan information collected by a healthcare provider from its employees fall within the Biometric Information Privacy Act's (BIPA) exclusion for 'information collected, used, or stored for health care treatment, payment, or operations under the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) when the employee's finger-scan information is used for purposes related to "healthcare", "treatment", "payment", and/or "operations" as those terms are defined by the HIPAA statute and regulations?". The Defendant proposed that the court should answer affirmatively based on BIPA section 10's plain language excludes from its protections employee biometric information used in medication dispensing systems. The court stated that the language in BIPA is clear and ambiguity does not arise simply from disagreement amongst the two parties. The court also determined that the plain language of HIPAA does not remove from its protections employee information, reasoning that employees are not patients, nor are they protected under HIPAA. The court further clarifies that the statute would specify if it intended any provisions for hospitals, as it has made exemptions elsewhere in BIPA. Because the plain language of BIPA does not state

otherwise, the court ruled that employee biometric data cannot be included as information meant to be excluded by BIPA, and thus the case is remanded and the question is answered in the negative.

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/24317dc1-3478-4a2d-b5ba-60d915877a2f/Mosby%20v.%20Ingalls%20Memorial%20Hospital,%202022%20IL%20App%20\(1st\)%20200822.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/24317dc1-3478-4a2d-b5ba-60d915877a2f/Mosby%20v.%20Ingalls%20Memorial%20Hospital,%202022%20IL%20App%20(1st)%20200822.pdf))

TIMS V. BLACK HORSE CARRIERS, INC., N.E. 3d, 2021 Ill. App (1st) 200563

Plaintiffs, Jorome Tims and Isaac Watson, brought a class-action against Defendant, Black Horse Carriers, Inc., under the Biometric Information Privacy Act (BIPA). Defendant appealed the circuit court's decision and asserts that BIPA claims are governed by the one-year limitation period under section 13-201 of the Code of Civil Procedure (Code). Plaintiffs argue that the claims are governed by the five-year period under section 13-205 of the Code. The court answered that section 13-201 governs actions under section 15(c) and (d) of BIPA, whereas actions under sections 15(a), (b), and (e) are governed by section 13-205 of BIPA. 740 ILCS 14/15. The court reasoned that had the legislature intended for the inclusion of all privacy actions or any privacy actions pertaining to publication, it would have reflected so in BIPA's language. Because it does not, such a broad application cannot be construed upon all sections. The court then reasons that three of the provisions do not relate to publication or dissemination, namely 15(a), (b), and (e), and therefore a plaintiff could bring an action without citing publication or dissemination of their biometric information. On the other hand, 15(c) and (d) of BIPA do relate directly to the publication and dispersal of such information, making them distinct from the other three sections. The court remanded the case for further proceedings consistent with this determination.

(<https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/0f7c99c2-f9a1-423f-88e8-f52e108737ac/McDonald%20v.%20Symphony%20Bronzeville%20Park,%20LLC,%202022%20IL%20126511.pdf>)

See also: CIVIL PROCEDURE

MCDONALD V. SYMPHONY BRONZEVILLE PARK, LLC., N.E. 3d, (2022), S. Ct., 126511

Defendant, Symphony Bronzeville Park, LLC, filed a leave for appeal to answer the question of whether the exclusivity provisions on the Workers' Compensation Act (Compensation Act) bar a claim for statutory damages under the Biometric Information Privacy Act (BIPA) where an employer is alleged to have violated an employee's statutory privacy rights under BIPA? Plaintiff, Marquita McDonald, filed a class action against Defendant claiming that Defendant's acquisition and use of Plaintiff's biometric data for fingerprint timekeeping was in breach of BIPA. The appellate court concluded that a claim for statutory damages is not barred because such claims are not compensable under the Compensation Act and remanded the case to circuit court, which then approved the Defendant's leave for appeal. The Supreme Court of Illinois (Supreme Court) affirmed the judgment of the appellate court and answered the question in the negative. The Supreme Court reasoned that the injury faced by the plaintiff was one that was personal and societal in nature rather than physical or psychological. As such, the alleged injuries were not compensable under the provisions of the Compensation Act. The Supreme Court further

explained that the language of the BIPA demonstrated that the intent of the legislature was not to allow BIPA claims to be entertained by the Workers' Compensation Commission. The Supreme Court remanded the case to the circuit court for further proceedings.

(<https://law.justia.com/cases/illinois/supreme-court/2022/126511.html>)

See also: WORKERS COMPENSATION

WATSON V. LEGACY HEALTHCARE FINANCIAL SERVICES, LLC, N.E. 3d, 2021 Ill. App (1st) 210279

Plaintiff, Brandon Watson, submitted an appeal regarding the dismissal of two Defendants, Legacy Healthcare Financial Services LLC (Legacy) and Lincoln Park Skilled Nursing Facility LLC (Lincoln Park). The third Defendant, South Loop Skilled Nursing Facility LLC (South Loop) was dismissed and therefore not a party in this appeal. The initial complaint issued by Plaintiff cited that the Defendants violated the Biometric Information Privacy Act (BIPA) by failing to meet the four requirements placed on entities that utilize biometric data. The Defendants filed a motion to dismiss which the trial court granted, ruling that the plaintiff's claim was time-barred by the statute of limitations in place. The plaintiff then moved to reconsider by claiming an error on behalf of the trial court in its initial consideration of the accrual dates. The trial court granted this motion partially by dismissing South Loop and affirmed its other rulings. The Appellate Court ruled that the plaintiff's suit was not inhibited by the statute of limitations and that its analysis of the language in BIPA supported the plaintiff's claim that BIPA's obligations applied to each and every hand and finger scan rather than simply the initial collection. The Appellate Court also reasoned that the Defendants failed to provide a written destruction policy as is required by BIPA to the plaintiff when the purpose of collecting his identifiers was complete. Once the plaintiff stopped working for Defendants, this was satisfied and the destruction notice should have been provided. Citing the legislative history, dictionary definitions, and plain language of BIPA, the Appellate Court accordingly reversed the dismissal of the Defendants and remanded for further proceedings.

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/a73d3bcb-eb66-4fa7-8de5-5ed7ffc604e3/Watson%20v.%20Legacy%20Healthcare%20Financial%20Services,%20LLC,%202021%20IL%20App%20\(1st\)%20210279.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/a73d3bcb-eb66-4fa7-8de5-5ed7ffc604e3/Watson%20v.%20Legacy%20Healthcare%20Financial%20Services,%20LLC,%202021%20IL%20App%20(1st)%20210279.pdf))

PUBLIC ACTS

The Illinois Controlled Substances Act [720 ILCS 570/318]

PUBLIC ACT 102-0751, EFFECTIVE January 1, 2023

Senate Bill 3024

This Public Act amends the Illinois Controlled Substances Act. To protect the confidentiality of substance use disorder patients, the Public Act established a specified list of positions who have access to the data and permissible grounds to access the data. Medical directors or public health administrators and their delegated analysts of either the county or municipal health department or the Department of Public Health can access the data. The data can be accessed to establish educational programs on prescribing trends and controlled substance use and analyze public reports on prescribing trends in their jurisdictions. However, there must be a confidentiality agreement to preserve patients'

privacy. The confidentiality agreement must (1) prohibit information in reports that includes information leading to the identification of the practitioner, dispenser, patient, or other person administering the controlled substance and (2) specify the technical and physical safeguards that will be taken to ensure the data is secure. Furthermore, the data from the system is inadmissible as evidence and cannot be part of discovery. The Public Act also specified that neither the Prescription Monitoring Program or anyone else will disclose information that violates the disclosure restrictions and requirements outlined in Public Act 102-527.

(<https://ilga.gov/legislation/publicacts/102/PDF/102-0751.pdf>)

See also: CONTROLLED SUBSTANCES

The Vital Records Act [410 ILCS 535/17.5 new]

PUBLIC ACT 102-0833, EFFECTIVE January 1, 2023

Senate Bill 3163,

This Public Act amends the Vital Records Act by adding Section 17.5. The new section provides instructions for redacting certifying health care professionals on birth certificates. The Department will issue a certified copy of an individual's birth certificate with the identity of the certifying health care professional. However, the identity of the certifying health care professional can be redacted after a written request by (1) the person identified in the birth certificate if they have reached legal age, (2) the person described in the birth certificate as the parent or guardian, (2) the person in the birth certificate's representative if the person in the birth certificate has not reached legal age. The identity of the certifying health care professional is the only information on the birth certificate that can be redacted. A certified copy of a birth certificate shall not be considered a new or amended birth certificate and it's subject to all other requirements of issuing birth certificates.

(<https://ilga.gov/legislation/publicacts/102/PDF/102-0833.pdf>)

The Custody Relinquishment Prevention Act [20 ILCS 540/15]

PUBLIC ACT 102-0834, EFFECTIVE May 13, 2022

Senate Bill 3172

This Public Act amended the Custody Relinquishment Prevention Act. The Public Act added the requirement that the Department of Children and Family Services, the Department of Human Services, the Department of Healthcare and Family Services, the Illinois State Board of Education, the Department of Juvenile Justice, and the Department of Public Health enter into a 5-year extension of the interagency agreement mandated by Public Act 98-808.

(<https://ilga.gov/legislation/publicacts/102/PDF/102-0834.pdf>)

EXECUTIVE ORDERS

*This Executive Order creates the Illinois Cybersecurity Commission. The Commission will be composed of specific voting members and non-voting members. Voting members include the following (or their designees) (1) the Governor's Homeland Security Advisor, (2) the Director of the Illinois Emergency Management Agency, (3) the Chief Information Security Officer of the Illinois Department of Innovation and Technology, (4) Illinois Attorney General, (5) Adjutant General of the Illinois National Guard, (6) Director of the Illinois State Police, (7) Chairman of

the Illinois Commerce Commission, (8) Director of the Illinois Department of Commerce and Economic Opportunity, (9) Director of the Illinois Department of Revenue, and (1) a representative from the Office of the Governor. Non-voting members must include one representative from the following sectors: (1) Information Technology Sector, (2) Communications Sector, (3) Defense Industrial Base Sector, (4) Energy Sector, (5) Financial Services Sector, (6) Healthcare and Public Health Sector, (7) Water and Wastewater Systems Sector. Other non-voting members may be selected and approved by federal agencies, including (1) a cybersecurity expert from the Chicago or Springfield field office of the FBI or (2) 2 cybersecurity experts from the U.S. Department of Homeland Security (Region 5 and Chicago field office of Secret Service). There must also be a representative of the Statewide Terrorism and Intelligence Center as an advisory member on the commission. The Governor's Homeland Security Advisor or their designee will be the chairperson. The commission must develop and recommend a plan to accomplish the following objectives: (1) build and enhance cyber awareness and training for private sector critical infrastructure entities and assist with cyber security trainings on how to improve technical capabilities, (2) develop practices and processes to protect the information, resources, and services, increasing statewide security, and promoting cross-sector training, (3) mature cyber competencies through best practices to help private sector critical infrastructure make risk-based decisions to improve, (4) create and expand partnerships to enhance learning and information about how to make digital infrastructure more secure. The chairperson must submit a report to the Governor by December 31, 2022.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_15.pdf)

DEMENTIA

PUBLIC ACTS

The Department of Public Health Powers and Duties Law of the Civil Administration Code of Illinois [20 ILCS 2310/2310-710 new]

PUBLIC ACT 102-0722, EFFECTIVE May 13, 2022.

House Bill 4388

This Public Act amends the Department of Public Health Powers and Duties Law of the Civil Administration Code of Illinois with the addition of a section regarding emergency medical services (EMS) personnel's training on Alzheimer's disease and other dementias. "Emergency Medical Services personnel" is defined as a person license for registered under any of the levels of licensure defined in section 3.50 of the Emergency Medical Services System Act, including, but not limited to, emergency medical technician, emergency medical technician-intermediate, advanced emergency medical technician, paramedic, or emergency medical responder. For personnel whose license renewal occurs on or after January 1, 2023, a minimum of one one-hour training course covering the treatment, diagnosis, and care of Alzheimers or dementia patients must be completed. The training will consist of assessment, diagnosis, effective strategies of communication, and management/care planning. EMS may count one hour, once completing the course, toward meeting the minimum credit hours required for re-licensure. Any other training on Alzheimer's or other dementia diseases completed to meet other State licensure,

professional accreditation or certification, or health care institutional practice agreement may count toward the continuing education required under this section.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0772.pdf>)

See also: EMERGENCY SERVICES

The Alzheimer's Disease and Related Dementias Services Act [410 ILCS 406/90 rep.]

PUBLIC ACT 102-0747, EFFECTIVE May 6, 2022

Senate Bill 2993

This Public Act amended the Alzheimer's Disease and Related Dementias Service Act by repealing Section 90.

(<https://ilga.gov/legislation/publicacts/102/PDF/102-0747.pdf>)

The Illinois Act on the Aging [2- ILCS 105/4.02h new]

PUBLIC ACT 102-1020, EFFECTIVE January 1, 2023

Senate Bill 3707

This Public Act amends the Illinois Act on the Aging. The Act applies to anyone who is employed by the Department or an agency that contracts with the Department to provide services to individuals participating in the Community Care Program. It requires at least 2 hours of dementia training that must be completed at the start of employment with either the Department or the contractor. Department employees or contractors must complete the training within 6 months of January 1, 2023. The training must cover (1) Alzheimer's disease and dementia, (2) safety risks, and (3) communication and behavior. There must also be annual continuing education training that includes at least 2 hours of dementia training. If more rigorous dementia training requirements for employees or contractors providing services to Community Care Program participants, those requirements will apply and individuals will be considered exempt from the requirements in this Act so long as they show proof, they completed the training.

(<https://ilga.gov/legislation/publicacts/102/PDF/102-1020.pdf>)

See also: TRAINING REQUIREMENTS

DENTISTRY

The Illinois Dental Practice Act [225 ILCS 25/4]; [225 ILCS 25/17]; [225 ILCS 25/17.1]; [225 ILCS 25/18]

PUBLIC ACT 102-0963, EFFECTIVE January 1, 2023.

House Bill 4501

This Public Act amends the Illinois Dental Practice Act. The Act defines "public health setting" as a federally qualified health center; a federal, State, or local public health facility; Head Start; a special supplemental nutrition program for Women, Infants, and Children (WIC) facility; a certified school-based health center or school-based oral health program; a prison; or a long-term care facility. The Act amends the qualification of a dental hygienist's ability to perform certain procedures by requiring that they have 2,000 hours of clinical experience and have completed a training program through (1) an educational institution including but not limited to a dental school or dental hygiene or dental assistant program, or (2) a continuing education provider approved by the Department, or (3) a

statewide dental or dental hygienist association. Patients who receive coronal scaling above the gum line by approved dental hygienists can be 17 or younger. The training program for dental hygienists must, among other requirements, compel the supervising dentist to observe and approve the completion of 6 full mouth supragingival scaling procedures unless the training was received as part of a Commission on Dental Accreditation approved dental assistant program. Under expanded function of dental assistants is coronal scaling and intracoronar temporization of a tooth. If a patient is unable to come in person to an appointment, a dentist must either personally examine them or use approved teledentistry methods. Without a dentist's supervision, a dental assistant may perform certain education procedures, such as instruction in proper oral care and dental hygiene in academic settings or facilities and may record care histories and oral conditions observed prior to clinical exams performed by a dentist.

<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0936.pdf>

DISABILITIES

CASE LAW

ALBERT V. KIJAKAZI, 34 F.4th 611, No. 21-2592, (7th Cir. 2022)

<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2022/D05-18/C:21-2592:J:Scudder:aut:T:fnOp:N:2877970:S:0>

See also: SOCIAL SECURITY

IN RE: COMMITMENT OF HANS T., 2021 IL App (2d) 180387

The court reverses the judgment of the Du Page County circuit court subjecting the plaintiff to involuntary admission on an outpatient basis, under which he was required to reside in a locked unit of a nursing home for 180 days. In 2018 Defendants filed documents seeking involuntary outpatient admission of Plaintiff due to their mental illness that, if left untreated, was reasonably expected to result in an increase in symptoms to the point that they would meet the criteria for commitment. Defendant recommended a nursing home placement for Plaintiff for the maximum of 180 days which the court granted. On appeal, the plaintiff argued that the order was essentially for involuntary admission on an inpatient basis which violated the section of the Mental Health and Developmental Disabilities Code (405 ILCS 5/1-100 et seq.) governing outpatient treatment, and without the statutory procedures and findings necessary to impose such an order, and for twice the time permitted for an initial involuntary inpatient admission. He recognized that the issue was moot but argued that exceptions to the mootness doctrine apply. The Defendant thereafter filed a confession of error, agreeing that the trial court's order should be reversed because the Mental Health Code requires separate hearings for involuntary admission and for involuntary treatment with medications, and also because Plaintiff should not have been committed to an inpatient facility for 180 days after an outpatient commitment proceeding. The court initially issued a minute order that accepted the Defendant's confession of error, reversed the trial court's order, and served as the mandate, but vacated the decision after Plaintiff filed a motion to recall the mandate and issue an opinion. The court granted the request and issued an opinion reversing the judgment of the Du Page County circuit court.

[https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/a48d2e0f-fd8f-47a6-a7c6-079355c07a74/In%20re%20Commitment%20of%20Hans%20T.,%202021%20IL%20App%20\(2d\)%20180387.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/a48d2e0f-fd8f-47a6-a7c6-079355c07a74/In%20re%20Commitment%20of%20Hans%20T.,%202021%20IL%20App%20(2d)%20180387.pdf)

See also: MENTAL HEALTH

IN RE: JENNICE L., 2021 IL App (1st) 200407

The court reverses the circuit court's order granting the petition for the involuntary admission of psychotropic medication and other medical tests, pursuant to section 2-107.1(a-5) of the Mental Health and Developmental Disabilities Code (Mental Health Code). Defendant sought to authorization to involuntarily administer 6 primary psychotropic medications, or 6 alternative medications, to plaintiff for up to 90 days. The court granted the petition. The plaintiff appealed even though she could not be granted any effectual relief since the decision although the judgment was limited to 90 days and had eventually expired. The plaintiff argued that the court should reach the merits of her appeal based on both the public interest and the "capable of repetition yet avoiding review" exceptions to the mootness doctrine which the court agreed. The plaintiff argued that the circuit court failed to comply with the requirements of section 2-107.1(a-5)(4)(D) of the Mental Health Code which would render the judgment entered erroneous and of no effect." The court found that the circuit court failed to comply with section 2-107.1(a-5)(4)(D) of the Mental Health Code, when it improperly delegated its duty of assessing the risks and benefits of the medication to the plaintiff's treating physicians. Therefore, the court concluded the failure to comply with the Mental Health Code rendered the judgment entered below erroneous and required reversal. However, a remand was not necessary since the administration of the medication had been terminated according to the terms of the circuit court's order.

[https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/7c0025a7-671c-43c5-96bd-ea9598e4b73a/In%20re%20Jennice%20L.,%202021%20IL%20App%20\(1st\)%20200407.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/7c0025a7-671c-43c5-96bd-ea9598e4b73a/In%20re%20Jennice%20L.,%202021%20IL%20App%20(1st)%20200407.pdf)

See also: MENTAL HEALTH

JACKSON V. TSA PROCESSING CHICAGO, INC., N.E. 3d, 2021 Ill. App (2d) 200769

Plaintiff, Theodore Jackson, appealed the decision of the circuit court of DuPage County, which dismissed his second amended complaint against TSA Processing Chicago, Inc., and Tresten Sneed & Associates, Inc (Defendants). The complaint filed by Plaintiff alleged that Defendants discriminated against him due to his disability, thus breaching the Illinois Human Rights Act (Act) (775 ILCS 5/1-101 et seq.). The trial court held that Plaintiff's claim was time-barred and that he was not disabled under the meaning of section 1-103(I) of the Act (id. § 1-103(I)). The court disagreed on both these rulings and reversed and remanded for further proceedings. Plaintiff suffered from ectodermal dysplasia hydrosis which made it difficult for him to sweat and therefore made him susceptible to overheating which could potentially cause death. On a usually hot summer day, the plaintiff, in fear of his condition, requested to leave early and was told to wait for the manager to arrive. However, after an attempt to comply, the plaintiff left for his own safety, and was consequently fired the next day. During communications with the Department of Human

Rights (Department), Plaintiff failed to receive a Notice of Substantial Evidence due to it being incorrectly addressed on December 31, 2018. Plaintiff stated that he notified the Department of his new address and received the amended notice on May 6, 2019, which informed him of his right to engage in civil action within 90 days. Plaintiff did so on July 22, 2019. The court reasoned that because Plaintiff did not receive the original notice until he later received the amended one and the amended notice served as the operative one. Construing these facts in the light most favorable to the plaintiff, he did not receive the original notice until May 2019 either, and thus the 90 days commenced from then on. Accordingly, the plaintiff's complaint was not time-barred. In regard to the plaintiff's disability, the court argued that it lacked clarity on whether the plaintiff could have performed his job had he been provided a reasonable accommodation (i.e., missing work through available sick time). If such an accommodation would have let the plaintiff perform his job adequately, as he had been for six consecutive months, he qualified as disabled under the definition provided in the Act.

[https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/26af1646-b345-419b-9b9c-f60c22ae4f37/Jackson%20v.%20TSA%20Processing%20Chicago,%20Inc.,%202021%20IL%20App%20\(2d\)%20200769.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/26af1646-b345-419b-9b9c-f60c22ae4f37/Jackson%20v.%20TSA%20Processing%20Chicago,%20Inc.,%202021%20IL%20App%20(2d)%20200769.pdf)

LANGE V. CITY OF OCONTO, No. 20-3048, 21-1110 (7th Cir. 2022).

The court affirmed the judgment of the district court in favor of the Defendants, the denial of the Plaintiff's motion for judgment of matter of law, the decision to admit testimony, and the assessment against plaintiff of \$1,000 in costs. The Plaintiff alleged that the Defendants violated Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12131, et seq., and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, when they did not provide a qualified ASL interpreter for the Defendant and by using their minor child to interpret during four interactions with the police in 2016 and 2017. On appeal, the Plaintiff sought a determination that the district court made prejudicial errors instructing the jury and admitting evidence, warranting a new trial or flat-out reversal of the trial court's decision denying her motion for judgment as a matter of law. The Plaintiff claimed that: 1) the district court misstated the law when it instructed the jury that "police need not interfere, however, in the decision of a private citizen to use his or her own child to facilitate her communication"; 2) the district court erred when it denied the Plaintiff's motion for judgment as a matter of law because the Defendant's witnesses admitted to using her minor children in nonemergency situations; and 3) the court wrongly allowed a nonparty to the four incidents at issue to testify in violation of Federal Rules of Evidence 403 and 404. The court first found that Title II of the Act does not address the use of minor children as interpreters for individuals who are deaf or hard of hearing and even if the jury instructions were incorrect, it was not prejudicial. A new trial is only appropriate if the jury instruction prejudiced the complaining party. The court explained that no prejudice is found if erroneous instructions make no difference to the overall outcome. Under this standard, no prejudice could be found. Regarding the plaintiff's third claim, the court found that despite the plaintiff's claim of a Rule 404(a) violation, the Plaintiffs argument would be more appropriately analyzed under Federal Rule of Evidence 404(b) which excludes evidence of specific acts to show a person's propensity to behave in a certain way. The court clarified

that the rule allowed the use of other-act evidence only when its admission was supported by some propensity-free chain of reasoning, which the trial court had already ruled that the prior interactions between the Defendant and the Plaintiff were admissible to “show the relationship between the parties” and “explain why and what the defendants were thinking” about why they believed that communication with the Plaintiff was effective. Therefore, the court could not say that the third-party testimony in that regard unfairly prejudiced the plaintiff.

<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2022/D03-16/C:21-1110:J:Flaum:aut:T:fnOp:N:2847490:S:0>

PONTINEN V. U.S. STEEL CORP., 26 F.4th 401 No. 21-1612, (7th Cir. 2022).

The court affirmed the judgement of the district to grant the defendants motion for summary judgement declaring that the plaintiff’s epileptic condition would pose a direct threat to the health and safety to himself and others while working at the defendants Midwest Plant. On appeal, the plaintiff claimed disability discrimination under the Americans with Disabilities Act (ADA) when the defendant rescinded his contingent employment offer after discovering he had an uncontrolled seizure disorder. Upon the contingent employment offer the defendant discovered that the Plaintiff suffered from an uncontrolled seizure disorder that imposed work restrictions on him. The restrictions conflicted with the requirements of the position the Plaintiff applied for, so the defendant rescinded its offer. The ADA prohibits certain employers from discriminating against a qualified individual on the basis of disability regarding hiring. It is the defendant’s burden to show that qualification standards that “tend to screen out individuals with a disability” escape liability because those qualification standards are necessary to prevent “a direct threat to the health or safety of other individuals in the workplace.” The Plaintiff argued that the assessment the defendant conducted was not sufficiently individual. The Plaintiff claimed that he was disqualified based on preconceived notions of seizures. However, the restrictions were based primarily on the fact that the Plaintiff suffers from an uncontrolled seizure disorder. It was determined that due to the Plaintiff’s disorder being uncontrolled the risk of harm was indefinite and given the unreliability of seizure warning signals and the potentially dangerous consequences of losing consciousness in a dangerous setting, the nature and severity of the risk weighed in favor of a direct threat finding. Therefore, the court found that the defendant had shown through undisputed evidence that, if hired, the plaintiff’s seizure disorder would pose a direct threat to himself and others at the Midwest Plant, and the summary judgment was proper.

<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2022/D02-11/C:21-1612:J:Kanne:aut:T:fnOp:N:2832995:S:0>

MCCAIVITT V. KIJAZAKI, 6 F.4th 692 No. 20-2727 (7th Cir. 2021)

Disabled children are entitled to benefits from the Social Security Administration, 42 U.S.C. 1382c(a)(3)(C) if the children meet one of the listed categories of disability or are functionally equivalent to one of them. The plaintiff argued that his son suffered from multiple conditions that met or were functionally equivalent to the listing. Based on evidence from the plaintiff’s teachers and medical providers, an ALJ rejected the plaintiff’s claim and a district judge affirmed. The plaintiff then requested this Court to use an older version of the conditions list, that was amended effective January 2017. The plaintiff

contended that they should acquire rights under the old regulation from the time of their son's birth through the amendment's effective date. However, the ALJ asserts they applied the amendment to the entire claim, because that's what the amendment itself instructed. The order promulgating this change provides that it applies "to claims that are pending on or after the effective date." Therefore, the court affirms the district court's decision.

(<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2021/D07-21/C:20-2727:J:Easterbrook:aut:T:fnOp:N:2736950:S:0>)

See also: NEGLIGENCE

PRILL V. KIJAKAZI, 23 F.4th 738, No. 21-1381, (7th Cir. 2022)

(<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2022/D01-13/C:21-1381:J:Brennan:aut:T:fnOp:N:2819165:S:0>)

See also: SOCIAL SECURITY

RUENGER V. KIJAKAZI, 23 F.4th 760, No. 20-2598, (7th Cir. 2022)

(<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2022/D01-14/C:20-2598:J:PerCuriam:aut:T:fnOp:N:2820371:S:0>)

See also: SOCIAL SECURITY

WILDER V. KIJAKAZI, 22 F.4th 644, No. 21-1607, (7th Cir. 2022)

(http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2022/D01-04/C:21-1607:J:St_Eve:aut:T:fnOp:N:2814212:S:0)

See also: SOCIAL SECURITY

PUBLIC ACTS

The Property Tax Code [35 ILCS 200/18-103 new]

The Community Care for Persons with Development Disabilities Act [50 ILCS 835/1.2]

The Counties Code [55 ILCS 5/5-25025]

The Community Mental Health Act [405 ILCS 20/5]

PUBLIC ACT 102-0839, EFFECTIVE May 13, 2022

Senate Bill 3215

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0839>)

See also: MENTAL HEALTH

Illinois Vehicle Code [625 ILCS 5/3-405] [from Ch. 95 1/2 par. 3-405]

PUBLIC ACT 102-1069, EFFECTIVE June 10, 2022

House Bill 4825

This Act amends the Illinois Vehicle Code. It provides that there must be space on a vehicle registration application where an applicant, or other approved driver registered to the vehicle, may voluntarily indicate they have a health condition or disability that may impede effective communication with a peace officer. The application must include a checklist of common health conditions and disabilities which the applicant may select a blank space for the applicant to specify a condition not listed. A parent of a child with a communication disorder may also disclose that the child has a health condition or disability that may impede effective communication. Every original application must bear the signature in pen

and ink of the owner. The Secretary of State may request verification of a condition in the form of written statements by specified health professionals and provide the vehicle registration information to the Illinois State Police. However, they may not share the person's specific health condition or disability without the person's consent. The information regarding an applicant's health condition or disability, or that of another approved driver of the registered vehicle, is for the confidential use of the Secretary and the Illinois State Police and may not be disclosed to any person. The Illinois State Police must include this information in the statewide Law Enforcement Agencies Data System for the purpose of alerting a peace officer who makes traffic stops, but they may not make the information available to any person who has access to the Law Enforcement Agencies Data System under a contract unless the contract prohibits the person from disclosing that information to a person who is not subject to the contract.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-1069.pdf>)

ADOPTED RULES

Americans with Disabilities Act [42 U.S.C. §12101 et seq.] and Nondiscrimination on the Basis of Disability in State and Local Government Services Regulations [28 CFR 35]

AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE (4 Ill. Adm. Code 2110)

45 Ill. Reg. 9988, EFFECTIVE July 26, 2021

This adopted rule is known as the Americans With Disabilities Act Grievance Procedure and impacts the Implementing the Americans with Disabilities Act and Nondiscrimination on the Basis of Disability in State and Local Government Services Regulations. The rule establishes a procedure for resolving grievances on behalf of disabled peoples and a definitions section for relevant terminology. The process for filing a grievance is outlined in Sections 2110.40 and 2110.50 and is subject to time limitations. Failure to file a grievance or appeal will be considered a withdrawal and instructions on filing should be provided on behalf of HFS. A grievance should be filed to a 504/ADA Coordinator in writing on the Grievance Form provided and if found to be valid, must be attempted to be resolved and responded to by the Coordinator. If a complainant is not satisfied with the resolution, they can appeal it and a panel will review the grievance with their attendance, to which the Chief EEO/AA officer will present a decision within 15 days of the panel's recommendations. Each step of the grievance process should be made accessible to individuals with disabilities and each grievance should be decided on a case-by-case basis.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_2.pdf)

Disabled Persons Rehabilitation Act [20 ILCS 2405/3(b), (f), (k) and 12]

ILLINOIS CENTER FOR REHABILITATION AND EDUCATION/COMMUNITY SERVICES FOR THE BLIND, VISUALLY IMPAIRED AND DEAFBLIND (89 Ill. Adm. Code 730)

46 Ill. Reg. 2954, EFFECTIVE February 4, 2022

This amendment relates to the Illinois Center for Rehabilitation and Education/Community Services for the Blind, Visually Impaired and Deafblind and impacts the Disabled Persons Rehabilitation Act. This amendment creates provisions regarding the COVID-19 Vaccination of Illinois Center for Rehabilitation and Education Wood, ICRE-W Personnel. There are definitions for relevant terminology listed within the Act. The subsections

provide that all staff members be vaccinated against COVID-19, with at least the first dose for those who are entirely unvaccinated. Proof of full vaccination must be submitted by the outlined acceptable methods. Exemptions for vaccination against COVID-19 must be made by the facility if it is medically contraindicated or would infringe upon a religious practice or belief. Those staff who are not vaccinated by September 19, 2021, must undergo weekly COVID-19 testing at minimum, and testing should be made available on-site, consistent with other requirements in the section. Those who test positive must be excluded in alignment with the federal and local regulations. Signage regarding availability of testing and maintenance of records of fully vaccinated staff must be provided by the facility. Lastly, the facility must maintain documentation of each staff member's vaccination history for COVID-19 in their medical records and educate the staff on potential risks associated with the COVID-19 vaccination in accordance with the provided resources in the Act.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_8.pdf)

See also: COVID-19

Disabled Persons Rehabilitation Act [20 ILCS 2405/10 and 11]

ROLE OF RESIDENTIAL EDUCATION FACILITIES OPERATED BY THE ILLINOIS DEPARTMENT OF HUMAN SERVICES (89 Ill. Adm. Code 750)

46 Ill. Reg. 2962, EFFECTIVE February 4, 2022

This amendment relates to the Role of Residential Educational Facilities Operated by the Illinois Department of Human Services and impacts the Disabled Persons Rehabilitation Act. The amendment provides that for educational programs, the schools shall develop policies and procedures to address the schools' compliance with adherence to Mandatory Vaccinations for School Personnel as outlined in 23 Ill. Adm. Code 6, among other requirements.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_8.pdf)

See also: PUBLIC HEALTH

MC/DD Act [210 ILCS 46]

MEDICALLY COMPLEX FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE (77 Ill. Adm. Code 390)

46 Ill. Reg. 8192, EFFECTIVE May 6, 2022

This amendment relates to the Medically Complex for the Developmentally Disabled Facilities Code and impacts the MC/DD Act. Definitions are modified and deleted for relevant terminology within the Code. The amendments establish new sections regarding patient/resident referrals to licensed home health, home services, and home nursing agencies. References are also added to the Health Care Worker Registry under the Health Care Worker Background Check Act. Further, there are federal requirements that are introduced to the Code which focus on antibiotic stewardship programs, strike notification requirements, and drug regimen review processes. Provisions regarding the use and installation of electronic monitoring in MC/DD facilities are also being added.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_21.pdf)

Mental Health and Development Disabilities Administrative Act [20 ILCS 1705]

Permanent Supportive Housing & Bridge Subsidy Model for Persons with Mental Illnesses (59 Ill. Adm. Code 145)

45 Ill. Reg. 11027, EFFECTIVE August 30, 2021

This rulemaking provides that the Department of Human Services' Division of Mental Health will provide funding to persons eligible for services under Permanent Supportive Housing (PSH). It also sets standards for environmental safety and management. This is necessary to expand PSH opportunities, provide for safe service practices, and ensure ongoing compliance with court-ordered implementation plan requirements of the Williams Colbert Consent Decrees

https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_37.pdf

See also: MENTAL HEALTH

EMERGENCY RULES

ID/DD Community Care Act [210 ILCS 47]

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE (77 Ill. Adm. Code 350)

45 Ill. Reg. 10102, EFFECTIVE July 25, 2021

This emergency amendment repeals an emergency rule under the Intermediate Care for the Developmentally Disabled Facilities Code and impacts the ID/DD Community Care Act. The rule, which concerned the involuntary transfer or discharge of a resident as a result of late or nonpayment under the COVID-19 provisions for licenses and inspections, was repealed as the authorizing Executive Order 2020-35 was not renewed.

https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_32.pdf

See also: COVID-19

MC/DD Act [210 ILCS 46]

MEDICALLY COMPLEX FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE (77 Ill. Adm. Code 390)

45 Ill. Reg. 10115, EFFECTIVE July 25, 2021

This emergency amendment repeals an emergency rule under the Medically Complex for the Developmentally Disabled Facilities Code and impacts the MC/DD Community Care Act. The rule, which concerned the involuntary transfer or discharge of a resident as a result of late or nonpayment under the COVID-19 provisions for licenses and inspections, was repealed as the authorizing order, Executive Order 2020-35, was not renewed.

https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_32.pdf

See also: COVID-19

Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705] and Mental Health and Developmental Disabilities Code [405 ILCS 5]

DEVELOPMENTAL DISABILITIES SERVICES (89 Ill. Adm. Code 144)

46 Ill. Reg. 1347, EFFECTIVE December 28, 2021

This emergency amendment relates to Developmental Disabilities Services and impacts the Mental Health and Developmental Disabilities Administrative Act and Mental Health and Developmental Disabilities Code. The amendment will expire 150 days after its effective date, upon repeal, or upon adoption of permanent rulemaking. The amendment provides changes to the developmental disability provider rate adjustment which stipulate that providers of community-based services and supports to individuals with intellectual and developmental disabilities shall increase wages for DSPs by \$1.50 per hour, with at least \$0.75 per hour of those funds to be provided for a \$0.75/hour direct increase to all DSP wages. Further, any increases provided to direct support persons (DSPs) wages that a provider has voluntarily provided or been required to provide will be inclusive towards the DSP wage increase required.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_3.pdf)

See also: EMPLOYMENT

OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER

Department of Public Health

MEDICALLY COMPLEX FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE (77 Ill. Adm. Code 390)

46 Ill. Reg. 299, EFFECTIVE January 3, 2022

This agency response to a rule relates to the Medically Complex for the Developmentally Disabled Facilities Code. The Joint Committee on Administrative Rules (JCAR) recommended that the statute be implemented into a rule in a more timely manner. The Department of Public Health reviewed the JCAR statement and ensured that the statutorily required change would be completed quickly.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2_1.pdf)

DEPARTMENT OF HEALTH'S RESPONSE TO JCAR

INTERMEDIATE CARE FOR DEVELOPMENTALLY DISABLED FACILITIES CODE (77 Ill. Adm. Code 350)

Department of Public Health Response to Joint Committee Statement of Recommendations

46 Ill. Reg. 2419, EFFECTIVE February 14, 2022

This is the Department of Public Health's (IDPH) response to the Joint Committee on Administrative Rules' (JCAR) recommendation statement for the rulemaking on intermediate care for the developmentally disabled. JCAR recommended in May 2022 that IDPH respond in a more timely manner when implementing statutory changes in the rules. IDPH responded that it evaluates changes as quickly as possible, but will work to implement changes more efficiently.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2_5.pdf)

EMERGENCY SERVICES**CASE LAW****DAWKINS V. FITNESS INTERNATIONAL, LLC, N.E. 3d, (2022), S. Ct., 127561**

The plaintiff, Leo Dawkins, appealed the dismissal of his complaints by the circuit court against Fitness International LLC, L.A. Fitness, and L.A. Fitness Oswego (Defendant), after his wife suffered permanent brain damage following the Defendant's failure to use an AED on her during a cardiac arrest she experienced in their facility. The issue before the court was whether the Defendant's had a duty under the Physical Fitness Facility Medical Emergency Preparedness Act (Facility Preparedness Act) (210 ILCS 74/1 et seq. (2012)) or the Automated External Defibrillator Act (AED Act) (410 ILCS 4/1 et seq. (2012)) to utilize an AED on a patron who suffers a visible cardiac event and whether the absence of this act qualifies as willful and wanton misconduct. The court held that the Defendant did hold such a duty. The court reasoned that the statutes in question only assign civil liability to those whose failure to use an AED was willful and wanton. Therefore, such an action can be asserted by the plaintiff. Further, the court explained that it would be illogical for a plan of use to be organized for the AED in a medical emergency if it were never intended to be used and/or could be refused to be used. Accordingly, the court affirms the judgment of the appellate court that the claim survived Defendant's motion to dismiss, the circuit court's ruling was reversed, and the matter was remanded for further proceedings.

<https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/c3e1766b-b9dd-4929-b0ed-4765ffc67ccd/Dawkins%20v.%20Fitness%20International,%20LLC,%202022%20IL%20127561.pdf>

NARTEY V. FRANCISCAN HEALTH HOSPITAL, 2 F.4th 1020 (7th Cir. 2021)

A deceased patient's child (Plaintiff) sued Defendant-Hospital after the deceased's passing. The patient experienced a medical emergency and was taken to Defendant-Hospital where she later had a stroke and died. Plaintiff sued on behalf of the deceased alleging that Defendant-Hospital violated the Emergency Medical Treatment and Active Labor Act (EMTALA) by failing to provide adequate care at the hospital and by failing to transfer the patient to another hospital as an alternative. However, the court determined Defendant-Hospital did not violate EMTALA because Defendant-Hospital fulfilled its requirements under the Act. Defendant-Hospital examined the patient, determined an emergency condition existed, and treated the patient. In fact, the decision to treat a patient at a hospital is preferable under the Act to transferring a patient elsewhere for treatment. The court specified that the EMTALA cannot be used to challenge quality of care because it is not a malpractice statute that covers treatment after an emergency patient has been screened and admitted. Therefore, the court affirmed the district court's motion to dismiss all Plaintiff's claims.

<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2021/D06-28/C:19-3342:J:PerCuriam:aut:T:fnOp:N:2726009:S:0>

PUBLIC ACTS

The Department of Public Health Powers and Duties Law of the Civil Administration Code of Illinois [20 ILCS 2310/2310-710 new]

PUBLIC ACT 102-0722, EFFECTIVE May 13, 2022.

House Bill 4388

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0772.pdf>)

See also: DEMENTIA

Emergency Telephone System Act [50 ILCS 750/2]

PUBLIC ACT 102-0983, EFFECTIVE May 27, 2022

House Bill 5502

This Act amends the Emergency Telephone System Act. It adds and modifies definitions for: "Call back number;" "Dispatchable location;" "Key telephone system;" "Multi-line telephone system;" "Shared residential MLTS service;"; "Shared telecommunications services;" and "Temporary residence MLTS." It provides language that grandfathering private residential switch or MLTS 9-1-1 services applies to entities that manage or operate a private residential switch service or shared residential or temporary residential MLTS service that were installed on or before February 16, 2020. It no longer requires these entities to include an ALI containing the physical address and distinct location for each living unit associated with the address. Additionally, it adds to and modifies the requirements for MLTS installed after February 16, 2020, and removes language concerning statewide surcharges. Lastly, it states that public safety telecommunicator supervisor's responsibilities include answering, receiving, or transferring an emergency call for dispatch to the appropriate emergency responders.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0983.pdf>)

EMERGENCY RULES

Emergency Medical Services (EMS) Services Act [210 ILCS 50]

EMERGENCY MEDICAL SERVICES, TRAUMA CENTER, COMPREHENSIVE STROKE CENTER, PRIMARY STROKE CENTER AND ACUTE STROKE READY HOSPITAL CODE (77 Ill. Adm. Code 515)

46 Ill. Reg. 7899, EFFECTIVE April 26, 2022

This is an emergency amendment that will be effective for 150 days. It relates to ambulance licensing requirements, specifically equipment requirements. It adds necessary items including stretchers, cots, and oxygen which are vital for patient care that were not included in the emergency amendment dated December 27, 2021.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_20.pdf)

Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center and Acute Stroke Ready Hospital Code (77 Ill. Adm. Code 515)

45 Ill. Reg. 12108, effective September 17, 2021

See also: COVID-19

Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

EMERGENCY MEDICAL SERVICES, TRAUMA CENTER, COMPREHENSIVE STROKE CENTER AND ACUTE STROKE READY HOSPITAL CODE (77 Ill. Adm. Code 515)**46 Ill. Reg. 1173, EFFECTIVE December 27, 2021**

This emergency amendment relates to Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center and Acute Stroke Ready Hospital Code and impacts the Emergency Medical Services (EMS) Systems Act. The amendment was set to expire 150 days after its effective date, upon repeal, or upon adoption of permanent rulemaking. The amendments add bypass and resource limitation status review provisions so that the Department may monitor the bypasses of ambulances and so that EMS staff may more efficiently be notified of bypass requests and statuses given the increased need due to the COVID-19 pandemic. Provisions for the EMS Plan Program and EMT licensure reciprocity are outlined. Provisions for ambulance licensing are added and deleted. There are also provisions created for EMS employees and guidelines for EMS volunteers and provisions edited and deleted for trauma center staff. Further, priority to critical patients and their transportation to the nearest hospital is established so that multiple hospitals are not on bypass.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2.pdf)

See also: HEALTHCARE FACILITIES

EMPLOYMENT**CASE LAW**

COUNTRY MUTUAL INSURANCE CO. V. UNDER CONSTRUCTION AND REMODELING, INC., 2021 IL App (1st) 210600.

An employee was allegedly injured while working for Defendant and filed a workers' compensation claim. Plaintiff, an insurance company that had issued a worker's compensation insurance policy to Defendant, sought to investigate the claim and contacted the defendant for information. When the defendant failed to respond after repeated attempts to reach it, the plaintiff filed a complaint for declaratory judgment in the circuit court of Cook County, alleging that the plaintiff owed no duty to defend or indemnify the defendant because they had breached the insurance policy's cooperation clause. The defendant did not file an appearance in the lawsuit, and the court entered a default judgment against it. Plaintiff then moved for summary judgment, which was granted on the basis of defendant's breach of the cooperation clause. The employee appealed. On appeal, the sole question was whether the trial court erred in granting summary judgment in plaintiff's favor due to the defendant's breach of the insurance policy's cooperation clause. The burden of establishing a breach of the cooperation clause rests on the insurer, which must show that it exercised a reasonable degree of diligence in seeking the insured's participation. The plaintiff claimed they had "attempted no less than 15 times over several months to contact [Defendant], including phone calls, letters, and even a special investigator sent to its registered address and that of its president individually." However, after closer examination, it was revealed that most of these attempts to contact never reached the defendant nor was it made clear that the defendant was required. Therefore, the court found that a genuine issue of material fact existed as to whether the plaintiff exercised reasonable diligence in seeking the

defendant's participation with its claim investigation. Thus, the circuit court of Cook County's decision was reversed and remanded after a finding that the trial court erred in granting summary judgment in Plaintiff's favor because the plaintiff did not demonstrate as a matter of law that it made reasonable efforts to secure the defendants cooperation and that the defendant willfully refused to cooperate in Plaintiff's investigation of the employee's claim.

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/5064e61a-1294-4644-8ed3-ba16c7685c8d/Country%20Mutual%20Ins.%20Co.%20v.%20Under%20Cons.%20and%20Remodeling,%20Inc.,%202021%20IL%20App%20\(1st\)%20210600.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/5064e61a-1294-4644-8ed3-ba16c7685c8d/Country%20Mutual%20Ins.%20Co.%20v.%20Under%20Cons.%20and%20Remodeling,%20Inc.,%202021%20IL%20App%20(1st)%20210600.pdf))

See also: **WORKERS' COMPENSATION**

GRAHAM V. BOARD OF EDUCATION, 8 F.4th 625 No. 19-2745 (7th Cir. 2021)

The court of Appeals for the Seventh Circuit vacated the judgement of the district court and remanded the case with directions to dismiss for want of a justiciable controversy. The court affirmed the judgement in respect to the Employee Retirement Income Security Act (ERISA) claim. Plaintiff sought a higher salary through a Chicago program that offers public-school teachers higher pay if they earn extra college credits. Plaintiff's application was ignored and when she tried to resubmit the Board of Education believed the back dated application was fraud. Plaintiff was fired and then reinstated with back pay after a hearing. The Board did not honor the decision, published a declaration that the plaintiff was a fraudster, and refused to consider the plaintiff for open positions. Plaintiff sued, alleging violations of 42 U.S.C. 1983 by discriminating against her on account of sex and race and of ERISA by depriving her of pension and health benefits. The district court rejected these claims: the § 1983 claim because the complaint did not identify other employees who received better treatment from the school system; and the ERISA claim because the school system's plans are exempt from ERISA. Plaintiff's wage payment claim also failed because the correct calculation of the plaintiff's pay depended on interpreting a collective-bargaining agreement, which the judge thought preempted by federal labor law. The Seventh Circuit vacated the dismissal of the complaint. The court found that the plaintiff's claim that the school system deprived her of pension and health benefits did fall within scope of ERISA exemption for governmental pension and welfare plans; however, the plaintiff was unable to plead injury.

(<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2021/D08-10/C:19-2745;J:Easterbrook;aut:T:fnOp:N:2745950;S:0>)

LAX V. MAYORKAS, 20 F.4th 1178, No. 20-3288, (7th Cir. 2022)

Plaintiff-Appellant, Brian Lax, appealed a decision of the district court that held that his complaint against Defendant-Appellee Alejandro Mayorkas, Secretary of the Department of Homeland Security, was time-barred. Plaintiff's original complaint alleged that his employer had discriminated against him, infringing upon the Rehabilitation Act of 1973, 29 U.S.C. § 701 et. seq. (the Act). The court affirmed the decision of the district court, stating that Plaintiff filed his complaint on the ninety-first day following receipt of notice, which violated the 90-day period afforded to him. Plaintiff received notice on July 17, 2019, through email, but was unable to properly open all attachments until the following day. Plaintiff then filed suit on October 16th, 2019: 91 days after receiving the original

notice. He argued that because he did not open and read the notice on July 17th, the 90 days did not commence until July 18. Ultimately, the court determined that the 90-day period began on the date the plaintiff-Appellant received the notice, rather than the date he actually opened or read the notice. Thus, Plaintiff's filing window expired on October 15, 2019, and because he filed one day thereafter, his complaint was time-barred.

(<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2021/D12-20/C:20-3288;J:Flaum;aut:T:fnOp:N:2808622;S:0>)

MAHRAN V. ADVOCATE CHRIST MEDICAL CENTER, 12 F. 4th 708, No. 19-2911 (7th Cir. 2021).

The court affirmed the district court's grant of summary judgment to Defendant-Employer. Plaintiff sued Defendant-Employer under Title VII of the Civil Rights Act of 1964 and the Illinois Human Rights Act for employment discrimination. Plaintiff was an Egyptian and Muslim employee and said that Defendant-Employer failed to accommodate his religious accommodations, retaliated against him based on his race, religion, and national origin, and subjected him to a hostile work environment. For the religious accommodation claim, the court noted that Plaintiff tried to raise a new challenge on appeal that he did not bring up at the district court level. At the district court level, Plaintiff agreed that to make his prima facie case, he had to prove he suffered an adverse employment action as a result of participating in the unaccommodated religious practice. However, on appeal, Plaintiff argued that the Defendant-Employer failure to accommodate the religious practice, even without subsequent adverse employment action, was sufficient to establish a prima facie case. The court ruled that this argument was waived because Plaintiff did not make it at the district court level. For the hostile workplace claim, the court held that no reasonable jury could find Defendant-Employer subjected Plaintiff to a hostile work environment after a holistic view of the evidence because there was no factual support nor objectively offensive harassment.

(<https://www.govinfo.gov/content/pkg/USCOURTS-ca7-19-02911/pdf/USCOURTS-ca7-19-02911-0.pdf>)

TORRIJOS V. INTERNATIONAL PAPER CO., 2021 IL App (2d) 191150.

The court affirmed the trial court's orders granting defendant IPC's (client) motion for summary judgment, granting defendant Cano's (manufacturer) motion to dismiss the amended complaint with prejudice, and denying plaintiff's motions to reconsider. The plaintiff was a temporary worker who was employed by a temporary staffing agency. The plaintiff filed an action against the agency's client, alleging negligence in connection with the plaintiff's injury while operating a machine for client and against manufacturer, alleging negligent design and manufacturing of machine. After the case was removed to federal court based on diversity jurisdiction, the United States District Court for the Northern District of Illinois entered an order remanding the case to state court based on joinder of manufacturer as a non-diverse defendant and denying manufacturer's motion to dismiss without prejudice. On remand, the circuit court of Kane County granted the client's motion for summary judgment on the basis that it was a borrowing employer under section 1(a)(4) of the Worker's Compensation Act (the Act) and therefore, plaintiff's claims were barred by the Act's exclusive-remedy provision applicable to borrowing and loaning employers and granted manufacturer's motion to dismiss with prejudice based on the two-

year statute of limitations for personal injury actions. The plaintiff timely filed motions to reconsider the trial court's rulings, but the trial court denied the motions to reconsider. The plaintiff appealed. However, the trial court held that the plaintiff's personal injury action against the client was barred by the exclusive-remedy provision of the Act. The trial court also held that the plaintiff's personal injury action against the manufacturer was barred by the statute of limitations because the plaintiff failed to comply with the requirements for converting the manufacturer from a respondent in discovery to a defendant pursuant to section 2-402 of the Code of Civil Procedure.

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/e589b869-8945-436e-8f09-cb2b976b1a42/Torrijos%20v.%20International%20Paper%20Co.,%202021%20IL%20App%20\(2d\)%20191150.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/e589b869-8945-436e-8f09-cb2b976b1a42/Torrijos%20v.%20International%20Paper%20Co.,%202021%20IL%20App%20(2d)%20191150.pdf))

See also: **WORKERS' COMPENSATION**

PUBLIC ACTS

The Equity and Representation in Healthcare Act
PUBLIC ACT 102-0942, EFFECTIVE January 1, 2023.
House Bill 4645

This Public Act enacts the Equity and Representation in Healthcare Act to acknowledge and address the historical and systemic racism and discrimination that exists in access to and quality of healthcare causing disproportionate representation and health disparities by allocating scholarships and loan repayment opportunities to individuals from underrepresented communities who are pursuing careers in healthcare. These scholarship and loan repayment opportunities are meant to encourage healthcare providers to practice in areas of high need according to data, as well as boost representation for communities suffering from disparities. The program will be called the Equity and Representation in Healthcare Workforce Repayment Program, and the eligibility requirements are as follows: (1) either: (a) be working in a medical facility; or (b) have accepted an offer of employment and will begin an employment at a medical facility within 90 days of application submission; (2) either: (a) have a degree in allopathic or osteopathic medicine, nursing, physical therapy, dentistry, or other eligible health care career from an accredited institution; have completed a training program; have a current and valid license; or (b) have a relevant degree, such as behavioral health or social work; (3) agree to treat patients at the medical facility; (4) submit an application for the program; (5) not breach a health professional service obligation; (6) not have any judgment liens from federal debt; (7) not be excluded, suspended, or disqualified from a federal agency; (8) sign a written agreement accepting loan repayment, agreeing to serve all patients for stipulated period of time in the medical facility, regardless of their ability to pay. The written agreement should provide the time period of work, penalties for breach, and amount of service required based on award; (9) be a resident of Illinois. The Department shall create and administer this program and either an individual or medical facility can apply for the funds. The funds under the program may be used for: (1) repaying qualifying loans for medical professionals who agree to serve in a medical facility throughout the required time period; (2) for loans acquired prior to date of application submission; (3) to retire qualifying loans that are a result of consolidated or refinanced debt from either the government or commercial lender;

or are qualifying educational loans. The funds may not be used for: (1) repaying a practice obligation; (2) fulfilling practice obligations under any entity; (3) retiring qualifying loans if the consolidated or refinanced debt is commingled with non-qualifying debt or consolidated with a loan owed by someone else; (4) to reimburse oneself for a loan that has been repaid. Loan repayment assistance funds will be offset to fulfill a federal or state delinquent debt. Funds shall be used to cover any required training costs, including enrollment fees, lab fees, materials and test vouchers, background checks, drug screenings, and professional attire. Applications for this program must be available twice a year subject to time conditions and include questions regarding demographic data to adequately meet the program's goals. Applicants who identify in an underrepresented category, are first generation postsecondary students, are in the US armed forces or military, and are persons working in rural medical facilities, shall be prioritized. Recipients of this award may not receive awards from any separate Illinois loan repayment program concurrently. The Department may adopt the powers to award loan repayment and scholarships to further their goals and adopt necessary rules to establish and maintain the program. The Illinois Administrative Procedure Act is adopted and implemented to this Act. An annual progress report shall be submitted to the Governor and General Assembly by March 15 every year. Recipients who fail to meet the obligations of this act shall pay a sum of 1.5 times the amount awarded annually with a 7% interest rate, with adjustments for those who have fulfilled a portion of the obligations. A waiver for deferment may be submitted in accordance with the guidelines set forth and in writing. A recipient who pursues a different health care profession may still complete their original obligation under their agreement if they submit a request to do so. The Department may transfer funds as needed without exceeding the set amount to support the program and increase its resources.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0942>)

See also: HEALTHCARE WORKERS

An Act Concerning Education [P.A. 102-209, Sec. 99 new]; [P.A. 102-635, Sec. 99 new]; The Regulatory Sunset Act [5 ILCS 80/4.32]; The State Budget Law of the Administrative Code of Illinois [15 ILCS 20/50-5]; The Illinois Power Agency Act [20 ILCS 3855/1-130]; The Illinois Future of Work Act [20 ILCS 4103/15]; The Local Journalism Task Force Act [20 ILCS 4108/10]; The Kidney Disease Prevention and Education Task Force Act [20 ILCS 5160/10-10]; The Illinois Procurement Code [30 ILCS 500/1-15.93]; [30 ILCS 500/30-30]; [30 ILCS 500/45-57]; The Commission on Equity and Inclusion Act [30 ILCS 574/40-10]; The Counties Code [55 ILCS 5/3-5010.8]; [55 ILCS 5/4-11001.5]; [55 ILCS 5/5-41065]; [55 ILCS 5/5-43043]; [105 ILCS 5/2-3.187]; [105 ILCS 5/17-2A]; [105 ILCS 5/22-90]; [110 ILCS 330/8d]; The Energy Assistance Act [305 ILCS 20/13]; The Intergenerational Poverty Act [305 ILCS 70/95-502]; [305 ILCS 70/95-503]; [410 ILCS 445/15]; [410 ILCS 445/90]; The Farmer Equity Act [505 ILCS 72/25]; The Unemployment Insurance Act [820 ILCS 405/401]; [820 ILCS 405/403]; [820 ILCS 405/1502.4]; [820 ILCS 405/1505]; [820 ILCS 405/1506.6]

PUBLIC ACT 102-0671, EFFECTIVE UPON BECOMING A LAW

House Bill 0594

This Act an "Act concerning education," Public Act 102-209 (approved July 30, 2021) to clarify its effective date: "upon becoming law." The Act also repeals the following Acts on January 1, 2022: The Boxing and Full-contact Martial Arts Act; The Cemetery Oversight Act; The Collateral Recovery Act; The Community Association Manager Licensing and

Disciplinary Act; The Crematory Regulation Act; The Detection of Deception Examiners Act; The Home Inspector License Act; The Medical Practice Act of 1987; The Registered Interior Designers Act; The Massage Licensing Act; The Petroleum Equipment Contractors Licensing Act; The Radiation Protection Act of 1990; The Real Estate Appraiser Licensing Act of 2002; and The Water Well and Pump Installation Contractor's License. The Act amends the State Budget Law of the Civil Administrative Code of Illinois (15 ILCS 20/50-5) to require the Governor to submit a state budget no later than the first Wednesday in February 2022 (February 2, 2022). The Act amends the Illinois Future of Work Act (20 ILCS 4103/15 et seq.) by clarifying the membership requirements for the Illinois Future of Work Task Force, which will now include, among their members: (i) a labor organization representative, who is recognized under the National Labor Relations Act representing auto workers; (ii) a University of Illinois School of Employment and Labor Relations representative; (iii) a professional teachers' organization representative located in a town of 500,000+ people, all of whom will be appointed by the Governor; and (iv) three individuals from the business community who will be appointed by the Minority Leaders of the Senate and of the House. The Act amends the Local Journalism Task Force Act (20 ILCS 4108/10) to clarify its Task Force's membership, which shall now include, but not be limited to, the following members appointed by the Governor: one representative of the Chicago News Guild; and one representative of the Chicago Chapter of the National Association of Broadcast Employees and Technicians. The Act amends the Kidney Disease Prevention and Education Task Force Act to clarify its Task Force's membership, which shall now also include: (i) one member who is a dialysis patient; (ii) one member who is a chronic kidney disease patient; (iii) one member who is a kidney transplant recipient; (iv) one member is a representative of a program working to break down barriers to transplant care in the African American community through access to education, resources, and transplant care; and (v) one member who is a representative of a nationwide, nonprofit organization with membership for dialysis and pre-dialysis patients and their families. This Task Force should submit their final report to the General Assembly by December 31, 2023, and the task force shall be dissolved upon filing of the report. The Kidney Disease Prevention and Education Task Force Act will be repealed on June 1, 2024. The Act also amends the Illinois Procurement Code 30 ILCS 500/1-15.93, 30-30, and 45-57) by the provisions of the Design-bid-build construction subsection (a) being operative through December 31, 2023, and the provisions of subsection (b) being operative on and after January 1, 2024. The effective date of the amendatory act for single prime projects is through December 31, 2023. Not less than 3% of the total dollar amount of state contracts, as defined by the Commission on Equity and Inclusion shall be established as a goal to be awarded to SDVOSB and VOSB. The Commission on Equity and Inclusion should create rules to establish compliance with the subsection by all state agencies. By each November 1, each chief procurement officer shall report to the Commission on Equity and Inclusion on all of the following for the immediately preceding fiscal year, and yearly on March 1st the Commission on Equity and Inclusion shall organize and report that information to the General Assembly. The Commission on Equity and Inclusion should submit an annual report to the Governor and the General Assembly. After the effective date, all powers of the Department of Central Management Services are transferred to the Commission on Equity and Inclusion.

<https://ilga.gov/legislation/publicacts/102/102-0671.htm>)

EMERGENCY RULES

Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705] and Mental Health and Developmental Disabilities Code [405 ILCS 5]

DEVELOPMENTAL DISABILITIES SERVICES (89 Ill. Adm. Code 144)

46 Ill. Reg. 1347, EFFECTIVE December 28, 2021

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_3.pdf)

See also: DISABILITY

REGULATORY AGENDA

Illinois Plumbing License Law [225 ILCS 320]

PLUMBERS LICENSING CODE (68 Ill. Adm. Code 750)

EFFECTIVE Fall 2021

This rulemaking creates the Plumbers Licensing Code and impacts Illinois Plumbing License Law. It removes the requirement of citizenship to maintain compliance with P.A. 101-0541, specifies online educational requirements, and transfers the requirements for a plumbing inspection report to the Illinois Plumbing Code from the Plumbers Licensing Code.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_2_9.pdf)

See also: PUBLIC HEALTH

EVIDENCE

CASE LAW

IN RE: ROB W., 2021 IL App (1st) 200149.

A doctor petitioned for an order authorizing 90 days of involuntary administration of psychotropic medication to their patient. After the doctor filed a second petition, the circuit court of Cook County, entered an order authorizing 180 days of involuntary medication, then denied the patient's motion to vacate. The patient appealed on the grounds that the State did not present evidence that he was “currently” exhibiting threatening behavior within the meaning of section 2-107.1 of the Mental Health and Developmental Disabilities Code but improperly relied on evidence of past aggressive conduct. The court found that nothing in the statute precludes consideration of past incidents in deciding whether a person currently exhibits “threatening behavior” under section 2-107.1. However, there was no evidence to support the circuit court’s authorization of involuntary medication beyond 90 days. Therefore, the court affirmed the September 2019 order entered by the circuit court of Cook County, authorizing up to 90 days of involuntary medication, but reversed the December 2019 order authorizing up to 180 days of involuntary medication.

(<https://law.justia.com/cases/illinois/court-of-appeals-first-appellate-district/2021/1-20-0149.html>)

See also: MENTAL HEALTH

JOHNSON V. ARMSTRONG, 2022 IL 127942

The court affirmed the appellate court's decision to reverse the circuit court's summary judgement in favor of the defendant. The plaintiff brought a claim of negligence against the defendant expressed in two separate counts: one based on specific negligence, and one based on the doctrine of *res ipsa loquitur* for injuries suffered during a negligently performed hip replacement surgery. The circuit court granted summary judgement in both claims to the defendant because the plaintiff failed to present an expert witness to establish the standard of care for a surgical technician and the control element of *res ipsa loquitur* was not met. The appellate court reversed both judgements. The court found that the appellate court lacked jurisdiction under Rule 304(a) to hear the appeal since *res ipsa loquitur* is not a claim in and of itself; rather, it is an evidentiary doctrine that allows a plaintiff to prove negligence under a unique set of proofs. However, the negligence claim remained outstanding for the court to review. For *res ipsa loquitur* to apply, the plaintiff must plead and prove that he was injured (1) in an occurrence that ordinarily does not happen in the absence of negligence (the probability element) (2) by an agency or instrumentality within the defendant's exclusive control (the control element). The court found that the plaintiff's expert witness did establish that nerve damage like the kind the plaintiff suffered from did not ordinarily occur after a hip replacement surgery absent negligence which satisfied the first element of *res ipsa loquitur*. Secondly, the defendant did have exclusive control over the instrument, the retractor, that caused the injury during surgery. Therefore, establishing that the plaintiff's injury is one that ordinarily does not occur absent negligence and that all of the instrumentalities that could have caused the injury were in the control of the defendant, the plaintiff had provided the legally applicable standard of care from which negligence may be found: that under normal circumstances, a hip replacement does not result in severe and permanent nerve damage. This led the court to affirm the appellate court's decision to reverse the summary judgement.

<https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/ed0097c7-f60e-4002-b61d-071b27c34b54/Johnson%20v.%20Armstrong,%202022%20IL%20127942.pdf>

See also: **MEDICAL MALPRACTICE**

FAMILY MEDICAL LEAVE ACT**CASE LAW**

ANDERSON V. NATIONS LENDING CORPORATION, 27 F. 4th 1300, No. 21-1885 (7th Cir. 2022)

The court denied Plaintiff's FMLA intervention and retaliation claims against her employer, Defendant. Plaintiff received several complaints about her deficient job performance prior to requesting FMLA leave. During her FMLA leave, Defendant-Employer continued to investigate the deficiencies and found more errors. Plaintiff was terminated soon after she returned from leave. Plaintiff argued she was terminated in retaliation for taking FMLA and that she was deprived of her right to return to her same position because she was only told to review emails when she returned from leave. The court determined that FMLA does not entitle employees to return to their former position

if they would have been fired regardless of whether they took leave. In Plaintiff's case, the court pointed to the deficiencies that occurred before she took leave and the investigation during her leave that uncovered more errors that merited termination as evidence of a termination not motivated by Plaintiff taking FMLA leave. The court concluded that a rational jury could conclude that Plaintiff was terminated due to her deficient job performance and not her decision to take FMLA leave. Plaintiff did not provide enough evidence to show a causal connection between her FMLA leave and job termination; therefore, the district court's grant of Motion for Summary Judgment to Defendant-Employer was affirmed.

(<https://law.justia.com/cases/federal/appellate-courts/ca7/21-1885/21-1885-2022-03-09.html>)

FALSE CLAIMS ACT

CASE LAW

U.S. EX REL. PROCTOR V. SAFEWAY, INC., 30 F.4th 649, No. 20-3425, (7th Cir. 2022)

Plaintiff, Thomas Proctor, claimed that Defendant, Safeway, Inc., falsely reported its "retail" price as "usual and customary" (U&C) to government-based health programs, even when customers paid a discounted rate. The parties agreed to the definition of U&C being "the cash price charged to the general public" but disagreed on what constituted the "general public." Consequently, Defendant was reimbursed for the higher retail price instead of the discounted rate. The district court granted summary judgment to the Defendant. The court in this case cited the decisions of *Safeco Ins. Co. of America v. Burr*, 551 U.S. 47 (2007) to complete its analysis. The standard provided by *Safeco* stated that a defendant did not act with reckless disregard if its interpretation of a regulation or statute was objectively reasonable and lacked authoritative guidance in avoiding such an interpretation. The issues were whether the Defendant's U&C interpretation was objectively reasonable and whether a footnote provided by the Centers for Medicare and Medicaid (CMS) was sufficient to act as authoritative guidance under the *Safeco* standard. The court held that it is not sufficient, reasoning that a footnote is not substantial enough to allocate liability in such a case and therefore affirmed the district court's decision to grant the Defendant summary judgment. The court reasoned that at the time of the program, there was no authoritative guidance which expressly warned that the U&C had to include the discounted rate, and therefore the Defendant's interpretation was objectively reasonable at the time. In terms of the authoritative guidance, the court cited *Safeco* in stating that guidance is not considered authoritative solely because it is rendered by the relevant agency, but rather requires a greater degree of specificity to place a Defendant on notice of unlawful conduct. Because the CMS manual did not meet this requirement, Defendant was not put on notice. The court also reasoned that to qualify the footnote as authoritative guidance would trigger due process concerns, which further supplemented its decision to affirm the district court's ruling.

(<https://law.justia.com/cases/federal/appellate-courts/ca7/20-3425/20-3425-2022-04-05.html>)

See also: MEDICARE

U.S. AND STATE OF ILLINOIS EX REL. PROSE V. MOLINA HEALTHCARE OF ILLINOIS, INC., 17 f. 4th 732, No. 20-2243 (7th Cir. 2021)

Plaintiff medical services health contractor brought a qui tam action against Defendant managed care organization (MCO) under the state and federal False Claims Act. Defendant MCO contracted with the state to receive Medicaid reimbursement under a capitation system where the parties agreed to a fixed per-patient fee that covers all services within the scope of the plan. There were many different tiers of the plan, including the Nursing Facility (NF) plan that required Skilled Nursing Facility (SNF) services. Defendant MCO contracted with Plaintiff subcontractor to provide those services. Defendant MCO received reimbursement payments from the state and was supposed to pay Plaintiff subcontractor from that amount. However, Defendant MCO breached the contract with Plaintiff subcontractor which led to Plaintiff subcontractor terminating the contract and stop providing the services. However, Defendant MCO continued collecting capitation payments from the state for SNF services without either providing the services themselves or finding a third party to do so. Plaintiff alleged Defendant committed (1) factual falsity, (2) fraud in the inducement, and (3) implied false certification. For the first claim, the court found it was satisfied because Defendant submitted materially fraudulent enrollment forms for each new enrollee in the Nursing Facility category of patients. For the second claim, the court found there was fraud in the inducement because Defendant induced the government to renew its contract with them by saying it would continue to provide SNF while not intending to do so. Finally, the court found there was implied false certification because Defendant submitted claims for payment that made representations about services that, in actuality, were not provided. Therefore, despite not providing services, Defendant charged \$3127 more per enrollee in the Nursing Facility patient group compared to the lower-cost community group. The court also noted that Defendant MCO is a highly sophisticated member of the medical services industry and so they would know that the capitation payments from the government were designed to reimburse providers for services rendered, but decided to collect anyway. Therefore, the decision was reversed and remanded for further action.

<https://law.justia.com/cases/federal/appellate-courts/ca7/20-2243/20-2243-2021-08-19.html>

FEDERAL PREEMPTION

CASE LAW

WALTON V. ROOSEVELT UNIVERSITY, N.E. 3d, 2022 Ill. App (1st) 210011

The court addressed a question certified pursuant to Supreme Court Rule 308 regarding whether a union collective bargaining agreement preempted a state privacy law. Plaintiff was an employee of Defendant (Roosevelt University). To sign in and out at work, Defendant required employees scan their hand onto a biometric timekeeping device. The Illinois Privacy Act requires private entities that collect and use individuals' biometric data to first receive informed consent from the individual or their representative and take precautions to make sure the data is not stolen or used improperly (740 ILCS 14/1 *et seq.* (West 2020)). Plaintiff sued Defendant for not complying with the Privacy Act's requirements. Defendant argued that Plaintiff's claims are preempted by the federal Labor Management Relations Act (29 U.S.C. § 141 *et seq.* (2018)) because the Labor Management Relations Act governs disputes under collective bargaining agreements and collective bargaining agreement for Defendant's employees gives the employer control over the terms

of the employees' employment. The circuit court agreed with Defendant that Plaintiff's claims were preempted by federal law. The court explained that where a collective bargaining agreement exists between employers and employees, their disputes fall under federal labor laws—not state laws—to make sure the agreements are interpreted uniformly. For preemption to apply, the employer needs to advance a nonfrivolous argument that the complained-of conduct was authorized by the collective bargaining agreement. The court explained that, under the Privacy Act, it is within the union's power to negotiate with the employer about its members' biometric information. Therefore, Plaintiff's grievances could be addressed by the union while negotiating the broad management rights clause and Defendant has met its burden of advancing a nonfrivolous argument that collective bargaining agreement rights are at issue in the case and so the issue is preempted under federal law. The court held the claim is preempted by federal law and the case is remanded. ([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/cc9003e5-8302-4be1-9cdc-490041b7438e/Walton%20v.%20Roosevelt%20University,%202022%20IL%20App%20\(1st\)%20210011.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/cc9003e5-8302-4be1-9cdc-490041b7438e/Walton%20v.%20Roosevelt%20University,%202022%20IL%20App%20(1st)%20210011.pdf))

FOOD SAFETY

PUBLIC ACTS

The Illinois Food, Drug, and Cosmetic Act [410 ILCS 620/21.5]

PUBLIC ACT 102-0681, EFFECTIVE December 10, 2021.

House Bill 3490

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0681>)

See also: CHILDREN'S HEALTH

FOOD SAFETY

PUBLIC ACTS

The Illinois Food, Drug, and Cosmetic Act [410 ILCS 620/21.5]

PUBLIC ACT 102-0681, EFFECTIVE December 10, 2021.

House Bill 3490

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0681>)

See also: CHILDREN'S HEALTH

The Healthy Food Program Development Act

PUBLIC ACT 102-1049, EFFECTIVE January 1, 2023.

House Bill 2382

This Public Act enacted the Healthy Food Program Development Act. The act prescribes that the Department of Human Services coordinate with the Department of Commerce and Economic Opportunity, the Department of Public Health, and other relevant state agencies to design a Health Food Development Program to expand healthy food access in eligible areas through the provision of assistance in grocery stores and other small food retailers. The program may provide the following benefits: (1) grants; (2) loans; (3) State tax credits;

(4) equipment; (5) other financial assistance; and (6) technical assistance. The benefits should be provided to all eligible food retailers, with priority given to those who have the greatest potential for impact or those who are underserved. Food retailers should work cooperatively to maximize access and collaboration with non-profit organizations is allowed. Food retailers participating in the program are strongly encouraged to: (1) apply and accept benefits from the federal Supplemental Nutrition Assistance Program (SNAP); (2) apply and accept benefits from the federal Women, Infants, and Children (WIC) program; and (3) employ residents of this State. Resources may be provided to help integrate these programs. Those participating in the program shall agree in writing to sell healthy foods for at least 3 years, except in the case that all food sale operations are ceased. The Department shall provide a grocery ambassador to assist retailers by: (1) providing research and data on eligible areas with insufficient grocery access; (2) coordinating with the department and the Department of Commerce and Economic Opportunity and other relevant State agencies; (3) providing assistance to small grocery retailers in the state, including obtaining and expediting regulatory procedures; (4) and providing other assistance as needed. The Departments may distribute grants competitively for the creation of a distribution system for fresh produce and healthy foods.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1049>)

The Latex Glove Ban Act

PUBLIC ACT 102-1095, EFFECTIVE January 1, 2023.

House Bill 0209

This Public Act enacted the Latex Glove Ban Act, which will come into effect January 1, 2023. This act provides that following the effective date, food service establishments are banned from using latex gloves in the preparation and handling of food. If latex gloves must be used in a crisis that prevents the acquisition of non-latex gloves, a sign should be placed notifying the public of this temporary change in the place of order or purchase. In order to encourage compliance, a warning will be sent on behalf of the Department of Public Health if an establishment violates this condition. The act also stipulates that the use of gloves is prohibited by Emergency Medical Personnel (EMP) and health care facility personnel in the case of a patient who is unconscious or unable to indicate whether or not they suffer from a latex injury. The act also provides an exception which states that if EMP or health care facility personnel cannot obtain non-latex gloves in a crisis, they can utilize latex gloves on a patient. However, the use of non-latex gloves should be prioritized in emergency situations where the patient is allergic to latex or is unable to indicate whether or not they suffer from a latex injury.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1095>)

See also: PUBLIC HEALTH

The Regulatory Sunset Act [5 ILCS 80/4.33]; [5 ILCS 80/4.38]; [225 ILCS 30/5]; [225 ILCS 30/10]; [225 ILCS 30/12 new]; [225 ILCS 30/15]; [225 ILCS 30/15.5]; [225 ILCS 30/17]; [225 ILCS 30/20]; [225 ILCS 30/30]; [225 ILCS 30/35]; [225 ILCS 30/40]; [225 ILCS 30/45]; [225 ILCS 30/70]; [225 ILCS 30/75]; [225 ILCS 30/76 new]; [225 ILCS 30/80]; [225 ILCS 30/100]; [225 ILCS 30/105]; [225 ILCS 30/110]; [225 ILCS 30/125]; [225 ILCS 30/140]; [225 ILCS 30/17]; [225 ILCS 30/37 rep.]; [225 ILCS 30/37 rep.]; [225 ILCS 30/150 rep.]

PUBLIC ACT 102-0945, EFFECTIVE January 1, 2023.

House Bill 4665

This Public Act amends the Regulatory Sunset Act by adding and deleting definitions for relevant terminology. It also creates provision for dietitian nutritionist licensees and applicants providing their addresses, activities subjected to licensure, exemptions, applications, dietician nutritionist qualifications, endorsement, advertising, and administrative hearings.

(<https://www.ilga.gov/legislation/publicacts/102/102-0945.htm>)

The School Breakfast and Lunch Program Act [105 ILCS 125/5.5 new]

PUBLIC ACT 102-0761, EFFECTIVE August 1, 2023.

House Bill 4089

This Public Act amends the School Breakfast and Lunch Program Act by adding a plant-based school lunch option section. This section provides that a school district shall provide a plant-based lunch option that aligns with federal nutritional guidelines to students who submit a request prior to the school district.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0761>)

See also: CHILDREN'S HEALTH

ADOPTED RULES

Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12- 13]

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) (89 Ill. Adm. Code 121)

45 Ill. Reg. 8368, EFFECTIVE July 1, 2021

This amendment impacts the Illinois Public Aid Code and removes the temporary exemptions under the 2020 Consolidated Appropriations Act and Food and Nutrition Service regulations that expanded the Supplemental Nutrition Assistance Program for students in higher education institutions. The first amendment removes the provision that eligible students must be eligible for work-study programs during the school year and the second amendment removes the provision that a student's expected family contribution for a given school year be \$0.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_2_8.pdf)

FORUM NON CONVENIENS**CASE LAW**

MALLOY V. DU PAGE GYNECOLOGY, S.C., 2021 IL App (1st) 192102

Plaintiff sued Defendant-Du Page Gynecology and two individual doctors for medical malpractice after his wife's death. The deceased was treated at the gynecology center by the two Defendant-Doctors for many years, and Plaintiff alleges the committed multiple instances of negligent treatment. The deceased had a history of cancer, but Defendant-Doctors prescribed her Estrace cream. The deceased soon developed complications in the areas where she was applying the cream, but Defendant-Doctors increased the amount of Estrace she was using in addition to not ordering imaging of the area. Eventually the deceased was diagnosed with and died of, cancer. Plaintiff alleges Defendant-Doctors were

negligent in not ordering advanced screening tests and imaging in addition to negligently prescribing Estrace given the deceased's symptoms and history. Originally, Allergan USA, Inc. (the manufacturer of Estrace) was a defendant in the case. However, Allergan was dismissed as a defendant. After Allergan was dismissed, the remaining defendants filed a motion to transfer the venue from Cook County to Du Page County. Defendants argued that the remaining parties resided in Du Page County and the deceased's treatment occurred there. However, Plaintiff challenged this and said that relevant evidence was in Cook County. The trial court found that the factors did not substantially favor transfer and so the venue was not moved, and Defendants appealed. First, Defendants claimed section 2-104 of the Code of Civil Procedure (735 ILCS 5/2-104(b) (West 2018)) applied which states that "if the defendant whose residence venue depends is dismissed upon motion of plaintiff, a remaining defendant may promptly move for transfer as though the dismissed defendant had not been a party." The court quickly rejected this argument because Allergan was not dismissed due to Plaintiff's motion and so the statute does not apply. Secondly, Defendants argued for a change of venue due to *forum non conveniens*. The court evaluated the private interest factors and public interest factors. The private interest factors include (1) convenience of parties, (2) relative ease of access to sources of testimonial, documentary, and real evidence, and (3) all other practical problems that make the trial of a case easy, expeditious, and inexpensive. The public interest factors include (1) interest in deciding controversies locally, (2) unfairness of imposing trial expenses and burden of jury duty on residents of a forum that has little connection to the litigation, and (3) administrative difficulties presented by adding litigation to already congested docket. After weighing the factors, the court determined that in a case where the product that allegedly caused the injury was distributed throughout both venues, where Plaintiff chose the original forum, the two counties are right next to each other, there is a minimal difference in costs, nonparty witnesses would not be inconvenienced, both law firms have offices in both venues, the Internet and computing technology makes access to evidence easier, and resolution would be faster in the original venue, the trial court did not abuse its discretion in determining that a transfer of venue to Du Page County was not required. Therefore, the trial court's order was affirmed.

(<https://law.justia.com/cases/illinois/court-of-appeals-first-appellate-district/2021/1-19-2102.html>)

See also: MEDICAL MALPRACTICE

WYLIE V. SCHAEFER, 2021 Ill. App (5th) 200425

Plaintiff, the special administrator for the decedent, sued Defendant medical provider and medical facility for alleged medical malpractice. Defendants filed for motion to transfer from St. Clair County to Madison County, but the circuit court refused. Defendants appealed due to *forum non conveniens*. The court explained that for a *forum non conveniens* claim to be successful, Defendant must show that private and public interest factors strongly favor the transfer of the case. The court believes the circuit court erred in determining that private factors favored St. Clair County because the medical facility is in Madison County, the plaintiff, decedent, and key witnesses resided in Madison County, the decedent died in Madison County, and the medical personnel and medical records are in Madison County. However, public interest factors do not disfavor St. Clair County because Defendant medical group also serves St. Clair County and so residents have a vested

interest in the outcome of the case, and it would not be an undue burden for them to serve as jurors. Additionally, the court explained Plaintiff's choice of where to file the lawsuit should be given some deference. Although the circuit court erred in their private interest analysis, Defendant did not meet their burden of showing that the private and public interests both strongly favor transfer. Therefore, the circuit court's denial of the motion to transfer was affirmed.

(<https://casetext.com/case/wylie-v-schaefer>)

FRAUD

ST. LUCIE COUNTY FIRE DIST. FIREFIGHTERS' PENSION TRUST FUND V. STERICYCLE, INC., 35 F.4th 555, No. 20-2055 (7th Cir. 2022)

Appellant, Mark Petri (class member), disputed the 25 percent attorney fee award in a class-action settlement for this securities-fraud case. Appellant challenged the award and requested discovery into "pay-to-play" suspicions between party and counsel. The district court rejected both of Appellant's requests. Upon appeal, the court concluded that the district court erred in allocating proper attention to the ex-ante fee agreements, the inheritance of earlier litigation work received by counsel against Defendant, Stericycle, as well as the stage of settlement. Accordingly, the court vacated the fee award and remanded the case for a new award determination in alignment with ex-ante agreement considerations. Regarding the ex-ante fee agreement, the court stated that appraising a sliding scale fee arrangement would make more sense in comparison to a flat rate, given the repeat-player Plaintiff in this case. Thus, the district court should have attributed some weight to this analysis in determining a reasonable award. The court also pointed out the district court's failed to recognize that the prior litigation, access to other counsel, available funds at start of litigation rather than the time of settlement, and lack of expert testimony regarding potential risk, all significantly reduced the risk of nonpayment in this case. Further, the amount of work done by counsel was significantly lessened by the early settlement and prior litigation, another element that the court argued should have been included during fee determination. The culmination of these factors led to the court's decision to remand for reconsideration of the 25 percent fee award. The court also affirmed the district court's rejection to permit discovery, reasoning that no abuse of discretion was determined, and this would not change if discovery were to be granted. Abuse of discretion occurs if a court "reaches an erroneous conclusion of law, fails to explain a reduction or reaches a conclusion that no evidence in the record supports as rational." *In re Southwest Airlines Voucher Litigation*, 898 F.3d 969, 973 (7th Cir. 1991). The request for discovery was rejected as no abuse of discretion was found in regard to billing, fee allocation, or the lead counsel's relationship with Plaintiff. Finally, the court denied Appellant's motion for sanctions against the Defendant following ad hominem attacks by the lead counsel in hopes that the issue would be abated, but openly discouraged such conduct.

(<https://law.justia.com/cases/federal/appellate-courts/ca7/20-2055/20-2055-2022-05-18.html>)

HEALTHCARE FACILITIES

PUBLIC ACTS

Medical Patient Rights Act [410 ILCS 50/3.2]**PUBLIC ACT 102-0989, EFFECTIVE May 27, 2022****Senate Bill 1405**

This Act amends Medical Patient Rights Act. It provides that health care facilities must ensure residents with an opportunity for at least one visitor, not counting a clergy person, to visit a resident or patient of the health care facility during a period for which the Governor has issued a proclamation declaring that a disaster exists or in the event of an outbreak or epidemic of a communicable disease in the community. Visitation will still be subject to the guidelines, conditions, and limitations of the health care facility's visitation policy and any rules or guidelines established by the U.S. Centers for Medicare and Medicaid Services and the Centers for Disease Control and Prevention. Visitors may be required by the health care facility to submit to health screenings to prevent the spread of infectious disease and if a visitor does not pass the screening the health care facility may restrict the visitor and require them to adhere to infection control procedures. The Act also authorizes a skilled nursing home, extended care facility, or intermediate care facility to deny an individual from visiting a resident or patient if it is demonstrated that the individual would endanger their physical health or safety or the health or safety of a resident, patient, or health care worker of the nursing home or facility. The denial must be in writing and provided to both the individual and the resident or patient who was denied visitation. Each resident of the nursing home or facility (or that individual's representative) must be informed of their visitation rights and the facility's visitation-related policies and procedures. Visitation privileges cannot be restricted, limited, or otherwise on the basis of race, color, national origin, religion, sex, gender identity, sexual orientation, or disability and the nursing homes and facilities are required to ensure that all visitors enjoy full and equal visitation privileges, consistent with the residents' preferences.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0989>)

The University of Hospital Act [110 ILCS 330/8f]**PUBLIC ACT 102-0750, EFFECTIVE May 6, 2022****Senate Bill 3011**

This Public Act amends the University of Illinois Hospital Act by renumbering and changing Section 8d. It requires that a “surgical smoke plume evacuation system” is a device designed to capture, transport, and filter the surgical smoke plume where it appears before the smoke plume can diffuse and pose a risk to the occupants of the room.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0750>)

ADOPTED RULES**Illinois Public Aid Code [305 ILCS 5/12-13]****LONG TERM CARE REIMBURSEMENT CHANGES (89 Ill. Adm. Code 153)****45 Ill. Reg. 8340, EFFECTIVE June 28, 2021**

This amendment impacts the Illinois Public Aid Code by increasing the reimbursement rates for the medical assistance programs in facilities listed under the ID/DD Community Care Act and the MC/DD Act. On June 1, 2020, facilities will experience a reimbursement rate increase that allows for a \$0.26 per hourly wage for non-executive staff. On July 1,

2020, facilities will experience a reimbursement rate increase that allows for a \$1.00 per hourly wage for non-executive staff, funds which should be allocated to increasing non-executive staff wages by \$0.80 per hour. On January 1, 2021, facilities will experience a reimbursement rate increase that allows for a \$0.50 per hourly wage for non-executive staff, which should be allocated to increasing non-executive staff wages by \$0.40 per hour. The mention of non-executive staff refers to direct care staff and non-administrative support staff.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_2_8.pdf)

Authorized Electronic Monitoring in Long-Term Care Facilities Act [210 ILCS 32]

AUTHORIZED ELECTRONIC MONITORING IN LONG-TERM CARE FACILITIES (77 Ill. Adm. Code 389)

46 Ill. Reg. 2665, EFFECTIVE January 27, 2022

This rule relates to the Authorized Electronic Monitoring in Long-Term Care Facilities Code and impacts the Authorized Electronic Monitoring in Long-Term Care Facilities Act. The Act sets forth definitions for relevant terminology. The Act lists out Incorporated and References Materials, including, fire safety, life safety, and building safety codes, Illinois statutes and Illinois administrative rules. Further, there are provisions set forth for Authorized Electronic Monitoring, such that devices may be placed in patient's rooms following notification and consent of the patient. Mode and time of installation, as well as limitations and conditions of the monitoring are established. Provisions for obtaining the resident's consent, those authorized to provide consent, and what qualifies as consent are also set forth. Consent of roommates is also discussed in the Act and provisions are presented that detail this. Cost and installation of the devices as well as signage indicating the use and authorization of monitoring devices in a given facility are outlined in the Act. Obstruction of the devices is prohibited except in the case that one turns off or blocks the camera at the request and consent of the resident. Access to video recordings gathered through the devices cannot be granted to any facility without the consent of the resident or the individual who consented on behalf of the resident. A copy of the recording can be accessed if needed in a legal proceeding if relevant and the number of devices used, and consent forms acquired in a given facility must be reported to the Department.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_7.pdf)

EMERGENCY RULES

Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]

SEXUAL ASSAULT SURVIVORS EMERGENCY TREATMENT CODE (77 Ill. Adm. Code 545)

45 Ill. Reg. 9188, EFFECTIVE July 1, 2021

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_2_9.pdf)

See also: SEXUAL ASSAULT

Nursing Home Care Act [210 ILCS 45]

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)

45 Ill. Reg. 9498, EFFECTIVE July 8, 2021

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_0.pdf)

See also: NURSING HOMES

Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

EMERGENCY MEDICAL SERVICES, TRAUMA CENTER, COMPREHENSIVE STROKE CENTER AND ACUTE STROKE READY HOSPITAL CODE (77 Ill. Adm. Code 515)

46 Ill. Reg. 1173, EFFECTIVE December 27, 2021

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2.pdf)

See also: EMERGENCY SERVICES

Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]

SEXUAL ASSAULT SURVIVORS EMERGENCY TREATMENT CODE (77 Ill. Adm. Code 545)

46 Ill. Reg. 1258, EFFECTIVE January 1, 2022

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2.pdf)

See also: SEXUAL ASSAULT

Hospital Licensing Act [210 ILCS 85]

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

46 Ill. Reg. 6142, EFFECTIVE March 30, 2022

This is an emergency amendment that will be effective for 150 days. It was filed in response to the COVID-19 pandemic. It implements a CMS waiver that exempts qualifying hospitals from compliance with subsections 482.23(b) and (b)(1) of the Hospital Conditions of Participation (42 CFR 482). The qualifying hospital must apply for the waiver. If the qualifying hospital receives the waiver, it must provide the Department of Public Health with (1) a copy of the CMS-approved Medicare waiver, (2) a copy of the hospital's screening protocol to determine patient's eligibility for at-home inpatient services, (3) a copy of the hospital's policies and procedures for clinical management of inpatient services at home. This means that qualifying hospitals can provide limited inpatient services directly to a patient's home in order to minimize the strain on hospitals due to increased hospitalizations due to COVID-19 and to decrease exposure to the virus.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_16.pdf)

JOINT COMMITTEE ON ADMINISTRATIVE RULES' RECOMMENDATIONS FOR PROPOSED RULEMAKING

JCAR Statement of Recommendation to Proposed Rulemaking on Medically Complex for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 390)

46 Ill. Reg. 7010

In April 2022, the Joint Committee on Administrative Rules (JCAR) recommended that the Department of Public Health be “more timely” in implementing Public Acts. For instance, Public Act 99-180 became effective on July 29, 2015, and Public Act 96-1372 became effective on July 29, 2010.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_19.pdf)

REGULATORY AGENDA

20 ILCS 3960

HEALTH FACILITIES AND SERVICES OPERATIONAL RULES (77 Ill. Adm. Code 1130)

This rule is the Health Facilities and Services Operational Rules which will be updated to reflect changes in accordance with PA-101-650 and P.A. 102-4 and may affect small businesses, municipalities, and non-profit corporations that own or operate health care facilities.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_29.pdf)

HEALTHCARE WORKERS

PUBLIC ACTS

Community Health Worker Certification and Reimbursement Act [410 ILCS 67/5-17 new]

PUBLIC ACT 102-0674, EFFECTIVE November 30, 2021

Senate Bill 0336

This Act amends the Community Health Worker Certification and Reimbursement Act. It establishes the Community Health Workers Review Board to advise the Department of Public Health while it develops the Illinois Community Health Worker Certification Program for the development and oversight of initial community health workers certification and certification renewals for both individuals and academic and community-based training programs. The Board will advise and recommend a certification process approve training from community-based organizations, in conjunction with a statewide organization representing community health workers, and academic institutions, in consultation with the specified entities. Additionally, this Act provides requirements for the program and provisions regarding administrative decisions, processes, review, and procedure. The Department will waive any administrative fees charged to a community health worker certificate holder under the Act, subject to appropriation. This Act amends the Departments of State Government Law of the Civil Administrative Code of Illinois. It provides that, among other duties, the State Board of Health will deliver a State Health Assessment and State Health Improvement Plan to the General Assembly, with the fifth of such deliveries to be made on December 31, 2022. This Act amends the Special Commission on Gynecologic Cancers Act, the Anti-Racism Commission Act, and the Underlying Causes of Crime and Violence Study Act. It changes the due date for final reports to December 31, 2022. This Act amends the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. It provides that, among other duties, the State Board of Health will deliver a State Health Assessment and State Health Improvement Plan to the General Assembly, with the fifth of such deliveries to be made

on December 31, 2022. Additionally, for license or registration renewals occurring on or after January 1, 2023, health care professionals with continuing education requirements must complete a one-hour course in training on implicit bias awareness per renewal period. This Act amends the University of Illinois Hospital Act and the Hospital Licensing Act. To change the repeal date of Sections concerning N95 masks to December 31, 2022.
(<https://www.ilga.gov/legislation/publicacts/102/102-0674.htm>)

Medical Practice Act of 1987 [225 ILCS 95/6]
PUBLIC ACT 102-0735, EFFECTIVE January 1, 2023
Senate Bill 0145

This act amends the Physician Assistant Practice Act of 1987. It provides that within 60 days of employment, discharge, or assumption of collaboration with a physician assistant a collaborating physician must file a notice with the Department of Financial and Professional Regulation. Nothing in the provisions will prevent a physician assistant from beginning their employment before the notice of employment or collaboration has been filed.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0735.pdf>)

See also: PROFESSIONAL REGULATION

Clinical Social Work and Social Work Practice Act [225 ILCS 20/4]
PUBLIC ACT 102-0785, EFFECTIVE January 1, 2023
House Bill 4797

This Act amends the Clinical Social Work and Social Work Practice Act. It does not prohibit a non-resident of Illinois from performing social work via telehealth in Illinois for a non-resident of Illinois for no more than five days in one month or more than fifteen days in one calendar year or if the person is currently attending a university or college in Illinois if they: 1) had a previously established therapeutic relationship; and 2) the person is authorized to perform these services under the law of the state or country in which the person resides.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0785.pdf>)

Nurse Practice Act [225 ILCS 65/65-5]
PUBLIC ACT 102-0786, EFFECTIVE January 1, 2023
House Bill 4922

This Act amends the Nurse Practice Act. Provides that if an advanced practice registered nurse with no graduate degree applies for licensure before July 1, 2028, with the other required information, the Department of Financial and Professional Regulation may issue a certified registered nurse anesthetist license.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0786.pdf>)

Illinois Optometric Practice Act of 1987 [225 ILCS 80/31 new]
Public Act 102-0788, EFFECTIVE May 13, 2022
House Bill 4929

See also: COVID-19

The Vital Records Act [410 ILCS 535/1] [410 ILCS 535/18]

PUBLIC ACT 102-0844, EFFECTIVE January 1, 2023

Senate Bill 3498

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0844>)

See also: MEDICAL MALPRACTICE

The Regulatory Sunset Act [5 ILCS 80/4.33]

The Wholesale Drug Distribution Licensing Act [5 ILCS 80/4.38]

The Professional Counselor and Clinical Professional Counselor Licensing and Practice Act [225 ILCS 107/10] [225 ILCS 107/11] [225 ILCS 107/15] [225 ILCS 107/18] [225 ILCS 107/20] [225 ILCS 107/25] [225 ILCS 107/30] [225 ILCS 107/45] [225 ILCS 107/50] [225 ILCS 107/80] [225 ILCS 107/90] [225 ILCS 107/100] [225 ILCS 107/110] [225 ILCS 107/130] [225 ILCS 107/155] [225 ILCS 107/165] [225 ILCS 107/55 rep.] [225 ILCS 107/125 rep.]

PUBLIC ACT 102-0878, EFFECTIVE May 13, 2022

Senate Bill 4013

This Public Act amends the Regulatory Sunset Act by removing the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act from the list of Acts to be repealed on January 1, 2023. This Public Act amended the Wholesale Drug Distribution Licensing Act and added the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act to the list of acts that will be repealed on January 1, 2028. This Public Act also amends the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act. It added “email address of record” to the definitions section and clarified the definition of “clinical supervision” or “supervision” The new definition clarifies that the experience will be reviewed and controlled by a supervisor. “Face-to-face” was also clarified as a live, interactive, and visual session that can include video sessions if they are synchronous and involve both visual and verbal interaction. The Public Act also omitted the definition of “license.” The Public Act added a new section requiring that all applicants and licensees will (1) provide an address and email address to the Department which will serve as their address of record and email of record and (2) inform the Department of any change to their address or email of record within 14 days after a change. The Public Act also clarified that the Act does not require licensure or limit the services of a school counselor who was licensed by the Illinois State Board of Education so long as the employee is not presented as a professional or clinical counselor. The Public Act edited the section on the scope of services to remove the section about licensed professional counselors’ titles. No person without a valid license as a professional counselor or clinical professional counselor issued by the Department can use the credential “L.P.C.” The Department’s duty to maintain a roster of licensees’ names and addresses was omitted. Regarding the Professional Counselor Licensing and Disciplinary Board, the Secretary will appoint a Board with 7 members, one of whom is licensed only as a professional counselor, 4 of whom who are licensed solely as clinical professional counselors, and one full-time faculty member of an accredited college or university engaged in training professional and/or clinical counselors, and one member of the public. The Public Act also omitted the option for applicants to obtain licensure if they applied before the 96th General Assembly and participated in an approved baccalaureate program in human services and can document that they have at least 5 years of full-time supervised experience. The Public Act also omitted the requirement that applicants for clinical professional counselor licensure have not engaged in conduct or activities that would constitute grounds for discipline under

the Act. The Public Act also omitted the inactive licensure renewal request requirements. The Public Act also added a section on reasons the Department may refuse to issue, renew, or revoke, suspend, place on probation, reprimand, or take other non-disciplinary or disciplinary action. All substance-related violations require an automatic substance abuse assessment. Failure to complete the assessment by a licensed physician certified as an addictionist or an advanced practice registered nurse with certification in addictions could result in an automatic suspension. If the Department determines an individual is unable to practice or unfit to practice, the Department may require the individual to participate in a substance abuse evaluation or treatment by an approved individual or program in order to continue their employment, have their license restored or renewed. If the individual refuses treatment, the Department can file a complaint to suspend, revoke, or discipline the individual. If the individual's license was granted, renewed, or restored subject to these terms and fails to comply, there will be a hearing if the individual's license should be immediately suspended. If the Department must issue written notice to an individual, this can be satisfied by mail or email. If there is a hearing about an individual and an order or certified copy is issued, there must be a (1) genuine signature of the Secretary, (2) the Secretary must be appointed and qualified, and (3) the Board and members must be qualified to act. However, the proof of these requirements can be rebutted.

<https://ilga.gov/legislation/publicacts/102/102-0878.htm>

The Regulatory Sunset Act [5 ILCS 80/4.33] [5 ILCS 80/4.33]

Naprapathic Practice Act [225 ILCS 63/10] [225 ILCS 63/11 new] [225 ILCS 63/15] [225 ILCS 63/17] [225 ILCS 63/36 new] [225 ILCS 63/57] [225 ILCS 63/110] [225 ILCS 63/125] [225 ILCS 63/125] [225 ILCS 63/150] [225 ILCS 63/155] [225 ILCS 63/165] [225 ILCS 63/190] [225 ILCS 63/95 rep.]

PUBLIC ACT 102-0880, EFFECTIVE May 13, 2022

Senate Bill 4016

This Public Act amends the Regulatory Sunset Act by removing the Naprapathic Practice Act from the list of Acts that will be repealed on January 1, 2023, and adding it to the list of Acts to be repealed on January 1, 2028. This Public Act also amends the Naprapathic Practice Act. It clarifies the definition section of the Act and specifies that all applicants and licensees must (1) provide a valid address and email address of record and (2) inform the Department of Financial and Professional Regulations (Department) if the address or email address changes. The Act also clarifies that naprapathic practice means the identification, evaluation, and treatment of people with connective tissue disorders. However, the practice does not include radiology, surgery, pharmacology, or invasive diagnostic testing. A naprapath does have the authority to order additional screening if the patient's condition does not improve substantially after 6 visits. A naprapath must refer a patient to the patient's treating health care professional of record if the patient has one if the patient's condition is beyond the scope of naprapath services. The requirements to receive a naprapath license are: (1) is at least 21 years old and of good moral character, (2) for licenses granted on or before December 31, 2027, has graduated from a 2- year college level or equivalent program, (2.5) for licenses granted on or after January 1, 2028, has graduated from a 4-year college or equivalent program, (3) when the Department considers approving a program, they should consider but are not bound by the opinions of the American Naprapathic Association, the Illinois Naprapathic Association, or a national or

regional body recognized by the United States Department of Education. The Board of Naprapathy must have 7 members who meet certain specifications and will advise the Secretary. The members serve 4-year terms and the Board has discretion in determining its leadership structure. The Department must assign an identification number to each naprapathic licensee as soon as possible because this number matters for the renewal and restoration of the license. The Public Act added making a material misstatement in providing information to the Department or otherwise making inaccurate representations while practicing the profession is grounds for the Department to refuse to issue or to renew, revoke, suspend, place on probation, reprimand, take away, or invoke disciplinary or non-disciplinary action on a license. However, it clarified although treating ailments other than by the practice of naprapathy as defined under the Act, if a practitioner is authorized by law to perform those other treatments, it is not grounds for disciplinary action. Licensed practitioners may not conduct their practice with an unlicensed practitioner. Failure to file a tax return or pay what is required under the tax return is grounds for the Department to refuse to issue or suspend a license. If a license is suspended but the Board recommends restoring the license, the Board can recommend that an examination is conducted prior to restoration. This examination can include compelling the examining physician to provide testimony about the licensee or applicant's mental or physical health. Failure to submit to the examination by a physician results in an automatic suspension without a hearing. If a hearing occurs while the Board is not in session, the Department can continue with the hearing for no longer than 30 days. An order or a certified copy of an order using the Department seal and signed by the Secretary is prima facie proof that (1) the signature is from the Secretary, (b) the Secretary was properly appointed and qualified, and (3) the Board and its members are qualified to act.

<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0880>

The Department of Public Health Powers and Duties Law of Civil Administrative Code of Illinois [20 ILCS 2310/2310-220] [110 ILCS 935/1] [110 ILCS 935/3.04] [110 ILCS 935/3.09] [305 ILCS 5/12-4.24a]

PUBLIC ACT 102-0888, EFFECTIVE May 17, 2022

Senate Bill 3017

This Public Act amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois. The Underserved Physician Workforce Act was renamed the Underserved Health Care Provider Workforce Act. Additionally, the Public Act added government-owned, privately owned, independent, or provider-based rural health clinics or hospitals that accept Medicaid, Medicare, or State's Children Health Insurance Program, private insurance, and self-pay to the list of factors that can identify a "designated shortage area." The Public Act also expanded the definition of "eligible health care provider" to include advanced practice registered nurses and physician assistants who accept Medicaid, Medicare, the State's Children Health Insurance Program, private insurance, and self-pay.

<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0888>

Behavior Analyst Licensing Act

PUBLIC ACT 102-0953, EFFECTIVE May 27, 2022

House Bill 4769

This Act creates the Behavior Analyst Licensing Act provides for licensure of behavior analysts, assistant behavior analysts, and behavior technicians by the Department of Financial and Professional Regulation. It includes licensure requirements, restrictions and limitations, examinations, qualifications, provisional licenses, rules, Social Security Numbers on license applications and establishes the Board of Behavior Analysts. This does not prohibit a speech-language pathologist and an audiologist from performing or advertising activities that are considered to be the practice of applied behavior analysis. No licensed behavior analyst or licensed assistant shall engage in the practice of speech-language pathology or the practice of audiology, as defined in the Illinois Speech-Language Pathology and Audiology Practice Act, unless licensed to do so under that Act. Additionally, the Act amends the Public Aid Code to cover treatment of autism spectrum disorder through applied behavior analysis under the medical assistance program for children with a diagnosis of autism spectrum disorder when ordered by a behavior analyst licensed by the Department of Financial and Professional Regulation. Lastly, this Act amends the Regulatory Sunset Act, which is repealed on January 1, 2028, and makes the same changes to the to the Adult Protective Services Act and the Abused and Neglected Child Reporting Act.

(<https://www.ilga.gov/legislation/publicacts/102/102-0953.htm>)

See also: PROFESSIONAL REGULATION

Licensed Certified Professional Midwife Practice Act [225 ILCS 64/10]

PUBLIC ACT 102-0963, EFFECTIVE May 27, 2022

House Bill 5012

This Act amends the Licensed Certified Professional Midwife Practice Act. It defines "licensed certified professional midwife" as a person who has successfully met the requirements under Section 45 of this Act and has been licensed by the Department. It includes that the Illinois Midwifery Board must have one member who is an Illinois licensed advanced practice registered nurse who is a certified nurse midwife who provides home birth services. The Act removes provisions providing that: (i) applicants for licensure have 3 years from the date of application to complete the application process (ii) the Board shall maintain the confidentiality of annual reports (iii) exhibits shall be certified without cost (iv) the Board shall have 60 days after receipt of the report to review the report from the hearing office. The Act also repeals a provision concerning the certification of records by the Department.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0963.pdf>)

See also: PROFESSIONAL REGULATION

Birth Center Licensing Act [210 ILCS 170/5]

PUBLIC ACT 102-0964, EFFECTIVE May 27, 2022

House Bill 5013

This act amends the Birth Center Licensing Act. It defines "licensed certified professional midwife" as a person who has successfully met the requirements under Section 45 of the Licensed Certified Professional Midwife Practice Act and holds an active license to practice as a licensed certified professional midwife in Illinois. Contends that a licensed certified professional midwife may attend or be delegated to attend to each person in labor from the time of admission through birth and throughout the immediate postpartum period. It further amends the Medical Assistance Article of the Illinois Public Aid Code to require managed care organizations to pay for preventative prenatal services, perinatal healthcare

services, and postpartum services rendered by a non-affiliated provider, for which the health plan would pay if rendered by an affiliated provider, at the rate paid under the Illinois Medicaid fee-for-service program methodology for such services. The payment rate requirements must not apply in cases where a managed care organization must pay for preventive prenatal services, perinatal healthcare services, and postpartum services rendered by a non-affiliated provider, if the services were not emergency services and: (1) the non-affiliated provider is a perinatal hospital and has, within the 12 months preceding the date of service, rejected a contract that was offered in good faith by the health plan as determined by the Department of Healthcare and Family Services; or (2) the health plan has terminated a contract with the non-affiliated provider for cause, and the Department has not deemed the termination to have been without merit. The Department may deem that a termination has merit if: (i) an institutional provider has repeatedly failed to conduct discharge planning; (ii) the provider's conduct adversely and substantially impacts the health of Medicaid patients; (iii) the provider's conduct constitutes fraud, waste, or abuse; or (iv) the provider's conduct violates the code of ethics governing his or her profession.

<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0964.pdf>

See also: INSURANCE

Student Debt Assistance Act

PUBLIC ACT 102-0998, EFFECTIVE May 27, 2022

Senate Bill 3032

The Student Debt Assistance Act defines “debt” as the amount the student owes to a higher education institution excluding the fee for providing an academic transcript to the student. An “institution of higher education” includes institutions defined in the Private Business and Vocational Schools Act of 2012, the Private College Act, and individuals who provide postsecondary education either online or in Illinois to individuals located in Illinois; however, those lists are not exhaustive. Public institutions of higher education are defined in the Board of Higher Education Act. The Public Act also differentiates between “official transcripts” and “unofficial transcripts” and explains that official transcripts have the power to transfer academic credits to another institution. Regarding withholding unofficial transcripts, the Public Act prohibits higher education institutions from (1) refusing to provide an unofficial transcript to a current or former student because the student owes a debt, (2) condition the unofficial transcript on paying the debt (besides the cost of the unofficial transcript), or (3) charge a higher fee for obtaining an unofficial transcript or provide less favorable treatment to a student who owes a debt. Regarding withholding official transcripts, the Public Act (1) requires that the institution provide an official transcript of a current or former student to a current or potential employer, even if the student owes the institution a debt, (2) prohibits the institution from conditioning the official transcript on paying a debt (except the cost of the official transcript), and (3) prohibits institutions from either charging a higher fee or treating a current or former student less favorably who owes debt compared to a student who does not owe debt. Furthermore, the Public Act requires that every institution of higher education must establish a policy for a financial or physical hardship withdrawal process starting in the 2022-2023 academic year. The policy must provide students who are withdrawing from school due to significant financial or physical hardship a process to limit their debt. Qualifying types of hardship include (1) serious injury or illness, (2) chronic illness, (3)

medical issue of a family member the student is the part-time or full-time caretaker of, (4) a mental health crisis, (5) sudden or consistent lack of transportation, or (6) a significant increase in the cost of living. Information regarding this process must be posted on the institution's website and be given to students as part of orientation. Finally, if the institution of higher education sends a current or former student's past due debt to a debt collection agency, the Public Act requires that the past due debt not be reported to a credit reporting agency unless otherwise required by federal law.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0998>)

The State Commemorative Dates Act [5 ILCS 490/148]

The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-256]

The School Code [105 ILCS 5.22-80]

The School Safety Drill Act [105 ILCS 128/5]

The Suicide Prevention, Education, and Treatment Act [410 ILCS 53/15]

The Methamphetamine Precursor Control Act [720 ILCS 648/5]

The Mental Health Court Treatment Act [730 ILCS 168/40]

PUBLIC ACT 102-1006, EFFECTIVE January 1, 2023

Senate Bill 3127

This Public Act amends the State Commemorative Dates Act, the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-256], the School Code [105 ILCS 5.22-80], the School Safety Drill Act [105 ILCS 128/5], the Suicide Prevention, Education, and Treatment Act [410 ILCS 53/15] The Cannabis Regulation and Tax Act [410 ILCS 705/5-25], the Cannabis Regulation and Tax Act [410 ILCS 705/5-25], The Methamphetamine Precursor Control Act [720 ILCS 648/5], and the Mental Health Court Treatment Act [730 ILCS 168/40]. The Public Act adds emergency medical dispatchers to the list of first responders honored on First Responder Mental Health Awareness Day. The Public Act specifies emergency medical dispatchers as first responders whose rights and responsibilities pertaining to the provision, receipt, and treatment of the inoculation must be considered in the information campaign conducted by Illinois in response to the federal government-ordered state response plan. The Public Act requires that the governing body of all public or charter schools and the administrative officer of all private schools where students participate in athletics develop an emergency action plan specific to the school to address serious injuries and acute medical conditions which could cause serious harm to the student. The Public Act outlines six requirements for the emergency action plan. The sixth requirement mandates the plan be "reviewed annually by all athletic trainers, first responders, coaches, school nurses, athletic directors, and volunteers for interscholastic athletic activities." The Public Act clarifies that the definition of first responders includes, but is not limited to, emergency medical dispatchers. This Public Act amends the Cannabis Regulation and Tax Act. The Public Act added "emergency medical dispatcher" to the preexisting list of emergency medical technician, paramedic, or other first responder who must occupy a spot on the Adult Use Cannabis Health Advisory Committee.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1006>)

The Illinois Athletic Trainers Practice Act [225 ILCS 5/3]; [225 ILCS 5/4]; [225 ILCS 5/13)]

PUBLIC ACT 102-0940, EFFECTIVE January 1, 2023

House Bill 4629

This Public Act amends the Illinois Athletic Trainers Practice Act. The Act defines licensed athletic trainer as a person licensed to practice athletic training as defined under the Act and with the specific qualifications set forth in Section 9 of this Act who, upon direction or consultation of a physician carries out the practice of evaluation, prevention, or emergency care, or physical reconditioning of injuries incurred by athletes conducted by an educational institution, professional athletic organization, sanctioned amateur athletic organization, performing arts setting, clinical setting, or employment setting employing the athletic trainer; or a person who, under the direction of a physician, carries out comparable functions for a health organization-based extramural program of athletic training services for athletes. Specific duties of the athletic trainer include, but are not limited to, coordination with a physician to provide physical exams, health updates, follow-up injury care, phone access to physician, reconditioning programs, and all other relevant assistance; provision of on-site injury care and evaluation and follow-up treatment and reconditioning as necessary; maintenance of injury and treatment records for athletes; written reports to a referring individual every 30 days services are provided. Regarding authorized functions of an athletic trainer, they may be carried out upon reception of referral. LAT should be used to denote licensed athletic trainers under the Act and these letters should appear after the trainer's name. Referral means the written authorization for athletic trainer services as provided in paragraph (4) given by a physician, physician assistant, advanced practice registered nurse, podiatric physician, or dentist, who shall maintain medical supervision of the athlete and makes a diagnosis or verifies that a patient's condition is such that it may be treated by an athletic trainer. Aide means a person who has received on-the-job training specific to the facility in which he or she is employed, on either a paid or volunteer basis, but is not enrolled in an accredited curriculum. Athlete means a person participating in an activity that requires a level of strength, endurance, flexibility, range of motion, speed, or agility which may include exercise, sports, recreation, wellness, or employment activity. Physician assistant means a physician assistant licensed to practice under the Physician Assistant Practice Act of 1987 in accordance with a written collaborative agreement with a physician licensed to practice medicine in all of its branches. Advanced practice registered nurse means one licensed to practice under the Nurse Practice Act. Nothing in the Act should be construed as preventing or restricting the practice, services, or activities of the practice of athletic training by those actively licensed as a trainer in other states, territories, or countries, or certified by the Board of Certification, at a tournament or event conducted by an amateur athletic organization for no more than 14 days. Regarding endorsement, an amendment stipulates that an applicant for endorsement who has practiced for 10 consecutive years in another jurisdiction shall meet the licensure by endorsement requirements upon filing an application, paying the required fee, and showing proof of previous licensure without discipline by certified verification of licensure from the jurisdiction in which the applicant practiced. Under the section regarding grounds for discipline, the addition of subsections (x-5) and (HH). The Section provides that the Department may refuse to issue, renew, or take any disciplinary action with regard to a licensee for any one or combination of the following: (x-5) failure to provide a monthly report on the patient's progress to the referring physician, physician assistant, advanced practice registered nurse, podiatric physician, or dentist; (HH) failure by a supervising

athletic trainer of an aide to maintain contact, including personal supervision and instruction, to ensure the safety and welfare of an athlete.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0940>)

The Equity and Representation in Healthcare Act

PUBLIC ACT 102-0942, EFFECTIVE January 1, 2023.

House Bill 4645

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0942>)

See also: EMPLOYMENT

The Healthcare Worker Background Check Act [225 ILCS 46/26]

PUBLIC ACT 102-1063, EFFECTIVE January 1, 2023.

House Bill 4332

This Public Act amends the Healthcare Worker Background Check Act. The amendment provides that the Healthcare Worker Registry should consist of an individual's name, address, Social Security number or federal taxpayer identification number, date and location of completed training, whether any disqualifying convictions from Section 25 of the Act are listed following the training date, and the date of the last criminal records check.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1063>)

The Illinois Vehicle Code [625 ILCS 5/1-159.1]

PUBLIC ACT 102-1011, EFFECTIVE January 1, 2023

Senate Bill 3216

This Public Act amended the Illinois Vehicle Code. The Public Act added licensed physical therapists to the list of medical professionals who can determine whether a person is disabled.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1011>)

Human Services Professional Loan Repayment Act

PUBLIC ACT 102-1089, EFFECTIVE January 1, 2023

Senate Bill 3925

This Public Act creates the Human Services Professional Loan Repayment Act. The purpose of the Human Services Professional Loan Repayment Program is to recruit and retain qualified human service professionals to work for community-based human service providers to combat the high turnover rate. Since human service positions require a graduate degree or postsecondary education, the Program is intended to address the potential for significant debt. The Program will be administered by the Commission and provide loan repayment assistance to eligible professionals who practice in a community-based, human services agency that contracts or is grant-funded by an Illinois agency. Every year the Commission will consider loan repayment assistance applications. The Commission will award a grant to each eligible applicant for a cumulative maximum of 4 years which must be used to pay off educational loans from a qualified program. The grant shall not exceed (1) \$25,000 per year for a master's degree or higher, (2) \$15,000 per year for a bachelor's degree, (3) \$3,000 per year for a professional with an associate degree, and (4) update to \$5,000 per year add-on if the professional is independently licensed as a licensed clinical social worker, a licensed clinical professional counselor, a licensed

practitioner of the healing arts, a licensed marriage and family therapist, a board-certified behavior analyst, or a registered behavior technician. Eligible applicants must satisfy all of the following requirements: (1) resident of Illinois, (2) worked for at least 24 consecutive months as a full-time employee as a human services professional in a community-based human services agency that does or did have a contract with the state agency to provide services, (3) is a borrower with a balance due on an educational loan, (4) has not defaulted on an education loan, (5) must remain a full-time employee as a human services professional in the same community-based human services agency for at least 12 months after receiving the grant. The Commission can grant preference to a previous recipient of the Program so long as they meet all the requirements.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1089>)

ADOPTED

RULES

Illinois Public Aid Code [305 ILCS 5/12-13]

REIMBURSEMENT FOR NURSING COSTS FOR GERIATRIC FACILITIES (89 Ill. Adm. Code 147)

45 Ill. Reg. 8326, EFFECTIVE June 28, 2021

This amendment impacts the Illinois Public Aid Code by modifying the long-term care regional wage adjustor. Under the section regarding the Nursing Component Per Diem, the regional wage adjustor is changed so as to not be lower than 0.95 following January 1, 2020. On June 1, 2020, the regional wage adjustor should not be lower than 1.0.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_2_8.pdf)

See also: NURSING HOMES

Illinois Public Aid Code [305 ILCS 5/12-13]

MEDICAL PAYMENT (89 Ill. Adm. Code 140)

45 Ill. Reg. 10996, EFFECTIVE August 27, 2021

This rulemaking provides language that allows medical professionals including, but not limited to, podiatrists and optometrists, to render the virtual check in service during a public health emergency. These providers may submit claims without further delay.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_7.pdf)

Health Care Worker Background Check Act [225 ILCS 46]
Public Act 102-0026

HEALTH CARE WORKER BACKGROUND CHECK CODE (77 Ill. Adm. Code 955)

46 Ill. Reg. 6104, EFFECTIVE April 4, 2022

This rulemaking enacts Public Act 102-0026. The Public Act added the Department of Corrections or third-party vendors who employ certified nursing assistants to the list of entities to the definition of a “health care employer.” The language regarding waiver applications in Section 955.260 was also edited to require an individual to provide a work history for the past 5 years, edited the conviction reporting information. There were also edits to the convictions section of Section 955.320 (Removal from Registry of a Department Finding of Neglect) to reflect current standards

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_16.pdf)

EMERGENCY RULES

Health Care Worker Background Check Act [225 ILCS 46]

HEALTHCARE WORKER BACKGROUND CHECK CODE (77 Ill. Adm. Code 955)

45 Ill. Reg. 8109, EFFECTIVE June 20, 2021

This emergency amendment impacts the Health Care Worker Background Check Act and will expire on June 26, 2021. In response to Gov. Pritzker's COVID-19 Disaster Proclamation, this amendment temporarily suspends the Act's provision that inhibits a CNA from being hired if they have not been active in the Department's Health Care Worker Registry under the following conditions: (1) the individual has been inactive for 5 years or less; (2) the individual was in good standing at the time of being inactive; (3) the individual completes forms provided by the Department of Public Health. Further, the amendment allows CNAs licensed in other states to serve in Illinois under the guidance of the IEMA in a licensed health care facility or federally qualified health center (FQHC). It also allows military personnel with medic training to practice as CNAs given that they provide a DD Form 214 certifying that the necessary training has been completed and documentation that states their current military occupation specialty or relevant other medical training.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_27.pdf)

See also: COVID-19

Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

MEDICAL PAYMENT (89 Ill. Adm. Code 140)

46 Ill. Reg. 8348, EFFECTIVE May 2, 2022

This emergency amendment relates to Medical Payment and Illinois Public Aid Code. The amendments add provisions for Peer Support Worker (PSW) and who may qualify as one, along with provisions for the Violence Prevention Community Support Team (VP-CST) and the services that may be delivered on behalf of it.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_21.pdf)

HOSPITALS

PUBLIC ACTS

Medical Assistance Article of the Illinois Public Aid Code [305 ILCS 5/5-5.02]

PUBLIC ACT 102-0682, EFFECTIVE December 10, 2021

Senate Bill 1040

This Act amends the Medical Assistance Article of the Illinois Public Aid Code. It provides that if a previously closed hospital facility qualified for certain inpatient adjustment payments at the time of its closure, then the Department of Healthcare and Family Service is required to make those same payments to a hospital that reopens the closed hospital facility within 3 calendar years of the closure and the payment rate will be assigned to the previously closed hospital facility at the date of closure until utilization data for the new

facility is available for the Medicaid inpatient utilization rate calculation. A "closed hospital facility" includes hospitals that have been terminated from participation in the medical assistance program. When the Department is required to develop add-on payments that are consistent with Medicare outlier principles, the outlier fixed loss thresholds may be updated to control for excessive growth in outlier payments no more frequently than on an annual basis, but at least once every 4 years. The Department must also update certain reimbursement components at least once every 4 years.

(<https://www.ilga.gov/legislation/publicacts/102/102-0682.htm>)

Hospital Licensing Act [210 ILCS 85/4.5]

PUBLIC ACT 102-0887, EFFECTIVE May 17, 2022

Senate Bill 1435

This Act amends the Hospital Licensing Act. It provides that a hospital located in a county with fewer than 3,000,000 inhabitants may apply to the Department for approval to conduct its operations in more than one location within the county under a single license. A hospital located in a county with fewer than 125,000 inhabitants may apply for approval provided that the second county has fewer than 35,000 inhabitants.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0887.pdf>)

ADOPTED RULES

Illinois Public Aid Code [305 ILCS 5/12-13]

HOSPITAL REIMBURSEMENT CHANGES (89 Ill. Adm. Code 152)

45 Ill. Reg. 8335, EFFECTIVE June 28, 2021

This amendment impacts the Illinois Public Aid Code regarding the fee schedule used by HFS in a public health emergency. The hospital rate reductions provided in the Act are not applicable to federally approved rates or payments for services in a public health emergency that are published in the Department's fee schedule and match the service specifications date indicated in the fee schedule. Once the Department determines so, the fee schedule will no longer remain in place.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_2_8.pdf)

Fair Patient Billing Act [210 ILCS 88/27]

HOSPITAL FINANCIAL ASSISTANCE UNDER THE FAIR PATIENT BILLING ACT (77 Ill. Adm. Code 4500)

45 Ill. Reg. 10281, EFFECTIVE July 29, 2021

This amendment falls under the Hospital Financial Assistance under the Fair Patient Billing Act and impacts the Fair Patient Billing Act. The amendment updates Appendix A to accommodate the 2021 Health and Human Services Poverty Guidelines.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_3.pdf)

Illinois Public Aid Code [305 ILCS 5/12-13]

Hospital Services (89 Ill. Adm. Code 148)

46 Ill. Reg. 5254, EFFECTIVE March 11, 2022

This rulemaking sets the inpatient care rate for all Safety Net Hospitals, providing psychiatric services, at \$630 per day, or the hospital's inpatient psychiatric rate as of June 30, 2021 – whichever is greater.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_13.pdf)

See also: PUBLIC AID

Hospital Licensing Act [210 ILCS 85]

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

46 Ill. Reg. 8914, EFFECTIVE May 12, 2022

This amendment relates to Hospital Licensing Requirements and impacts the Hospital Licensing Act. The amendments provide that a hospital's discharge procedures shall include prohibitions against discharging or referring a patient to any facility for further health care services that is unlicensed, uncertified, or unregistered. Further, the amendments modify a provision to stipulate that in compliance with the Medical Patient Rights Act, hospitals must post information about the rights listed in the Act in a prominent place (physical or electronic) and on their websites. Regarding obstetric and neonatal care, the existence of proper blood pressure instruments for pregnant women must be ensured in hospitals. The amendments also modify a provision to indicate that proof of identity must be given on behalf of a biological mother before allowing discharge with the newborn child.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_22.pdf)

State Employees Group Insurance Act of 1971 [5 ILCS 375/6.11]

Counties Code [55 ILCS 5/5-1069.3]

Illinois Municipal Code [65 ILCS 5/10-4-2.3]

School Code [105 ILCS 5/10-22.3f]

Illinois Insurance Code [215 ILCS 5/356z.53 new]

Health Maintenance Organization Act [215 ILCS 125/5-3]

Limited Health Service Organization Act [215 ILCS 130/4003]

Voluntary Health Services Plans Act [210 ILCS 165/10]

PUBLIC ACT 102-0860, EFFECTIVE January 1, 2023

Senate Bill 3819

This Public Act amends the State Employees Group Insurance Act of 1971. The Public Act added coverage sections to include 356z.45, 356z.46, 356z.47, 356z.51, and 356z.53, and omitting 356z.43. This Public Act amends the Counties Code. The Public Act added coverage section 356z.45, 356z.46, 356z.47, 356z.48, 356z.51, and 356z.53 and omitted 356z.43. This Public Act amends the Illinois Municipal Code. The Public Act adds coverage sections 356z.45, 356z.46, 356z.47, 356z.48, 356z.51, and 356z.53, and omitted 356z.43. This Public Act amends the School Code. The Public Act added coverage sections 356z.45, 356z.46, 356z.47, 356z.51, and 356z.53 and omitted 356z.43 of the Illinois Insurance Code. This Public Act amends the Illinois Insurance Code. The Public Act added a section on pediatric palliative care. The section requires that a group or individual policy of accident and health insurance or a managed care plan that is amended, delivered, issued,

or renewed on or after January 1, 2024, must provide coverage for both community-based pediatric palliative care and hospital care. The care must be delivered to any qualifying child with a serious illness and provided by a trained team that allows a child to receive these services while receiving curative treatment and therapies. This Public Act amends the Health Maintenance Organization Act. The Public Act adds coverage sections 356z.46, 356z.47, 356z.48, 356z.50, 356z.51, and 356z.53. This Public Act amends the Limited Health Insurance Organization Act. The Public Act adds coverage sections 356z.46, 356z.47, 356z.51, and 356z.53, and omits 356z.43. This Public Act amends the Voluntary Health Services Plans Act. The Public Act adds coverage sections 356z.46, 356z.47, 356z.51, and 356z.53, and omits 356z.43.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0860>)

See also: CHILDREN'S HEALTH

EMERGENCY RULES

Hospital Licensing Act [210 ILCS 85]

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

45 Ill. Reg. 8096, EFFECTIVE June 15, 2021

This emergency amendment impacts the Hospital Licensing Act and relates to the COVID-19 pandemic and will expire after 150 days. The purpose of this amendment is to require hospitals to provide N-95 masks to licensed physicians, registered, and advanced practice nurses, and other employees who engage in direct patient care. The amendment provides that due a limited supply of N-95 masks, hospitals must provide N-95 masks to licensed and unlicensed hospital healthcare practitioners in contact with the patients for the safety of the hospital setting.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_2_7.pdf)

See also: COVID-19

Hospital Licensing Act [210 ILCS 85]

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

45 Ill. Reg. 8503, EFFECTIVE June 20, 2021

This emergency amendment impacts the Hospital Licensing Act and is set to expire after 150 days or upon repeal. The amendment is in relation to the COVID-19 pandemic and the gubernatorial Disaster Proclamations. The amendment focuses on expanding access to hospital beds to accommodate the needs of the patient population considering the pandemic, without the requirement of Department permission. The hospital must provide notice within 30 days to the Department regarding an increase in or reallocation of beds and that the given quantity of bed has been taken out of circulation.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_2_8.pdf)

See also: COVID-19

Hospital Licensing Act [210 ILCS 85]

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

45 Ill. Reg. 14519, EFFECTIVE November 4, 2021

This emergency amendment will expire after 150 days. It is in response to the COVID-19 pandemic. It implements a waiver from the Centers for Medicare and Medicaid Services (CMS) that exempts qualifying hospitals from compliance requirements with subsections 482.23(b) and (b)(1) of the Hospital Conditions of Participation (42 CFR 482). Hospitals must apply for an Acute Hospital Care at Home waiver. The waiver allows qualifying hospitals to provide limited inpatient services to a patient's home. Hospitals must meet these requirements to qualify: (1) provide safe and quality care to patients at home, (2) prohibit abuse of patients by providers, administrators, agents, or employees and implement reporting requirements for neglect, (3) ensure access to health care information and services for those with limited English language proficiency, (4) not administering medication, treatment, or diagnostic tests unless there is a written or verbal order by a licensed medical professional acting within their practice, (5) ensuring nursing services are supervised by registered nurses, (6) maintain medical records in compliance with Section 250.1520(f), (7) comply with incident reporting requirements in subsection 250.1520(f), (8) make sure all drugs and medications are stored and dispensed in compliance with subsections 250.2110(f) and (g), and (9) comply with all CDC, state of Illinois agencies, and local public health department directives on the pandemic. CMS' intent is to decrease the strain on hospitals caused by increased hospitalizations and lack of resources due to the pandemic in addition to limiting exposure to COVID-19.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: COVID-19

Hospital Licensing Act [210 ILCS 85]

Public Act 102-0004

Hospital Licensing Requirements (77 Ill. Adm. Code 250)

45 Ill. Reg. 15115, EFFECTIVE November 12, 2021

This emergency amendment was enacted to implement a provision of Public Act 102-0004 in response to the COVID-19 pandemic. It adds a new section to the Hospital Licensing Act (Section 6.28) that mandates that hospitals provide N95 masks to licensed physicians, registered, and advanced practice registered nurses, and other employees or contractual workers who are recommended to wear an N95 mask while providing patient care. Section 6.28 has an automatic repeal date of December 31, 2021; therefore, emergency rulemaking was necessary to implement the provision.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_48.pdf)

See also: COVID-19

Hospital Licensing Act [210 ILCS 85]

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

45 Ill. Reg. 15375, EFFECTIVE November 17, 2021

This emergency amendment is effective for 150 days. It is in response to the COVID-19 pandemic. It allows hospitals to increase their bed capacity or re-allocate bed designations between clinical services to accommodate increased need due to COVID-19 pandemic. This can be done without prior authorization from the Department of Public Health. However, the facility must provide the Department with notice about the increase within 30 days after it occurs. The facility must also notify the Department in writing once the

temporarily increased bed capacity has stopped, and this notice must be received within 30 days of returning to normal bed capacity.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_49.pdf)

See also: COVID-19

Hospital Licensing Act [210 ILCS 85]

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

46 Ill. Reg. 1911, EFFECTIVE January 13, 2022

This emergency amendment relates to Hospital Licensing Requirements and impacts the Hospital Licensing Act. The emergency rule will expire 150 after the effective date or upon repeal. This amendment outlines COVID-19 Emergency Provisions for Hospitals and Alternate Care Facilities. Certain provisions are suspended, and others are altered in accordance with federal COVID-19 guidelines. Further, the creation of alternate care facilities is outlined as a means of temporarily accommodating the shortage of healthcare resources during the pandemic. Guidelines for running the facilities are established in regard to quality and provision of care, access to resources, on-site laboratory services, nursing services, food provision and preparation, medical record reporting, safety requirements, incident reporting, training of sufficient personnel, storage of medications, inspections by the Department, and compliance with directives regarding COVID-19.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_5.pdf)

See also: COVID-19

Hospital Licensing Act [210 ILCS 85]

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

46 Ill. Reg. 6808, EFFECTIVE April 16, 2022

This emergency amendment will be effective for 150 days and relates to the COVID-19 pandemic. It allows hospitals to increase their bed capacity or re-allocate beds between clinical services to deal with the increased hospitalization needs caused by the pandemic. Under this emergency amendment, the increase or reallocation can be done without prior authorization from the Department of Public Health. However, the facility must provide the Department with notice within 30 days. Additionally, the facility must notify the Department within 30 days when the bed capacity has returned to normal.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_18.pdf)

See also: COVID-19

Hospital Licensing Act [210 ILCS 85]

HOSPITAL LICENSING REQUIREMENTS (77 Ill. Adm. Code 250)

46 Ill. Reg. 10950, EFFECTIVE June 12, 2022

This emergency amendment relates to Hospital Licensing Requirements and impacts the Hospital Licensing Act. The emergency rule will expire 150 days after its effective date or upon repeal. The amendments modify a section regarding COVID-19 Emergency Provisions for Hospitals and Alternate Care Facilities. The modifications include aligning provisions with Centers for Medicare and Medicaid Services' (CMS) COVID-19 Emergency Declaration Blanket Waivers for Health Care Providers, as well as approving COVID-19 testing as hospital policy. Further, there are provisions outlined for the

establishment of alternate care facilities to address the lack of resources given the pandemic. These facilities must be temporary, under the direction of a licensed hospital, and the name, address, and other requisite information regarding the establishment of the facility must be provided to the Department on behalf of the operating hospital. The provisions regarding how the alternate care facilities will function, how patients will be treated, the resources that must exist and be provided, etc. are further set forth by the amendments. Lastly, the Department may conduct investigations of these facilities and these facilities must follow all guidelines of the Department, the CDC, and other local public health organizations.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_26.pdf)

See also: COVID-19

REGULATORY AGENDA

Fair Patient Billing Act [210 ILCS 88/27]

HOSPITAL FINANCIAL ASSISTANCE UNDER THE FAIR PATIENT BILLING ACT (77 Ill. Adm. Code 4500)

45 Ill. Reg. 16401, EFFECTIVE February 2022

This rule relates to Hospital Financial Assistance under the Fair Patient Billing Act and impacts the Fair Patient Billing Act. The proposed amendments are meant to update federal income poverty guidelines and may impact small municipalities and non-profit organizations that operate hospitals by requiring them to amend software and forms in alignment with the federal poverty guidelines.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_52.pdf)

INSURANCE

CASE LAW

ABW DEVELOPMENT, LLC V. CONTINENTAL CASUALTY CO., N.E. 3d, 2022 IL App (1st) 210930

The court affirmed that Plaintiff's insurance coverage claims based on COVID-19 and the ensuing government shutdowns were not covered under the insurance policy Plaintiff had with Defendant. Plaintiff owned medical imaging clinics and had a property insurance policy with Defendant. Defendant denied Plaintiff's claim for monetary losses based on the COVID-19 pandemic and subsequent government shutdowns because the claims were not covered under the policy. However, Plaintiff sought a declaratory judgment action and claimed the losses were covered under the policy because the potential presence of COVID-19 particles is direct physical damage to the property. The court noted that Plaintiff did not present evidence that COVID-19 particles were ever on the property. The court found that, even if COVID-19 particles were present on the property, this did not constitute the "physical loss of or damage to property" requirement under the insurance policy because COVID-19 particles would not alter the appearance, shape, color, or other material dimensions of the property. Plaintiff also sought to recover under civil authority

endorsement, but this coverage only occurs if a direct physical loss of or damage to the property which the court determined did not occur in this case. Therefore, Plaintiff's losses due to the COVID-19 pandemic and government shutdowns did not fall within the insurance policy.

(<https://www.crowell.com/files/ABW-Development-Order.pdf>)

See also: COVID-19

ALLEY 63, INC. V. SOCIETY INSURANCE, N.E. 3d, 2022 Ill. App (2nd) 210401

Defendant, Society Insurance, appealed the decision of the trial court which granted the Plaintiff, Alley 64, a motion for class certification regarding insurance coverage. Plaintiff requested coverage through the insurance policy provided to them by Defendant, specifically under the "Contamination" provision following losses they suffered as a result of the COVID-19 pandemic and executive orders banning in-person dining. Plaintiff also asserted a bad-faith count towards Defendant regarding the coverage claim. Defendant filed a countercomplaint seeking to deny Plaintiff of coverage and additionally sought a judgment on the pleadings, which was denied. Upon appeal, Defendant argued that the Plaintiff should not be granted the desired class certification because they did not meet the statutory prerequisites and did not possess a valid cause of action, thereby stating that the trial court exercised abuse of discretion. In response, Plaintiff argued that they did meet the prerequisites and that the coverage they sought under the policy's Additional Coverage was prompted. The court reversed the trial court's ruling granting Plaintiff class certification and remanded for further proceedings. The court's reasoning followed their analysis of whether Plaintiff was eligible for coverage under the policy provided by Defendant. The court explained that because there was no physical presence of the virus proven by the Plaintiff to be on their property, they did not have a legitimate claim to contamination coverage. This is supported by the application of the definition of "contamination" provided, which the Plaintiff is unable to substantiate as required by the policy. Additionally, Plaintiff did not prove that the virus established a dangerous condition in its premises. Finally, the court rejected the claim that the Plaintiff was unable to operate as a result of the executive orders, by distinguishing between "prohibited" and "limited," citing that the Plaintiff continued to carry out business in alignment with the executive orders and thus could not be classified as inoperable. The court concluded that Plaintiff did not have a valid claim to coverage under the policy and therefore it was not required to assess whether the statutory prerequisites of a class action were satisfied.

<https://cases.justia.com/illinois/court-of-appeals-second-appellate-district/2022-2-21-0401.pdf?ts=1648685489>

See also: COVID-19

FIREBIRDS INTERNATIONAL, LLC V. ZURICH AMERICAN INSURANCE CO., N.E. 3d, 2022 Ill. App (1st) 210558

Plaintiff, Firebirds International, LLC (Firebirds), appealed the decision of the trial court which held that Defendant, Zurich American Insurance Company (Zurich)'s insurance policy's contamination provision was applicable to loss or damage suffered as a result of the COVID-19 pandemic. The Plaintiff also appeals the trial court's decision to deny them an opportunity to amend their complaint. The court affirmed the decisions of the trial court. The court reasoned that the plain language of the insurance policy offered by Defendant

does not qualify COVID-19 as a covered cause of loss, as it did not result in physical loss or tangible damage. Thus, the Plaintiff is not entitled to relief or a motion to amend their complaint.

<https://law.justia.com/cases/illinois/court-of-appeals-first-appellate-district/2022/1-21-0558.html>

See also: COVID-19

ILLINOIS UNION INSURANCE CO. V. MEDLINE INDUSTRIES, INC. N.E. 3d, 2022 Ill. App (2nd) 210175

Defendant and Counterplaintiff, Medline Industries, Inc. (Medline) submitted an appeal towards judgment granted in favor of Plaintiff and Counterdefendant, Illinois Union Insurance Company (Illinois Union), as well as an appeal regarding the dismissal of its second amended counterclaim in an insurance coverage dispute. The issue on appeal was whether Plaintiff, in this case, had a duty to provide coverage for the Defendant and their facility. The circuit court previously held that Plaintiff was not required to defend and indemnify Defendant based on the underlying lawsuit against Defendant for injuries allegedly caused by harmful emissions of ethylene oxide (EtO) gas from Defendant's Waukegan sterilization facility. Defendant opted for an insurance policy plan with a retroactive date of September 29th, 2008, the same date on which they acquired the facility, rather than a full retroactive plan which would have covered any instances of pollution prior to acquisition. EtO emissions from the facility have been indisputably occurring since 1994. The court affirmed the decision of the circuit court, reasoning that the policy language and underlying lawsuits maintained that the emissions occurred prior to the retroactive date and that the language in the policy did not require that the pollution conditions were to be continuous or intermittent, but rather that it just occur. Further, the court reasoned that the Defendant consciously did not purchase the full retroactive coverage plan and that no language in their chosen policy was ambiguous or misleading and therefore could not be changed to benefit one party over the other. The court further stated that whether the Defendant was to blame for prior emissions was immaterial, but their knowledge of prior emissions was material to establishing their willful and wanton conduct and assumption of risk. The court determined that circuit court did not err in granting the motion in favor of the Plaintiff and dismissing the second amended counterclaim of the Defendant.

[https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/954dbc36-6847-487c-b620-6ce1de1a0024/Illinois%20Union%20Insurance%20Co.%20v.%20Medline%20Industries.%20Inc.,%202022%20IL%20App%20\(2d\)%20210175.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/954dbc36-6847-487c-b620-6ce1de1a0024/Illinois%20Union%20Insurance%20Co.%20v.%20Medline%20Industries.%20Inc.,%202022%20IL%20App%20(2d)%20210175.pdf)

LEE V. STATE FARM FIRE AND CASUALTY CO., N.E. 3d, 2022 Ill. App (1st) 210105

Plaintiff, Jaewook Lee (Evanston Grill), appeals the circuit court's dismissal of a complaint pursuant to section 2-615 of the Code of Civil Procedure seeking declaratory judgment for the provision of insurance coverage on behalf of Defendant, State Farm Fire and Casualty Company (State Farm). Plaintiff also requested that the court reverse the dismissal of a breach of contract and bad faith denial of insurance counts. The court affirmed the judgment of the circuit court by reasoning that the loss experienced by Plaintiff was economic, and not physical in nature, thus precluding it from receiving insurance coverage.

Additionally, the court rejected the argument that Code section 2-615 was not the correct procedural mechanism as no set of facts could be asserted to designate relief to the Plaintiff. The court further ruled that both the action for declaratory judgment and bad faith count were properly dismissed by the circuit court due to the economic loss falling under the virus exclusion and no coverage being owed because of no physical damage or loss. The Plaintiff's claim of business interruption was not a "covered cause of loss" under the policy and therefore the Defendant was not required to provide coverage.

[https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/31b9c8ca-77ed-41db-8182-cf2555905226/Lee%20v.%20State%20Farm%20Fire%20&%20Casualty%20Co.,%202022%20IL%20App%20\(1st\)%2010105.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/31b9c8ca-77ed-41db-8182-cf2555905226/Lee%20v.%20State%20Farm%20Fire%20&%20Casualty%20Co.,%202022%20IL%20App%20(1st)%2010105.pdf)

See also: COVID-19

SWEET BERRY CAFE, INC. V. SOCIETY INSURANCE, INC., N.E. 3d, 2022 Ill. App (2nd) 210088

Plaintiff and Counterdefendant, Sweet Berry Cafe Inc. (Cafe), appealed a judgment in favor of Defendant and Counterplaintiff, Society Insurance, Inc. (Society), that prevented Defendant from having to provide coverage for losses suffered by Plaintiff due to the COVID-19 pandemic. Plaintiff claimed that the policy provisions for "direct physical loss of or damage to Covered Property" in their insurance plan included the losses caused by the executive order to ban in-person dining during the pandemic, and that the "Ordinance of Law" exclusion was inapplicable to an executive order and therefore could not bar coverage. The insurance policy had no mention of the virus or pandemic. The court upheld the judgment of the trial court, asserting that the virus itself and the executive order to ban in-person dining both did not cause direct physical loss or damage to the Plaintiff. The court further reasoned that when construing the plain and ordinary meaning of the language while also reading the policy as a whole, property that suffered physical loss or damage would necessitate restoration, which was not the case for Plaintiff's property, as nothing needed to be repaired physically due to the virus. Additionally, the court pointed out that the process of remediating the presence of the virus in the Plaintiff's premises was easy, affordable, and based on common knowledge. Regarding the executive order, the court stated that the ban on in-person dining caused economic loss, but not any tangible physical loss. Because the Plaintiff continued to partially use their premises through carry-out and delivery services, the court determined that the Plaintiff was not sufficiently dispossessed of its property, nor was the property rendered uninhabitable following the pandemic and its related executive orders. Thus, the court affirmed the prior ruling by holding that a lack of physical alteration in the premises precluded the Defendant from providing coverage under its additional provisions. This conclusion also inhibited the court from needing to determine whether coverage would be precluded under the ordinance or law exclusion.

[https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/858f506f-6edd-42fc-bb0d-c83c06a92601/Sweet%20Berry%20Caf%c3%a9,%20Inc.%20v.%20Society%20Insurance,%202022%20IL%20App%20\(2d\)%2010088.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/858f506f-6edd-42fc-bb0d-c83c06a92601/Sweet%20Berry%20Caf%c3%a9,%20Inc.%20v.%20Society%20Insurance,%202022%20IL%20App%20(2d)%2010088.pdf)

See also: COVID-19

PUBLIC ACTS

The State Employees Group Insurance Act of 1971 [5 ILCS 375/6.11]; [215 ILCS 5/356z.53 new]
PUBLIC ACT 102-0768, EFFECTIVE January 1, 2024.

House Bill 4349

This Public Act amends the State Employees Group Insurance Act of 1971. The act is amended so that the program of health benefits shall provide coverage required under Sections 356g, 356g.5, 356g.5-1, 356m, 356q, 356u, 356w, 356x, 356z.2, 356z.4, 356z.4a, 356z.6, 356x.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30a, 356z.32, 356z.33, 356z.36, 356z.40, 356z.41, 356z.45, 356z.46, 356z.47, 356z.51, and 356z.53 of the Illinois Insurance Code. Additionally, each policy of accident and health insurance must contain a provision stipulating that benefits applicable to children shall be granted at the moment of a child's birth, and this coverage should extend to illness, injury, congenital defects (including the treatment of cleft lip and cleft palate), birth abnormalities and premature birth. Coverage for cleft lip or palate treatment includes, (1) oral or facial surgery, including reconstructive services and procedures necessary to improve and restore and maintain vital functions; (2) prosthetic treatment such as obturators, speech and feeding appliances; (3) orthodontic treatment and management; (4) prosthodontic treatment and management; and (5) otolaryngology treatment and management. Medically necessary treatment includes the above but does not include cosmetic surgery to reshape facial structures to improve appearance. Individual and group insurance plans amended, delivered, issued, or renewed on or after the effective date (January 1, 2024) shall provide cleft lip and cleft palate treatment coverage for children under 19. Coverage for this treatment may impose the same deductible, coinsurance, or cost sharing limitation that is imposed on other related surgical benefits under the policy. This section does not apply to dental care only policies.

<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0768>)

The Health Insurance Coverage Premium Misalignment Study Act
PUBLIC ACT 102-0900, EFFECTIVE January 1, 2023.

House Bill 0836

This Public Act enacted the Health Insurance Coverage Premium Misalignment Study Act. The purpose of this Act is to allow the State to research potential misalignment in the healthcare insurance market based on the production of increased premiums and cost sharing for some consumers, while other consumers are driven into health plans of lower value, or out of the market entirely. The Act's findings discuss Illinois' efforts to mitigate losses for issuers following the removal of the federal cost-sharing reduction payments through practices such as "silver loading" or "cost-sharing reduction uncertainty cost." These practices allow the issuers to raise their silver plan baseline premiums as means of recovering costs that have been lost because of federal cost-sharing reduction payments. In Illinois, these practices have caused the current metal-level premiums to be misaligned and unreflective of plans' coverage generosity. The overpricing of silver plans has caused some enrollees into bronze plans with levels of cost sharing that are inadequate to their needs, thus causing them to pay more than they should for lower value plans and less than they should for higher value plans. The act details a premium misalignment study that requires the Department of Insurance to oversee the exploration of rate setting approaches that may cause misalignment across the market, with the goal of making coverage more affordable

for low- and middle-class residents. The study shall include an Illinois-specific analysis of: (1) the number of consumers eligible for a premium subsidy under the Patient Protection and Affordable Care Act (Pub. L. 111-148) and the relative affordability of the plans; (2) if the plan is silver, as described by 42 U.S.C. 18022(d), the relation of the premium amount compared to premiums charged for qualified health plans offering different levels of coverage, taking into account any funding or lack thereof for cost-sharing reductions and the covered benefits for each level of coverage; and (3) whether the plan issues utilized the induced demand factors developed by the Centers for Medicare and Medicaid Services (CMS) for the risk adjustment program established under 42 U.S.C. 18063 for the level of coverage offered by the plan or any state-specific induced demand factors established by Department rules. The study will include cost estimates for residents regarding metal-level premium misalignment policies as well as the effect of these policies on affordability, access, and rates of the uninsured in middle- and low-class residents with specific data regarding identity categories. The study should also assess how the implementation of premium alignment measures would affect costs and outcomes for residents. The Department of Insurance is required to submit this report by January 1, 2024, to the General Assembly and Governor.

<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0900>

State Employees Group Insurance Act of 1971 [5 ILCS 375/6.11]; The Counties Code [55 ILCS 5/5-1069.3]; The Illinois Municipal Code [65 ILCS 5/10-4-2.3]; The School Code [105 ILCS 5/10-22.3f]; The Illinois Insurance Code [215 ILCS 5/356z.53 new]; The Health Maintenance Organization Act [215 ILCS 125/5-3]; The Limited Health Service Organization Act [215 ILCS 130/4003]; The Voluntary Health Services Plan Act [215 ILCS 165/10]

PUBLIC ACT 102-0731, EFFECTIVE January 1, 2023.

House Bill 4271

This Public Act amends the State Employees Group Insurance Act of 1971. The amendments provide that the program of health benefits shall provide the coverage required under Sections 356g, 356g.5, 356g.5-1, 356m, 356q, 356u, 356w, 356x, 356z.2, 356z.4, 356z.41, 356z.6, 356x.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30, 356z.32, 356z.33, 356z.36, 356z.40, 356z.41, 356z.45, 356z.47, 356z.51, and 356z.53 of the Illinois Insurance Code. If a county is self-insured in the provision of employee health insurance coverage, the coverage shall include coverage for post-mastectomy care benefits and must be covered by an accident and health insurance policy under Section 356t and the coverage required under Sections 356g, 356g.5, 356g.5-1, 356q, 356u, 356w, 356x, 356z.6, 356x.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30a, 356z.32, 356z.33, 356z.36, 356z.40, 356z.41, 356z.45, 356z.46, 356z.47, 356z.48, 356z.51, and 356z.53 of the Illinois Insurance Code. If a municipality is self-insured in employee health insurance coverage, the coverage shall include coverage for post-mastectomy care benefits and must be covered by an accident and health insurance policy under Section 356t and the coverage required under Sections 356g, 356g.5, 356g.5-1, 356q, 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30a, 356z.32, 356z.33, 356z.36, 356z.40, 356z.41, 356z.45, 356z.46, 356z.47, 356z.48, 356z.51, and 356z.53 of the Illinois Insurance Code. Insurance protection and benefits for employees shall include

post-mastectomy care benefits must be covered by an accident and health insurance policy under Section 356t and the coverage required under Sections 356g, 356g.5, 356g.5-1, 356q, 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30a, 356z.32, 356z.33, 356z.36, 356z.40, 356z.41, 356z.45, 356z.46, 356z.47, 356z.51, and 356z.53 of the Illinois Insurance Code. Additionally, any individual or group insurance accident policy or managed care plan that has been amended, delivered, issued, or renewed on or following January 1, 2024, should include coverage for medically necessary breast reduction surgery. Health Maintenance Organizations will be subject to provisions under Sections 133, 134, 136, 137, 139, 140, 141.1, 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2, 355.3, 355b, 356g.5-1, 356m, 356q, 356v, 356w, 356x, 356y, 356z.2, 356z.4, 356z.4a, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17, 356z.18, 356z.19, 356z.21, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30, 356z.30a, 356z.32, 356z.33, 356z.35, 356z.36, 356z.40, 356z.41, 356z.46, 356z.47, 356z.48, 356z.50, 356z.51, and 356z.53, 364, 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e, 370c, 370c.1, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, XXVI, and XXXIIB of the Illinois Insurance Code. Limited health service organizations shall be limited to the provisions of Sections 133, 134, 136, 137, 139, 140, 141.1, 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8, 155.04, 155.37, 355.2, 355.3, 355b, 356q, 356v, 356z.10, 356z.21, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30a, 356z.32, 356z.33, 356z.41, 356z.46, 356z.47, 356z.51, 356z.53, 368a, 368b, 368c, 368d, 368e, 370c, 370c.1, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code. Health services plan corporations and all those interested and/or dealing within them shall be subject the provisions of Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 355.3, 355b, 356g, 356g.1, 356g.5-1, 356q, 356r, 356t, 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.4a, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.18, 356z.19, 356z.21, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30, 356z.30a, 356z.32, 356z.33, 356z.40, 356z.41, 356z.46, 356z.47, 356z.51, 356z.53, 364.01, 367.2, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, and 412 and paragraphs (7) and (15) of Section 367, of the Illinois Insurance Code.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0731>)

State Employee Group Insurance Act of 1971 [5 ILCS 375/6.11]

PUBLIC ACT 102-0804, EFFECTIVE January 1, 2023

House Bill 5254

This Act amends the State Employees Group Insurance Act of 1971. It provides coverage for hormone therapy to treat menopause. It requires that a group or individual policy of accident and health insurance or a managed care plan that is amended, delivered, issued, or renewed on or after January 1, 2024, will provide coverage for medically necessary hormone therapy treatment to treat menopause induced by a hysterectomy. This Act makes the same changes to the State Employees Group Insurance Act of 1971, the Counties Code, the Illinois Municipal Code, the School Code, the Health Maintenance Organization Act,

the Limited Health Service Organization Act, the Voluntary Health Services Plans Act, and the Medical Assistance Article of the Illinois Public Aid Code.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0804.pdf>)

Illinois Insurance Code [215 ILCS 5/356z.53]

PUBLIC ACT 102-0930, EFFECTIVE January 1, 2023.

House Bill 4338

The Illinois Insurance Code is amended with the addition of the prenatal vitamins coverage section. This section provides that any group or individual policy of accident health insurance providing prescription drug coverage that is amended, delivered, issued, or renewed on or after January 1, 2024, shall provide coverage for prenatal vitamins when they are prescribed by a licensed doctor or advanced practice registered nurse under the Nurse Practice Act.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0930>)

Illinois Insurance Code [5 ILCS 375/6.11]

PUBLIC ACT 102-0816, EFFECTIVE January 1, 2023

House Bill 5585

This Act amends the Illinois Insurance Code. It provides coverage for home health services. It states that a group or individual policy of accident and health insurance or a managed care plan that is amended, delivered, issued, or renewed on or after January 1, 2024, will provide coverage for access to home health services for the duration medically necessary for care. It makes the same changes to the State Employees Group Insurance Act of 1971, the Counties Code, the Illinois Municipal Code, the School Code, the Health Maintenance Organization Act, the Limited Health Service Organization Act, the Voluntary Health Services Plans Act, and the Medical Assistance Article of the Illinois Public Aid Code.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0816.pdf>)

The Illinois Insurance Code [215 ILCS 5/424], [215 ILCS 5/513b1]; The Illinois Public Aid Code [305 ILCS 5/5-5.12], [305 ILCS 5/5-36]

PUBLIC ACT 102-0778, EFFECTIVE July 1, 2022.

House Bill 4595

This Public Act amends the Illinois Insurance Code. Commission of acts or practices in the following sections is prohibited and defined as unfair methods of competition and deceptive acts in the insurance business: Sections 134, 143.24c, 147, 148, 149, 151, 155.22, 155.22a, 155.42, 236, 237, 364, 469, and 513b1 of this Code. Regarding pharmacy benefit manager contracts, 340B drug discount program is defined as the program established under Section 340B of the federal Public Health Services Act, 42 U.S.C. 256b. a 340B entity is defined as a covered entity as described under 42 U.S.C. 256b(a)(4) authorized to participate in the 340B drug discount program. 340B pharmacy is defined as any pharmacy used to dispense 340B drugs for a covered entity, whether entity-owned or external. Third-party payer is defined as any entity that pays for prescription drugs on behalf of a patient other than a healthcare provider or sponsor of a plan subject to regulation under Medicare Part D, 42 U.S.C. 1395w-101 et. seq. The amendments also stipulate that unless required by law, a contract between a pharmacy benefit manager or third-party payer and 340B entity or 340B pharmacy shall not contain any provision that: (1) differentiates between

drugs purchased from the 340B drug discount program and other drugs when deciding reimbursement or reimbursement methods, or contains less favorable payment or reimbursement terms for 340B pharmacies; (2) imposes any fee, charge, or rate adjustment that is not imposed on similar non 340B entities or pharmacies; (3) imposes any fee, charge, or rate adjustment that exceeds those that are not imposed on similar non 340B entities or pharmacies; (4) prevents or inhibits one's ability to receive a covered prescription drug from a 340B entity or pharmacy through any legally allowed means; (5) excludes a 340B pharmacy or entity from a pharmacy network on any basis that takes into account whether the 340B entity or pharmacy takes part in the 340B drug discount program; (6) prevents a 340B entity or pharmacy from using a drug purchased through the 340B drug discount program; (7) any provision that discriminates against a 340B entity or pharmacy for its participation in a 340B drug discount program or through treating a 340B entity or pharmacy differently than a non-340B entity or pharmacy. Under this section, pharmacy benefit manager and third-party payer do not include those in these positions acting on behalf of a Medicaid program. A violation of this condition constitutes an unfair or deceptive act in the insurance business under Section 424. Any provision that violated subsection (f) of this section in a contract between a pharmacy benefit manager or third-party payer and 340B entity that is entered, renewed, or amended after July 1, 2022, is void and unenforceable. The Illinois Public Aid Code is amended under this Public Act with the addition of subsection (h-5) under pharmacy benefits. This subsection requires that unless required by law, a Medicaid managed care organization or pharmacy benefit manager administering or managing benefits on behalf of a Medicaid managed care organization shall not deny contracting with a 340B entity or pharmacy for refusing to accept less favorable payment terms or reimbursement methods compared to non-340B entities and shall not include a provision in a contract with a 340B entity or provision that: (1) imposes any fee, charge, or rate adjustment that is not imposed on similar non 340B entities or pharmacies; (2) imposes any fee, charge, or rate adjustment that exceeds those that are not imposed on similar non 340B entities or pharmacies; (3) prevents or inhibits one's ability to receive a covered prescription drug from a 340B entity or pharmacy through any legally allowed means; (4) excludes a 340B pharmacy or entity from a pharmacy network on any basis that takes into account whether the 340B entity or pharmacy takes part in the 340B drug discount program; (5) prevents a 340B entity or pharmacy from using a drug purchased through the 340B drug discount program so long as the recipient is a patient of the 340B drug discount program; (7) any provision that discriminates against a 340B entity or pharmacy for its participation in a 340B drug discount program or through treating a 340B entity or pharmacy differently than a non-340B entity or pharmacy. Any provision that violated subsection (f) of this section in a contract between a pharmacy benefit manager or Medicaid managed care organization and 340B entity that is entered, renewed, or amended after July 1, 2022, is void and unenforceable.

<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0778>)

See also: CONTROLLED SUBSTANCES

Illinois Insurance Code [215 ILCS 5/356z.3]

Health Maintenance Organization Act [215 ILCS 125/4.5-1]

Network Adequacy and Transparency Act [215 ILCS 124/10]

Voluntary Health Services Plans Act [215 ILCS 165/10]

PUBLIC ACT 102-0901, EFFECTIVE July 1, 2022

House Bill 4703

This Act amends the Illinois Insurance Code. It requires that health insurance issuers must ensure that cost-sharing requirements are applied the same when emergency services or covered ancillary services are provided out-of-network as if they were in network and that the insured shall not be liable or billed for anything beyond the cost-sharing amount. If the cost sharing for the same service furnished by a participating provider would have been a flat-dollar copayment, that amount shall be the cost-sharing amount unless the provider has billed a lesser total amount. Upon receipt of the bill, the health insurance issuer must provide the nonparticipating provider with a written explanation of benefits. Additionally, an arbitrator must not establish a rebuttable presumption that the qualifying payment amount should be the total amount owed to the provider by the combination of the issuer and the insured, beneficiary, or enrollee. Defines "qualifying payment amount" to have the meaning given to it 42 U.S.C. 200gg-111(a)(3)(E). There also must be a notice and consent process for: out-of-network coverage; billing for reasonable administrative fees; assignment of benefits to nonparticipating providers; and cost-sharing amounts and deductibles. This Act amends the Illinois Insurance Code; Health Maintenance Organization Act to make a change in provisions concerning disclosure of nonparticipating provider benefits. This Act amends the Network Adequacy and Transparency Act and provides that a beneficiary shall not be required to search for participating providers under certain circumstances if they receive care at a participating health care facility. This Act amends the Managed Care Reform and Patient Rights Act to state that prior approval by the plan must not be required for post-stabilization emergency services. Lastly, the Act amends that Health Maintenance Organization Act and the Voluntary Health Services Plans Act to provide that health maintenance organizations and voluntary health services plans are subject to provisions of the Illinois Insurance Code concerning billing and cost sharing.

(<https://www.ilga.gov/legislation/publicacts/102/102-0901.htm>)

The Managed Care Reform and Patient Rights Act

PUBLIC ACT 102-0704, EFFECTIVE April 22, 2022.

House Bill 4433

This Public Act amends The Managed Care Reform and Patient's Rights Act. The amendment provides that under section (d), if under federal law, application of the requirement could cause health savings account ineligibility under Section 223 of the Internal Revenue Code, the requirement must apply to health savings account-qualified high deductible of a plan after the minimum deductible has been paid, except for preventive care services or goods, in which case the requirement is applicable regardless of the minimum deductible's fulfillment.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0704>)

Illinois Insurance Code [215 ILCS 5/368b]

PUBLIC ACT 102-0957, EFFECTIVE January 1, 2021

House Bill 4941

The Act amends the Illinois Insurance Code. It defines a "non-routine change" as any proposed change to the fee schedule except a change that is otherwise required by law, regulation, or an applicable regulatory authority or that is required as a result of changes in fee schedules, reimbursement methodology, or payment policies established by a

government agency or by the American Medical Association's current procedural terminology codes, reporting guidelines, and conventions, or a change that is expressly provided for under the terms of the contract by the inclusion of or reference to a specific fee or fee schedule, reimbursement methodology, or payment policy indexing mechanism. Beginning January 1, 2023, with respect to non-routine changes to the fee schedule, an insurer, health maintenance organization, independent practice association, or physician hospital organization must provide all impacted contracted health care professionals or health care providers with notice of the change at least 60 days before the effective date of the change. The right to advance notice may not be waived and that the information directing the health care professional or health care provider to the information provided by newsletter, website listing, or other reasonable method shall be provided by email or, if requested, by mail.

<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0957.pdf>

Birth Center Licensing Act [210 ILCS 170/5]

PUBLIC ACT 102-0964, EFFECTIVE May 27, 2022

House Bill 5013

<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0964>

See also: HEALTHCARE WORKERS

Illinois Insurance Code [215 ILCS 5/356u.5 new]

PUBLIC ACT 102-0979, EFFECTIVE January 1, 2023

House Bill 5334

This Act amends the Illinois Insurance Code. It provides that, if recommended by a health care provider in accordance with the United States Preventive Services Task Force's recommendations for testing, a group or individual policy of accident and health insurance that is amended, delivered, issued, or renewed on or after January 1, 2024, must provide coverage for the cost of BRCA1 and BRCA2 genetic testing to detect an increased risk for breast and ovarian cancer.

<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0979.pdf>

Illinois Insurance Code [215 ILCS 5/356u]

PUBLIC ACT 102-1073, EFFECTIVE January 1, 2023

House Bill 5318

This Act amends the Illinois Insurance Code. It defines “prostate cancer screening” as medically viable methods for the detection and diagnosis of prostate cancer, including a digital rectal exam and the prostate-specific antigen test and associated laboratory work. “Prostate cancer screening” also includes medically necessary subsequent follow-up testing as directed by a health care provider, including, but not limited to: (i) urinary analysis (ii) serum biomarkers; and (iii) medical imaging, including, but not limited to, magnetic resonance imaging. It provides male insured with coverage for an annual prostate cancer screening. A group policy of accident and health insurance that provides coverage for hospital or medical treatment or services for illness on an expense-incurred basis and is amended, delivered, issued, or renewed after January 1, 2024, will provide coverage, without imposing a deductible, coinsurance, copayment, or any other cost-sharing requirement, for specified methods of cancer testing. However, this does not apply to

prostate cancer screenings to the extent such coverage would disqualify a high-deductible health plan from eligibility for a health savings account under the Internal Revenue Code. (<https://www.ilga.gov/legislation/publicacts/102/PDF/102-1073.pdf>)

State Employees Group Insurance Act of 1971 [5 ILCS 375/6.11]

PUBLIC ACT 102-1093, EFFECTIVE January 1, 2023

Senate Bill 2969

This Act amends the Illinois Insurance Code. It provides that a group or individual policy of accident and health insurance or managed care plan that is amended, delivered, issued, or renewed on or after January 1, 2024, will provide coverage for continuous glucose monitors that is medically necessary to individuals who are diagnosed with type 1 or type 2 diabetes and require insulin for the management of their diabetes. This Act makes the same changes to State Employees Group Insurance Act of 1971, the Counties Code, the Illinois Municipal Code, the School Code, the Health Maintenance Organization Act, the Limited Health Service Organization Act, the Voluntary Health Services Plans Act, and the Medical Assistance Article of the Illinois Public Aid Code.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-1093.pdf>)

The Illinois Insurance Code [215 ILCS 5/356z.23]; [305 ILCS 5/5-5]

PUBLIC ACT 102-1038, EFFECTIVE ?.

House Bill 4408

This Public Act amends the Illinois Insurance Code and Illinois Public Aid Code stating coverage for naloxone hydrochloride should not require a co-pay, unless it would prevent eligibility to a health savings account.

(<https://www.ilga.gov/legislation/publicacts/102/102-1038.htm>)

ADOPTED RULES

Illinois Insurance Code [215 ILCS 5]; Health Maintenance Organization Act [215 ILCS 125/4-13] Construction and Filing of Accident and Health Insurance Policy Forms (50 Ill. Adm. Code 2001) 45 Ill. Reg. 11816, EFFECTIVE September 17, 2021

This rulemaking amends Section 2001.9(j) to incorporate the standards provided in 215 ILCS 5/356z.17(e)(iii) which caps the allowable incentive for a wellness program at 20% of the entire cost of employee-only or family coverage. This will make the Department of insurance's rule consistent with the current governing statute as well as any future version if the General Assembly amends it to provide a different cap. In addition, the Department has revised Section 2001.1 to expressly apply Section 2001.3 to short-term, limited-duration health insurance coverage, and to apply Section 2001.13 to both short-term, limited-duration health insurance coverage and excepted benefit policies. This requires all excepted benefit policies and short-term, limited-duration health insurance coverage to adhere to the Department's corporate name requirements and to omit discretionary clauses.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_0.pdf)

Managed Care Reform and Patient Rights Act [215 ILCS 134]

Illinois Insurance Code [215 ILCS 5/401]

Managed Care Reform & Patient Rights (50 Ill. Adm. Code 4520)**46 Ill. Reg. 9881, EFFECTIVE May 31, 2022**

This rulemaking made minor edits to Section 4520.130(a) and (c) and adds a new 4520.130(b) which states that the application for registration shall include, but not be limited to: applicant's identifying and contact information; applicant's agent for service of process in Illinois; applicant's accreditation status; signed affirmation by an officer or director; and for each utilization review program: contact information and business hours; organization and governing structure; number of reviews in Illinois for the current and previous years; description of the grievance process; written policies and procedures for protection of confidential information; and biographical information for officers and directors. The Department will accept the biographical affidavit, and any supplement to that affidavit, that is obtained from the website of the National Association of Insurance Commissioners (NAIC) or the Department."

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_24.pdf)

Illinois Insurance Code - Sections 457, 454, and 401 [215 ILCS 5]**WORKERS' COMPENSATION RATE AND MANUAL FILING (50 Ill. Adm. Code 2902)****46 Ill. Reg. 6583, EFFECTIVE April 11, 2022**

This rulemaking revised the Illinois Insurance Code to make sure it complies with changes to 215 ILCS 5/457 that became effective on February 1, 2019. The specific updates included changes to Sections 10-70 stating that filings now require prior approval. For manual filings, a company that adopts a rule or rule change filed by the rating organization without modification must notify the Illinois Department of Insurance (Department) 30 days prior to the effective date. If there are modifications or the company submits a direct filing on its own behalf, it must file (1) manual exception pages, (2) manual rule number (must be the same as the rule number being replaced), and (3) the effective date of use. Companies that are under the same ownership or general management may submit multiple company filings under the same SERFF tracking number. The exemption from the filings section was repealed.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_17.pdf)

NOTICE OF CORRECTION**Illinois Insurance Code [215 ILCS 5]****PHARMACY BENEFIT MANAGERS (50 Ill. Adm. Code 3145)****45 Ill. Reg. 8517, EFFECTIVE May 29, 2020**

This amendment provides a correction to the Illinois Department of Insurance sections regarding Pharmacy Benefit Managers. The correction provides that the registration and renewal fee be paid biennially on or before its expiration date, if the registration remains active.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_28.pdf)

See also: PHARMACY

INVOLUNTARY ADMISSION

CASE LAW

IN RE JULIE M, N.E. 3d, (2021), S. Ct., 125768

<https://law.justia.com/cases/illinois/supreme-court/2021/125768.html>

See also: MENTAL HEALTH

IN RE MARCUS S., N.E. 3d, 2022 Ill. App (3d) 170014

Respondent-Appellant, Marcus S, was subject to involuntary admittance to a mental health facility as well as involuntary medical treatment through the provision of psychotropic drugs. Respondent-Appellant appealed these orders citing that the State did not prove various requisite factors under the Mental Health and Developmental Disabilities Code's (Code) guidance for involuntary commitment and medication statuses. He also alleged the State's failure to meet obligatory standards of the Code. The court reversed both orders in favor of Respondent-Appellant. Regarding the involuntary commitment order, the court reasoned that the State's failure to add the family contacts of the Respondent-Appellant to their petition, their failure to provide information regarding steps taken to contact and locate the family members, and their failure to file a predisposition report or any thorough treatment plan/schedule, ultimately rendering the order faulty. The court also reasoned that the failure of the commitment order in turn invalidated the medication order, as treatment was contingent on the care prescribed by the commitment order. However, the court further dissected the medication order due to its blatant errors. The court explained that the State failed to comply with several requirements, such as proving that the Respondent-Appellant lacked the capacity to make an informed decision regarding his proposed treatment (no written notice), other alternative plans had been explored and deemed inadequate, and that the benefits of the chosen treatment outweighed its potential harms. Finally, the court noted that Respondent-Appellant's counsel provided him ineffective assistance by failing to meet the established standards of the Code, thus depriving him of a fair trial and his due process rights.

<https://law.justia.com/cases/illinois/court-of-appeals-third-appellate-district/2022/3-16-0710.html>

See also: MENTAL HEALTH

IN RE MARCUS S., N.E. 3d, 2022 Ill. App (3d) 160710

Respondent-Appellant, Marcus S, was subject to involuntary admittance to a mental health facility as well as involuntary medical treatment through the provision of psychotropic drugs. Respondent-Appellant appealed these orders citing that the orders were untimely, the State did not prove various requisite factors under the Mental Health and Developmental Disabilities Code's (Code) guidance for involuntary commitment and medication statuses, and that the counsel he was provided was ineffective counsel. He also alleged the State's failure to meet obligatory standards of the Code. The court reversed both orders in favor of Respondent-Appellant. Regarding the involuntary commitment order, the court reasoned that the State's failure to add the family contacts of the Respondent-Appellant to their petition, their failure to provide information regarding steps taken to contact and locate the family members, and their failure to file a predisposition report or any thorough treatment plan/schedule, ultimately rendered the order faulty. The

court also reasoned that the failure of the commitment order in turn invalidated the medication order, as treatment was contingent on the care prescribed by the commitment order. However, the court further dissected the medication order due to its blatant errors. The court explained that the State failed to comply with several requirements, such as proving that the Respondent-Appellant lacked the capacity to make an informed decision regarding his proposed treatment, especially considering that he testified cogently in court and seemed capable of making such decisions. Additionally, the State was unable to prove that the benefits of the chosen treatment outweighed its potential harms, as they failed to present evidence of the harms and benefits of both proposed drugs, each of which Respondent-Appellant had suffered severe side-effects of previously. Finally, the court agreed with Respondent-Appellant that the counsel provided to him was ineffective and led to him being deprived of a fair trial, as their several errors were prejudicial and failed to follow the requisite standards under the Code.

<https://law.justia.com/cases/illinois/court-of-appeals-third-appellate-district/2022/3-17-0014.html>

See also: **MENTAL HEALTH**

LGBTQ

PUBLIC ACTS

The Illinois Act on the Aging [20 ILCS 105/3] [20 ILCS 105/3.12 new] [20 ILCS 105.3.13 new] [20 ILCS 105/7.01] [20 ILCS 105/7.09] [20 ILCS 105/8.10 new] [20 ILCS 105/8.11 new] [20 ILCS 105/8.12 new]

PUBLIC ACT 102-0885, EFFECTIVE May 16, 2022

Senate Bill 3490

This Public Act amends the Illinois Act on the Aging. The Public Act creates the Illinois Commission on LGBTQ Aging (“Commission”). “LGBTQ older adults” is defined as adults who are 55 and older and are lesbian, gay, bisexual, transgender, intersex, gender non-conforming, Two-Spirit, non-binary, same-gender-loving, queer, or any other diverse sexual orientation or gender identity. The Public Act also added requirements for the Council’s citizen members. At least of the members must represent each of the following underrepresented communities: (1) lesbian, gay, bisexual, or queer, (2) transgender or gender-expansive individual, (3) person living with HIV, (4) African American or Black, (5) Hispanic or Latino, (6) Asian-American or Pacific Islander, and (7) ethnically diverse. The Public Act also added the requirement that the Council review and support the implementation of the Commission’s recommendations identified in their Second Report which will be issued by March 30, 2025. The Public Act also added requirements for the Commission: (1) examine impact of state and local, laws, policies, and regulations on LGBTQ older adults and make recommendations, (2) examine best practices for improving access, decreasing isolation, preventing abuse and exploitation, promote independence, improve caregiving, eliminate disparities, and improve quality of life, (3) examine impact of race, ethnicity, sex assigned at birth, socioeconomic status, disability, sexual orientation, and gender identity on access to services for LGBTQ older adults and make recommendations, (4) examine needs of LGBTQ older adults living with HIV/AIDS and make recommendations, (5) examine strategies to increase provider awareness of LGBTQ

older adults community regarding competence and access to treatment, (6) examine feasibility of creating statewide training material to improve provider competency on delivering culturally appropriate services to LGBTQ older adults, (7) assess funding and programs needed to enhance services, (8) examine if policies and practices (or lack thereof) make more LGBTQ older adults be admitted to institutional care and if there are other cost-saving options, (9) examine outreach to decrease apprehension among LGBTQ older adults about providers, (10) evaluate implementation of Public Act 101-325, (11) evaluate implementation of Public Act 102-543, look at statewide strategies to collect information on sexual orientation and gender identity data and how this collection impacts LGBTQ older adults, and conduct a statewide survey about the number of LGBTQ older adults in the state. Within 60 days after the effective date of the Public Act, the Governor must appoint enumerated members to the Commission. Members will serve until the section creating the Commission is repealed (3 years after the effective date) or their successor is appointed. The Public Act provides tasks for the Commission to complete: (1) hold at least one public meeting per quarter, submit the First Report to the Illinois General Assembly by March 30, 2023, and submit a Second Report by March 30, 2025. The Public Act also creates an LGBTQ older adult advocate who will be designated by the Commission's director. The advocate will execute the requirements of the Public Act and with specific advocacy powers. Additionally, all providers of services who contract with or receive funding from the Department will complete a curriculum and training program on preventing and eliminating discrimination based on sexual orientation, gender identity, and gender expression and on providing affirming care and access to services. The training must be completed by all employees of each provider and the employees of the provider's subgrantees and vendors. At a minimum, the training must address (1) definition of common terms and examples related to sexual orientation, gender identity, and gender expression, (2) methods of communicating with or about LGBTQ older adults and older adults living with HIV, (3) health and social challenges faced by LGBTQ older and adults and older adults living with HIV, (4) importance of professionalism by providers, (5) methods to create a safe and affirming environment in addition to penalties for not abiding by those standards, (6) legal issues relating to LGBTQ older adults and older adults living with HIV focusing on civil rights and marriage laws. The training must be implemented by the Department within 12 months after May 16, 2022.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0885>)

MILITARY

PUBLIC ACTS

Vital Records Act [410 ILCS 535/25]

PUBLIC ACT 102-0739, EFFECTIVE January 1, 2023

Senate Bill 1411

This Act amends the Vital Records Act. It provides that upon receipt of a written request from any applicant entitled to a search, the local registrar or county clerk must search available files for the death certificate of an active duty or retired service member of the United States military. If found, they must provide the applicant with a certified copy of the death certificate at no cost to the applicant. If the requested death certificate is not

found, the local registrar or county clerk must provide the applicant with certification attesting to that fact at no cost if requested by the applicant. The local registrar or county clerk may not charge more than \$6 for any subsequent copy of the service member's death certificate or certification attesting that the death certificate was not found.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0739.pdf>)

MEDICAL MALPRACTICE

CASE LAW

BAILEY V. MERCY HOSPITAL & MEDICAL CENTER

(<https://law.justia.com/cases/illinois/supreme-court/2021/126748.html>)

See also: CIVIL PROCEDURE

DELEGATTO V. ADVOCATE HEALTH AND HOSPITALS, 2021 IL App (1st) 200484

This appeal arose from a wrongful death action premised on medical negligence filed by Plaintiff as the special administrator for his wife. The defendant sought summary judgment as to the claims of vicarious liability that the physicians were agents of the defendant. The circuit court granted the motion and the plaintiff appealed, arguing that the circuit court erred in granting the motion for summary judgment because his wife had no notice that the physician was not an agent of the defendant. However, the court affirmed the judgement of the circuit court after finding that a consent form completed by plaintiff clearly and unambiguously informed the plaintiff that “all physicians” were independent contractors and not employees of the defendant.

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/d5d456d4-4c9f-4462-b63d-00587b1fc0e6/Delegatto%20v.%20Advocate%20Health%20&%20Hospitals,%202021IL%20App%20\(1st\)%20200484.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/d5d456d4-4c9f-4462-b63d-00587b1fc0e6/Delegatto%20v.%20Advocate%20Health%20&%20Hospitals,%202021IL%20App%20(1st)%20200484.pdf))

JOHNSON V. ARMSTRONG, 2022 IL 127942

(<https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/ed0097c7-f60e-4002-b61d-071b27c34b54/Johnson%20v.%20Armstrong,%202022%20IL%20127942.pdf>)

See also: MEDICAL MALPRACTICE

MALLOY V. DU PAGE GYNECOLOGY, S.C., 2021 IL App (1st) 192102

Plaintiff sued Defendant-Du Page Gynecology and two individual doctors for medical malpractice after his wife's death. The deceased was treated at the gynecology center by the two Defendant-Doctors for many years, and Plaintiff alleges they committed multiple instances of negligent treatment. The deceased had a history of cancer, but Defendant-Doctors prescribed her Estrace cream. The deceased soon developed complications in the areas where she was applying the cream, but Defendant-Doctors increased the amount of Estrace she was using in addition to not ordering imaging of the area. Eventually the deceased was diagnosed with and died of cancer. Plaintiff alleges Defendant-Doctors were negligent in not ordering advanced screening tests and imaging in addition to negligently prescribing Estrace given the deceased's symptoms and history. Originally, Allergan USA,

Inc. (the manufacturer of Estrace) was a defendant in the case. However, Allergan was dismissed as a defendant. After Allergan was dismissed, the remaining defendants filed a motion to transfer the venue from Cook County to Du Page County. Defendants argued that the remaining parties resided in Du Page County and the deceased's treatment occurred there. However, Plaintiff challenged this and said that relevant evidence was in Cook County. The trial court found that the factors did not substantially favor transfer and so the venue was not moved and Defendants appealed. First, Defendants claimed section 2-104 of the Code of Civil Procedure (735 ILCS 5/2-104(b) (West 2018)) applied which states that "if the defendant whose residence venue depends is dismissed upon motion of plaintiff, a remaining defendant may promptly move for transfer as though the dismissed defendant had not been a party." The court quickly rejected this argument because Allergan was not dismissed due to Plaintiff's motion and so the statute does not apply. Secondly, Defendants argued for a change of venue due to *forum non conveniens*. The court evaluated the private interest factors and public interest factors. The private interest factors include (1) convenience of parties, (2) relative ease of access to sources of testimonial, documentary, and real evidence, and (3) all other practical problems that make the trial of a case easy, expeditious, and inexpensive. The public interest factors include (1) interest in deciding controversies locally, (2) unfairness of imposing trial expenses and burden of jury duty on residents of a forum that has little connection to the litigation, and (3) administrative difficulties presented by adding litigation to already congested docket. After weighing the factors, the court determined that in a case where the product that allegedly caused the injury was distributed throughout both venues, where Plaintiff chose the original forum, the two counties are right next to each other, there is a minimal difference in costs, nonparty witnesses would not be inconvenienced, both law firms have offices in both venues, the Internet and computing technology makes access to evidence easier, and resolution would be faster in the original venue, the trial court did not abuse its discretion in determining that a transfer of venue to Du Page County was not required. Therefore, the trial court's order was affirmed.

(<https://law.justia.com/cases/illinois/court-of-appeals-first-appellate-district/2021/1-19-2102.html>)

See also: **FORUM NON CONVENIENS**

MEDICAL RECORDS AND INFORMATION

CASE LAW

DEAN V. WEXFORD HEALTH SOURCES, INC., 18 F. 4th 214 No. 20-3058 & 20-3139 (7th Cir. 2021)

The court reversed the lower court's direct judgement but did not upset the jury's findings that the defendants were negligent. The plaintiff brought action against the defendants alleging negligence and deliberate indifference to his serious medical needs in violation of the Eighth Amendment. The plaintiff blamed the defendants for delays in the diagnosis and treatment of his kidney cancer while incarcerated in central Illinois. The case went to trial and the jury sided with the plaintiff, awarding \$10 million in punitive damages. The defendants appealed, challenging the jury's verdicts on the Eighth Amendment claims. The

court found that the plaintiff did not produce enough evidence at trial to hold any of the defendants liable for violating his Eighth Amendment rights. The Plaintiff's claim hinged on the *Lippert* reports — two expert reports from another case that critiqued the medical care, and process for medical care, that Illinois provided, using the defendant, to its prisoners. The *Lippert* reports are hearsay, but the district court allowed the plaintiff to use them for a non-hearsay purpose: to prove that the defendants had prior notice of the experts' negative assessments of collegial review. However, the second *Lippert* report postdated all events relevant to this case and thus could not have given the defendants prior notice of anything. Additionally, the first report alone was insufficient to hold the defendants liable. With the Eighth Amendment claims off the table, punitive damages were no longer available. Therefore, the court vacated the judgement on the negligence-based claims and remanded for a new trial on the claims limited to the issue of damages.

(<https://cases.justia.com/federal/appellate-courts/ca7/20-3058/20-3058-2021-11-10.pdf?ts=1636578019>)

ROBBINS V. MED-1 SOLUTIONS LLC, 13 F. 4th 652 No. 20-1343 (7th Cir. 2021)

Plaintiff defaulted on a small debt to an Indiana hospital system for services provided to her minor children. The hospital hired the defendant to collect the debt. After a small-claims action was filed, the plaintiff paid the debt, but refused to pay attorney fees as required by the agreement she signed when the care was provided. Plaintiff filed suit against defendant in the Southern District of Indiana seeking damages under the Fair Debt Collection Practices Act (FDCPA) alleging that the defendant violated the Act by attempting to collect fees that were not contractually owed. A magistrate judge stayed the case to await the outcome of the state proceedings, but the state-court sat dormant and the Superior Court eventually dismissed it for failure to prosecute. The plaintiff then returned to federal court and revived the FDCPA case, and the parties filed cross-motions for summary judgment. Plaintiff raised *res judicata*, arguing that the state court's dismissal order precluded the defendant from claiming that the contract required her to pay fees. The magistrate judge rejected these arguments and entered judgment for the defendant. The court affirmed the judgement for defendant and found that the Superior Court's dismissal order did not have preclusive effect. The court stated that claim preclusion applies defensively, offensive claim preclusion is nonexistent, and that the defendant did not have strong incentive to prosecute the dispute over attorney's fees. Additionally, the plaintiff's contract with the hospital system required her to pay all collection costs, including attorney's fees, and the defendant did not violate the FDCPA by attempting to collect fees in the state-court proceedings.

(<https://cases.justia.com/federal/appellate-courts/ca7/20-1343/20-1343-2021-09-14.pdf?ts=1631653216>)

SCHUTTE V. CIOX HEALTH LLC, 28 F.4th 850 No. 22-1087 (7th Cir. 2022).

This case was an interlocutory appeal under the Class Action Fairness Act (CAFA) from a district court's denial of a motion to remand a putative class action to state court. The court accepted the interlocutory appeal and affirmed the district court's order denying remand. The plaintiff was injured in a car accident and after retaining a law firm to seek compensation, she authorized the firm to obtain her health care records. The defendant produced electronic copies of the health records but charged the plaintiff and her lawyers

“Per Page Copy (Paper)” and an “Electronic Data Archive Fee.” Alleging that she should not have been charged fees for electronic copies, the plaintiff filed a putative class action against the defendants in Wisconsin state court. The defendant removed the action to federal court. The notice of removal asserted that all three of CAFA’s jurisdictional requirements were satisfied: (1) Plaintiff’s proposed class had at least 100 members; (2) there was at least minimal diversity of citizenship between plaintiff and the defendants; and (3) based on the complaint’s allegations, the amount in controversy exceeds \$5 million. The plaintiff requested remand of the case to state court for two reasons: 1) the defendants failed to provide a good faith estimate that the amount in controversy exceeds \$5 million; and 2) the plaintiff asserted that CAFA’s local controversy exception required the district court to decline jurisdiction. The district court rejected both arguments, finding that the defendants had put forth a “plausible good faith estimate” that the amount in controversy exceeded \$5 million and found that the local controversy exception did not apply because the factual allegations in a recent Montana class action against the defendant were “identical” to the plaintiffs. The plaintiff then petitioned for permission to appeal under 28 U.S.C. § 1453(c), which allows interlocutory review of most orders granting or denying remand in class actions. The court granted the petition and affirmed the denial of remand. The court found that potential recovery exceeded the \$5 million requirement for amount in controversy, supporting jurisdiction under CAFA, and an earlier case brought against provider’s agent involved the same or similar factual allegations as instant action, precluding application of “mandatory local controversy” exception to jurisdiction under CAFA.

(<https://cases.justia.com/federal/appellate-courts/ca7/22-1087/22-1087-2022-03-16.pdf?ts=1647446422>)

PUBLIC ACTS

The Vital Records Act [410 ILCS 535/1] [410 ILCS 535/18]

PUBLIC ACT 102-0844, EFFECTIVE January 1, 2023

Senate Bill 3498

This Public Act amends the Vital Records Act. The Public Act added physician assistants to the definition of “certifying health care professional.” It also defined “physician assistant” as a physician assistant who practices according to a written collaborative agreement and this practice includes completing death certificates. It also added physician assistants to the list of health care professionals who can complete a death certificate in the absence of a certifying health care professional who treated the decedent’s condition prior to their death or with that professional’s permission.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0844>)

See also: HEALTHCARE WORKERS

The Department of Human Services Act [20 ILCS 1305/1-70 rep.]

PUBLIC ACT 102-0877, EFFECTIVE January 1, 2023

Senate Bill 4001

This Public Act amends the Department of Human Services Act by repealing Section 1-70, which required the Department to collect and publicly report statistical data on the

racial and ethnic demographics of program participants for each program administered by the Department.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0877>)

ADOPTED RULES

Illinois Controlled Substances Act [720 ILCS 570/316, 317, 318, 319, 320 and 321]

ELECTRONIC PRESCRIPTION MONITORING PROGRAM (77 Ill. Adm. Code 2080)

45 Ill. Reg. 8351, EFFECTIVE June 24, 2021

This amendment impacts the Illinois Controlled Substances Act, with the purpose of integrating all Electronic Health Record Systems in Illinois with the Prescription Monitoring Program (PMP) through a secure connection. The amendments include new definitions as part of the Act. A connecting entity or entity is defined as the health system, hospital, medical office, clinic, or practice that maintains the Electronic Health Record system or employs the professional making the PMP query. Electronic Integration is defined as the process by which PMP data is directly accessible within the EHR system. Health IT Module means any service, component, or combination thereof that can meet the requirements of at least one certification criterion adopted under the Office of the National Coordinator for Health Information Technology. One-to-One Secure Link or One-to-One Connection is defined as a provider and the PMP through an EHR or a pharmacy management system. PMPnow is defined as the automated, one-to-one connection service that allows a PMP patient profile request to be generated directly within a Requester's EHR or pharmacy/dental management system. Provider is defined as the prescriber or dispenser acting in direct care of the patient. Requestor is defined as the prescriber, dispenser, or registered designee that is initiating a patient query of PMP data. A vendor is defined as the company providing EHR or Health IT Module services to its connecting entity customers. Regarding EHR Integration with the PMP, the amendments stipulate that a one-to-one secure link between EHR and PMPnow must exist to allow information to travel to the Requester directly. More specific requirements and provisions are that connecting entities keep both a physical and electronic record of the information and security failures and misuse must be addressed as HIPAA violations. Further, a list of served providers and locations must be given to the PMP semi-annually and should include various demographic information. Upon request, an audit of the user that performs a search and the details of that search must be provided by the entity. The amendments also provide that integration takes place through either the process of an email to request integration; that the entity determines how feasible connectivity is through the utilization of one of several connectivity options; and that PMP activates the production environment for the entity's use in exchanging transactions. Data provided from the PMP to the EHR requester shall not be unencrypted, analyzed, data mined, deconstructed, or used for collection of other data. Electronic messaging regarding qualified searches may be documented and data sets should not be distributed or accessed without permission. A fine may be imposed by the Department on any EHR vendor or facility that fails to comply with statutory requirements of the section. Injury and accident notifications should be provided by medical facilities to PMP to update patient information. An EHR system may designate a Health IT Module to provide a connection so long as certain requirements are met. Pharmacy management systems are to be integrated using PMPnow with a secure connection from the pharmacy

management system, with the same requirements, data uses, punishments for breach, and allocation to Health IT Module as those under the EHR and PMPnow link.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_28.pdf)

See also: CONTROLLED SUBSTANCES

Immunization Data Registry Act [410 ILCS 527]

IMMUNIZATION REGISTRY CODE (77 Ill. Adm. Code 689)

46 Ill. Reg. 2680, EFFECTIVE January 28, 2022

This amendment relates to the Immunization Registry Code and impacts the Immunization Data Registry Act. Additions and deletions are made to the definitions of relevant terminology within the act. The references and incorporated materials are also amended to reflect more Illinois statutes. The Registry is available to those who are authorized users and the Registry may be used as a means of collecting and tracking vaccination data. Data in the Registry should be immunization history, including COVID-19 immunizations administered in Illinois, and patient demographics. Confidentiality and access of information is amended to include health insurance plans not under contract with the Department of Healthcare and Family Services to coordinate the provision of medical care to enrollees of the health insurance plan; and Department employees and authorized agents or designees of the Department, including, but not limited to, Registry staff and Department vendors. It also includes health care providers, academic institutions, and childcare centers. Anyone without access to the Registry is unauthorized to view the information. The Opt-Out option is amended to provide that those who have opted out and wish to opt back in must complete a form. The use of the Registry for Public Health Emergencies, such as epidemics or vaccine-preventable outbreaks, may allow the designation of other persons to view and access information in the Registry. Lastly, the Department may create a digital platform through which the immunization information may be accessed by authorized individuals who accordingly register and match in the Registry. The Department will share identifiable immunization data with vendors and software hosts as may be needed for the development, support, and maintenance of any digital platform. Only the minimum information necessary for the intended purpose will be disclosed.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_7.pdf)

See also: COVID-19

Illinois Health and Hazardous Substances Registry Act [410 ILCS 525], Civil Administrative Code of Illinois [20 ILCS 2310/2310- 365], the Developmental Disability Prevention Act [410 ILCS 250], and the Lead Poisoning Prevention Act [410 ILCS 45]

HEALTH AND HAZARDOUS SUBSTANCES REGISTRY CODE (77 Ill. Adm. Code 840)

46 Ill. Reg. 2971, EFFECTIVE February 1, 2022

This amendment relates to the Health and Hazardous Substances Registry Code and impacts the Illinois Health and Hazardous Substances Registry Act, the Civil Administrative Code of Illinois, the Developmental Disability Prevention Act, and the Lead Poisoning Prevention Act. The amendments provide additions and deletions to the definitions of relevant terminology within the Act. Further, regarding availability of Registry information, The Department will release Occupational Disease Registry (ODR)

data for fatal and non-fatal occupational injuries in aggregate form, under approval by the United States Department of Labor's Bureau of Labor Statistics (BLS). Data to a patient or employer are confidential and shall not be disclosed unless requested by BLS. ODR will release an annual report that will include the aggregate data collected for that year on the Department's website. The section regarding adverse pregnancy outcomes is amended to include substance use during pregnancy and deletes diagnoses of certain conditions. Further, the section regarding case surveillance of young children deletes the subsection about provision of data by hospitals. Entities are specifically required to report where a newborn infant has positive toxicology for cannabis and its metabolites.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_8.pdf)

EMERGENCY RULES

Immunization Data Registry Act [410 ILCS 527]

IMMUNIZATION REGISTRY CODE (77 Ill. Adm. Code 689)

45 Ill. Reg. 9607, EFFECTIVE July 16, 2021

This emergency amendment modifies the Immunization Registry Code and impacts the Immunization Data Registry Act and will expire after 150 days of the effective date, upon repeal, or upon adoption of permanent rulemaking. It was created in response to the COVID-19 pandemic. This amendment updates and adds definitions for the terms authorized user, consent, department, immunization, long term care facility, Registry, and also adds more Illinois statutes to be referenced, including Assisted Living and Shared Housing Act, Community Living Facilities Act, Specialized Mental Health Rehabilitation Act of 2013, and MC/DD Act. Under Registry development and purposes, the amendments stipulate that the Registry is available to those who have completed a user agreement and have been approved by the Department. Further, one of the purposes for which the data may be used is changed accordingly: to accomplish other public health purposes as determined by the Department, including, but not limited to, use of the Registry as a vaccine management system, vaccine tracking system or a vaccine verification system, and the provision of immunization-related announcements, notices and guidelines to Registry users and participants. Additionally, regarding patient immunization and demographic data, it must be reported through providers participating in the Registry. All active providers who receive publicly funded vaccines shall use the Registry for submission of their immunization records to the Department. Providers shall report all COVID-19 immunizations administered in Illinois to the Registry. Reporting of all other immunizations by providers is voluntary, except as provided in 689.40(c) for publicly funded vaccine providers. Under individual user agreements, the amendment stipulates that any authorized user may access a patient's immunization information without having to sign a user agreement by requesting the information from the provider or the Department, or through any authorized public portal or mobile application. Certain entities that may access patient information if they are authorized through the Department include, but are not limited to, health insurance plans not under contract with DCFS; the Illinois Department of the Lottery and the Office of the Illinois State Treasurer or their designees in determining immunization status; department employees and authorized agents or designees of the Department. For the coordination of medical care and verification of

immunization status, health care providers, schools, childcare centers, colleges, universities, and health plans are provided access to the Registry. The Department can share identifiable immunization data with the Illinois Department of the Lottery and the Office of the Illinois State Treasurer or their designees in relation to any statewide immunization-based lottery game, raffle, or incentive. The use of Registry for public health emergency purposes is amended to provide that access will be granted to the Department of Governor or its designees during a public health emergency and may be accessed for vaccination tracking and management during an epidemic. The Department may develop a digital platform to allow individuals, parents, and legal guardians to access immunization records. Users of the digital platform shall be 18 or older and registered with the portal. The information provided for registration shall match in the Registry before any immunization information will be released. If a record match is found, the individual seeking access will submit to a multi-factor verification process before information is shared. If the information provided is not an exact match with information in the Registry, platform access will be declined. The Department will share minimum required immunization data with vendors and software hosts as needed for the development, support, and maintenance of any digital platform. The Department will share the information in a manner that protects the confidentiality of the protected health information.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_1.pdf)

See also: COVID-19

Immunization Data Registry Act [410 ILCS 527]

IMMUNIZATION REGISTRY CODE (77 Ill. Adm. Code 689)

45 Ill. Reg. 10874, EFFECTIVE August 19, 2021

This emergency amendment to the Immunization Registry Code impacts the Immunization Data Registry Act, and will expire 150 days from the effective date, upon repeal, or upon adoption of permanent rulemaking. This rule amends Section 689.70 regarding Confidentiality and Access of Information by removing the Illinois Department of the Lottery and the Office of the Illinois State Treasurer or their designees as entities to whom the Department may release information to, as well as state agencies and partners. The Department may only share demographic information such as the individual's name, address, e-mail address, telephone numbers, immunization status, and the individual's public disclosure preference as set out in the Authorization Form to the Illinois Department of the Lottery and the Office of the Illinois State Treasurer. Disclosure of the winner's information may only occur on the basis of the winner's preference.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_6.pdf)

Immunization Data Registry Act [410 ILCS 527]

IMMUNIZATION REGISTRY CODE (77 Ill. Adm. Code 689)

45 Ill. Reg. 16382, EFFECTIVE December 13, 2021

This emergency amendment relates to the Immunization Registry Code and impacts the Immunization Data Registry Act. The amendment will expire 150 days after the effective date, upon repeal, or upon adoption of permanent rulemaking. The amendment updates and

adds definitions for relevant terminology as well as referenced Illinois statutes. Regarding Registry development and purpose, it can only be made accessible to users who complete an agreement and have been approved by the Department. The Registry may be used to meet public health related purposes, such as a vaccine management system, vaccine tracking system or a vaccine verification system, and the provision of immunization-related announcements and guidelines to Registry users. Providers who are a part of the Registry must provide data for administered immunizations and patient demographic and immunization information. The Registry should be utilized by providers who administer public funded vaccines and all COVID-19 vaccinations must be reported. Authorized users may access patient immunization information without a signed user agreement. The following entities are added, if authorized, to access and receive Registry data: Health insurance plans not under contract with the Department of Healthcare and Family Services to coordinate the provision of medical care to enrollees of the health insurance plan; Department employees and authorized agents or designees of the Department, including, but not limited to, Registry staff and Department vendors. Certain entities, such as academic institutions, childcare centers, and health plans may access the information for the verification, coordination, or provision of medical care in regard to immunization status and history. Employers, volunteers, and contractors may not access this information. The Registry may not be accessed without approval from the Department. The Department will share identifiable immunization data with the Illinois Department of the Lottery and the Office of the Illinois State Treasurer or their designees in relation to any statewide lottery game, raffle or incentive in which immunization status is a requirement for participation in the lottery game, raffle or incentive. The information received by these Departments may not be divulged, not the identity of the individual revealed. If a patient decided to opt-out of the Registry and then decided to opt back in, they must complete a form. In the event of a public health emergency, such as an epidemic or outbreak of a vaccine-preventable disease, the Department may release data from the Registry to additional persons or without patient's consent. The Registry may also be used as a vaccine management or tracking system during a public health emergency. The Department may also create a digital platform with access to all authorized users to immunization records. Authorization will be given to 18-year-old and above users who complete registration unless the information they provide cannot be matched across the Registry. The Department will share minimum identifiable immunization data with vendors and software hosts as may be needed for the development, support, and maintenance of any digital platform.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_5_2.pdf)

See also: COVID-19

MEDICARE

CASE LAW

ILLINOIS INSURANCE GUARANTY FUND V. BECERRA, 33 F. 4th 916, No. 21-1942 (7th Cir. 2022)

The court affirmed the dismissal of Plaintiff Illinois-created state insolvency insurer's lawsuit against the federal judgment for lack of subject matter jurisdiction. Plaintiff is responsible for paying covered claims if one of the Illinois member insurance companies

becomes insolvent. Many of the claims are for patients who are eligible for both Medicare and private health insurance. Plaintiff sued the federal government seeking the determination that it is not subject to the reporting requirements under section 111 of Medicare, Medicaid, and SCHIP Extension Act of 2007 that was codified at 42 U.S.C. §1395. Section 111 requires primary plans to file reports about the claimants they cover. If Medicare conditionally covers charges by one of these claimants, section 111 allows Medicare to determine the primary plan it can charge for the costs. The court determined that 42 U.S.C. §405(h) foreclosed subject matter jurisdiction in the case and so Plaintiff could only obtain judicial review if Plaintiff exhausted all the administrative remedies under 42 U.S.C. §405(g) or CMS waived the exhaustion requirement. Since CMS did not waive the exhaustion requirement and Plaintiff did not exhaust all administrative remedies, the only way for Plaintiff to move forward would be if an exception to §405(h) applied. Although Plaintiff argued that since CMS had not yet established a mechanism for directly challenging the section 111 reporting requirement, the court determined Plaintiff could have challenged the determination through Medicare's four-step appeals process instead of seeking judicial review. Only after Plaintiff went through the four-step appeals process could Plaintiff seek judicial review. Therefore, the court upheld the dismissal for lack of subject matter jurisdiction.

(<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2022/D05-06/C:21-1942:J:Hamilton:aut:T:fnOp:N:2872776:S:0>)

U.S. EX REL. PROCTOR V. SAFEWAY, INC., 30 F.4th 649, No. 20-3425, (7th Cir. 2022)

(<https://law.justia.com/cases/federal/appellate-courts/ca7/20-3425/20-3425-2022-04-05.html>)

See also: FALSE CLAIMS ACT

MENTAL HEALTH

CASE LAW

QUINN V. WEXFORD HEALTH SOURCES, INC. No. 20-1483 (7th Cir. 2021)

(<https://law.justia.com/cases/federal/appellate-courts/ca7/20-1483/20-1483-2021-08-09.html>)

See also: PRISONERS

IN RE: COMMITMENT OF HANS T., 2021 IL App (2d) 180387

(<https://law.justia.com/cases/illinois/court-of-appeals-second-appellate-district/2021/2-18-0387.html>)

See also: DISABILITIES

IN RE: JENNICE L., 2021 IL App (1st) 200407

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/7c0025a7-671c-43c5-96bd-ea9598e4b73a/In%20re%20Jennice%20L.,%202021%20IL%20App%20\(1st\)%20200407.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/7c0025a7-671c-43c5-96bd-ea9598e4b73a/In%20re%20Jennice%20L.,%202021%20IL%20App%20(1st)%20200407.pdf))

See also: Disabilities

IN RE: JULIE M., 2021 IL 125768.

Carle Foundation Hospital (Carle) filed a petition for the emergency admission by certification of respondent to a mental health facility pursuant to Chapter III, article VI, of the Mental Health and Developmental Disabilities Code. Respondent moved to dismiss, arguing that the petition was untimely filed. Champaign County circuit court denied the motion and ordered respondent to be involuntarily committed for no more than 90 days. On appeal, respondent sought reversal of the commitment order based on the untimeliness of the petition, again under sections 3-604 and 3-610. Appellate court affirmed. Respondent seeks reversal of the commitment order based on the untimeliness of the petition under sections 3-604 and 3-610. Determining whether the petition for emergency admission by certification was timely under sections 3-604 and 3-610 of the Mental Health Code required statutory construction, presenting a question of law subject to *de novo* review. From the plain language of section 3-610, the 24-hour deadline begins at “admission of a respondent pursuant to this Article” and ends with the execution— not filing—of a second examination and certificate. The question was not when respondent was “admitted” in a physical sense but when she was “admitted pursuant to article VI.” To prevail on a motion to dismiss for untimeliness, a respondent bears the burden of proof in the circuit court of showing (1) her admission status, (2) that the admission procedures were properly followed, and (3) that her detention and/or treatment were involuntary. The court determined the 24-hour deadline of section 3-610 starts upon admission of a respondent pursuant to article VI and ends with the proper execution of a second examination and certificate. Accordingly, the judgment of the appellate court, which affirmed the judgment of the circuit court, was affirmed.

(<https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/bdff5c7a-8fba-4ad2-baca-2c4bc711c34a/In%20re%20Julie%20M.,%202021%20IL%20125768.pdf>)

See Also: INVOLUNTARY ADMISSION

IN RE MARCUS S., N.E. 3d, 2022 Ill. App (3d) 170014

(<https://law.justia.com/cases/illinois/court-of-appeals-third-appellate-district/2022/3-17-0014.html>)

See Also: INVOLUNTARY ADMISSION

IN RE MARCUS S., N.E. 3d, 2022 Ill. App (3d) 160710

(<https://law.justia.com/cases/illinois/court-of-appeals-third-appellate-district/2022/3-16-0710.html>)

See Also: INVOLUNTARY ADMISSION

REYNOLDS V. KIJAKAZI, 25 F. 4th 470, No. 21-1624 (7th Cir. 2022)

(<https://casetext.com/case/reynolds-v-kijakazi>)

See also: SOCIAL SECURITY

IN RE: ROB W., 2021 IL App (1st) 200149.

(<https://law.justia.com/cases/illinois/court-of-appeals-first-appellate-district/2021/1-20-0149.html>)

See also: EVIDENCE**PUBLIC ACTS**

The First Responder Mental Health Grant Program Act
PUBLIC ACT 102-0911, EFFECTIVE January 1, 2023.
House Bill 1321

This Public Act enacted the First Responder Mental Health Grant Program Act. The purpose of this act is to provide first responders with adequate behavioral and mental health resources for dealing with the trauma they face as a result of their jobs. The First Responder Behavioral Health Grant Program is created within the Department of Human Services to provide grants for the following: (1) units of local government; (2) law enforcement agencies; (3) fire protection districts; (4) school districts; (5) public or private hospitals; or (6) ambulance services that employ first responders. The money in this grant shall be allocated by the Secretary of Human Services. The funds provided through these grants shall contribute to expenses regarding behavioral health services and cannot be used to reduce the healthcare services received under their employee benefit packages. All information gathered by a treatment provider whose services to a first responder are allocated through the funds in this act is unauthorized to share such information with a first responder's employer unless otherwise mandated by law.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0911>)

The Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/4.4] [20 ILCS 1705/74]
PUBLIC ACT 102-0830, EFFECTIVE January 1, 2023
Senate Bill 3156

This Public Act amends the Mental Health and Developmental Disabilities Administrative Act. The “direct support person credential pilot program” was reclassified as the “direct support professional credential pilot program” throughout the Act. The program can be initiated by the Division of Development Disabilities of the Department of Human Services (the Division) or one of its partners. The pilot program will be administered by the Division for three years, starting in Fiscal Year 2024. The goal of the program is to determine how establishing a state-administered direct support professional credential impacts a variety of societal goals.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0830>)

The Mental Health Inpatient Facility Access Act
PUBLIC ACT 102-0913, EFFECTIVE May 27, 2022.
House Bill 1592

- a. This Public Act enacted the Mental Health Inpatient Facility Access Act. The purpose of this act was to address the shortage of inpatient psychiatric beds available to patients during and after the COVID-19 pandemic in Illinois. The number of available beds to psychiatric patients was extremely disproportionate. This plan requires that the Department of Human Services' Division of Mental Health create a written plan to increase access to hospital beds for psychiatric patients that require hospitalization in their care. The plan shall include: (1) annual required training for all state-operated inpatient mental health facility

clinicians; (2) regular and periodic assessment of mental health condition and progress, including at least an annual meeting between the Director of the Division of Mental Health and a patient's treatment team; (3) updated policies and procedures, such as those regarding increased opportunities for home visits and community reintegration programs, ability for those recommended outpatient care to access it, and the development of benchmarks to ensure the admission of those requiring inpatient care; (4) building community treatment capacity by taking the steps to improve access to necessary services and ensure sufficiency of those services; (5) certification of mental health clinicians through developed standards; and (6) stakeholder input during the planning process from the Division of Mental Health forensic workgroup. The developed plan shall be finalized and made publicly available 1 year after the effective date (May 27, 2022). The final plan should include: (1) Benchmarks and timelines for implementing each provision of the plan; (2) Strategy for Gathering resources needed to implement each provision; (3) Ongoing stakeholder engagement during implementation of the plan through the Division of Mental Health forensic workgroup. Lastly, the number of State-operated inpatient psychiatric beds shall not be reduced further.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0913>)

The Children and Family Services Act [20 ILCS 505/5.26 new]

PUBLIC ACT 102-0898, EFFECTIVE May 25, 2022.

House Bill 4306

This Public Act amends the Children and Family Services Act with the addition of a section regarding holistic mental health care for youth in care task force. The purpose of the task force is to review and suggest mental health resources for youth in foster care, including a program provided to youth in the 30 days following their placement in foster care tailored to their specific mental health needs. The task force will assess the capacity of state-licensed mental health professionals in providing preventative mental health care to use; review the current payment rates for mental health providers serving youth in care population; update evaluate the process of billing through Managed Care in small private practices and agencies, evaluate delayed payments to mental health providers, and recommend measures to improve billing efficiency; assess recruitment and retention of mental health providers who are people of color; and other relevant information or processes. The task force should consist of 9 members who are, (1) the Director of Healthcare and Family Services or the Director's designee; (2) the Director of Children and Family Services or the Director's designee; (3) Governor appointed member from office of the Governor who focuses on mental health; (4) two members from the House of Representatives appointed by Speaker of the House of Representatives and Minority Leader of the House of Representatives; (5) two members of Senate, one appointed by President of Senate and another appointed by Minority Leader of Senate; (6) one former youth in care member appointed by the Governor; (7) one YouthCare program managed care representative appointed by the Director of Healthcare and Family Services. Members of the task force will serve without compensation. The task force is expected to meet once a month starting July 1, 2022, and will be provided administrative support by the Departments of Healthcare and Family Services and Children and Family Services. A summary of the work done should be submitted by the task force to the Governor and

General Assembly by December 31, 2024, and upon submission will be dissolved. This section will be repealed on January 1, 2026.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0898>)

The Property Tax Code [35 ILCS 200/18-103 new]

The Community Care for Persons with Development Disabilities Act [50 ILCS 835/1.2]

The Counties Code [55 ILCS 5/5-25025]

The Community Mental Health Act [405 ILCS 20/5]

PUBLIC ACT 102-0839, EFFECTIVE May 13, 2022

Senate Bill 3215

This Public Act amended the Property Tax Code, the Community Care for Persons with Developmental Disabilities Act, the Counties Code, and the Community Mental Health Act. The Public Act added a section to the Property Tax Code requiring that, on and after January 1, 1994, and on or before May 13, 2022, the Truth in Taxation Law's provisions are subject to the Community Mental Health Act, Section 5-25025 of the Counties, the Community Care for Persons with Developmental Disabilities Act, and those referenda under the act that authorize and create boards and levies. This added section validates the boards and levies created between January 1, 1994, and May 13, 2022. The Public Act amended the Community Care for Persons with Developmental Disabilities Act, the Counties Code, and the Community Mental Health Act, and required that if a governmental unit or county is subject to the Property Tax Extension Limitation Law, it must also comply with the Property Tax Extension Limitation Law. Furthermore, any referenda establishing an annual tax between January 1, 1994, and May 13, 2022, are validated.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0839>)

See also: DISABILITIES

The School Code [105 ILCS 5/24-6] [105 ILCS 5/34-18.78 new]

PUBLIC ACT 102-0866, EFFECTIVE May 13, 2022

Senate Bill 3914

This Public Act amends the School Code. Mental health or behavioral health complications are added to the definition of sick leave from school. The school board may require a certificate from a mental health professionals licensed in Illinois who providing care or treatment to the teacher or employee when authorizing the leave. The Public Act also added a section that sick leave according to collective bargaining agreements will be interpreted as including mental health or behavioral health days. Additionally, unless it contradicts a collective bargaining agreement or a school board or board of education policy, the board may require a mental health professional licensed in Illinois who provides ongoing care or treatment to the teacher or employee to verify the need for the leave after 3 days of absence due to mental health or behavioral health complications.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0866>)

The Children's Mental Health Act of 2003 [405 ILCS 49/1] [405 ILCS 49/5]

PUBLIC ACT 102-0899, EFFECTIVE January 1, 2023

Senate Bill 3889

This Public Act amends the Children's Mental Health Act of 2003 and creates the Children's Mental Health Partnership, which must advise state agencies on short-term and long-term strategies to provide services for children and their families from birth to 25 years old to address children's mental health needs. The recommendations may include (1) increasing public awareness of children's mental health and wellness to decrease stigma and increase support, (2) improve coordination of programs, services, and policies throughout state agencies to provide better practices, (3) funding and resources for children's mental health prevention and early identification, (4) research practices and programs to make state policymakers, practitioners and the public aware of children's mental health issues, (5) monitor the programs, services, and policies, (6) grow, retain, diversify, and support the workforce that serves children, especially with professional development services for those who work with child and family mental health, (7) support the design, creation, and evaluation of a children's mental health system of care that addresses mental health concerns, and (8) improve system to meet emergency and residential placement needs for kids with serious mental and behavioral challenges. The Partnership is in charge of updating the Children's Mental Health Plan and advising state agencies on how to implement the plan. The Partnership must be made up of specific members of state agencies, political organizations, and the public according to requirements specified in the Public Act. The Partnership must meet by January 31, 2023, to discuss the changes implemented by the Public Act. the Partnership also has the power to convene and appoint special committees or study groups to assist. Additional Partnership duties include (1) conducting research to determine gaps in children's mental health services, (2) developing policy statements on children's mental health issues, (3) recommending policies and provide information on programs to deliver services, (4) using funding to create or research programs to address children's mental health (although the Partnership itself cannot provide direct services), (5) submitting an annual report before December 30 of each year on the Plan's progress, recommendations, and rules to the Governor and the General Assembly, (6) employing an Executive Director. The Partnership may accept monetary gifts or grants from the federal government or agencies, from charitable foundations, and professional associations. On or before January 1, 2027, the Partnership will make recommendations to the Governor and General Assembly about updates to the Children's Mental Health Act.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0899>)

See also: CHILDREN'S HEALTH

The Critical Health Problems and Comprehensive Health Education Act [105 ILCS 110/3] The Children's Mental Health Act of 2003 [405 ILCS 49/5]

PUBLIC ACT 102-1034, EFFECTIVE January 1, 2023

Senate Bill 4028

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1034>)

See also: CHILDREN'S HEALTH

Drug Court Treatment Act [730 ILCS 166/5]

PUBLIC ACT 102-1041, EFFECTIVE June 2, 2022

Senate Bill 2565

<https://www.ilga.gov/legislation/publicacts/102/PDF/102-1041.pdf>

See also: Controlled Substance

Ensuring a More Qualified, Competent, and Diverse Community Behavioral Health Workforce Act, the Recovery and Mental Health Tax Credit Act, Illinois Income Tax Act [35 ILCS 5/232 new]

Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49/1-102] [210 ILCS 49/2-102.5 new]

Clinical Psychologist Licensing Act [225 ILCS 15/13]

Clinical Social Work and Social Work Practice Act [225 ILCS 20/11]

Professional Counselor and Clinical Professional Counselor Licensing and Practice Act [225 ILCS 107/50] [225 ILCS 20/12.5]

Marriage and Family Therapy Licensing Act [225 ILCS 55/65]

Professional Counselor and Clinical Professional Counselor Licensing and Practice Act [225 ILCS 107/70]

PUBLIC ACT 102-1053, EFFECTIVE June 10, 2022

Senate Bill 3617

This Public Act creates the Ensuring a More Qualified, Competent, and Diverse Community Behavioral Health Workforce Act. To increase jobs, diversity, and access to services in the behavioral health field, the Department of Human Services and the Division of Mental Health will award grants or contracts to community mental health centers for behavioral health clinics that are licensed or certified by the Department of Human Services or the Department of Healthcare and Family Services. This funding must be used to help establish or improve training of interns and behavioral health providers-in-training focused on becoming a licensed clinical social worker, a licensed clinical professional counselor, or a licensed marriage and family therapist. The Department of Human Services and the Division of Mental Health will give priority for this funding to eligible entities in underserved areas in Illinois. The grants and contracts are for a period of 3 years, but the recipients can apply for additional funding. This Public Act also created the Recovery and Mental Health Tax Credit Act. For the taxable years after January 1, 2023, the Department will administer a recovery tax credit program to provide tax incentives to qualified employers who employ eligible individuals in recovery from a substance use disorder or mental illness in either part-time or full-time positions in their organization. An employer must (1) provide recovery supportive environment for their employees by creating a relationship with a substance use disorder treatment provider/facility or a mental health provider/facility that can practice in Illinois and allow their employees accommodations to access these services at no cost and (2) satisfy all other requirements outlined by the Department. The employer must apply annually for the credit to maintain their status as a qualified employer which involves (1) agreeing to provide the Department the information needed to determine the employer satisfied the program eligibility requirements and (2) agrees to provide the names, employer identification numbers, amounts the employer intends to claim, and other necessary information to calculate the tax credit. In addition to eligible employees having a diagnosis of either a substance use disorder or a mental illness, individuals must have been employed by the qualified employer in Illinois for at least 500 hours during the applicable calendar year and the tax credit may only begin on the date the eligible individual is hired by the employer and end on December 31 of that calendar year

or the date the eligible employee's employment with the employer ends (whichever date comes first). If a qualified individual has worked more than 500 hours between the date of hiring and December 31 of that year, a qualified employer can compute and claim credit for that time or include that time in the succeeding year. If the requirements are met, the qualified employer will receive a tax credit equal to the product of \$1 and the number of hours worked by the eligible individual during their employment, and it cannot exceed \$2000 per eligible individual. The total amount for all eligible employees must not exceed \$2,000,000. The Secretary of the Department will appoint an Advisory Council on Mental Illness and Substance Use Disorder Impacts on Employment Opportunities within Minority Committees to be composed of 15 members who meet specific qualifications who will advise the Department. This Public Act also amended the Illinois Income Tax Act. It added the Recovery and Mental Health Tax Credit Act for eligible employers which will become effective after January 1, 2023. This Public Act also amends the Specialized Mental Health Rehabilitation Act of 2013. It adds the definition of advanced practice registered nurse (APRN) who is nationally certified as a mental health or psychiatric nurse practitioner and licensed under the Nurse Practice Act. It also added that any required psychiatric visit can be performed by an APRN or by a physician. This Public Act also amends the Clinical Psychologist Licensing Act, Clinical Social Work and Social Work Practice Act, and the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act. It adds that requirements for restoring a license that has been inactive or expired for less than 5 years are suspended for any licensed clinical psychologist, licensed clinical social worker, or licensed clinical professional counselor who did not have disciplinary action taken against their license in Illinois or in any other jurisdiction. However, practitioners may not use this medium more than once for renewal. It also amends the Clinical Social Work and Social Work Practice Act by revising select requirements for licensure as a clinical social worker. If the individual has been licensed at any independent level in another U.S. jurisdiction for 5 consecutive years without discipline. However, the exemption that individuals who met these requirements did not have to provide proof of their passage of the examination was removed. This Public Act also amended the Marriage and Family Therapy Licensing Act. It decreased the requirement for individuals applying to be a licensed marriage and family therapist to have worked independently in another jurisdiction. The revision states that the individual only has to work in another U.S. jurisdiction for 5 consecutive years. This Public Act also amends the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act. Individuals who are applying for licensure as a clinical professional counselor who have been licensed independently in another U.S. jurisdiction for 5 consecutive years do not have to submit proof of education, supervised employment, or experienced required in subsection (b) of Section 45, but they must submit a certified verification of the licensure from the jurisdiction where they practiced, comply with other licensing requirements, and pay the fees.

(<https://ilga.gov/legislation/publicacts/102/102-1053.htm>)

Mental Health and Developmental Disabilities Administrative Act (Section 18.2) [20 ILCS 1705]

Mental Health and Developmental Disabilities Code (Section 5-104) [405 ILCS 5]

Mental Health and Developmental Disabilities Administrative Act (Section 5) [20 ILCS 1705]

Public Act 102-0016

DEVELOPMENTAL DISABILITIES SERVICES (89 Ill. Adm. Code 144)**46 Ill. Reg. 7755, EFFECTIVE April 27, 2022**

This rulemaking brings 89 Ill. Adm. Code 144.30 into compliance with Public Act 102-0016. Public Act 102-0016 says that providers of community-based services and support to individuals with developmental disabilities will increase wages for direct support persons by \$1.50 per hour effective January 1, 2022, with at least a 75 cents per hour increase for all direct support persons wages, with the remaining 50% to be used flexibly for wage increases for both direct support persons and additional frontline staff. Additionally, providers of community-based services and supports to individuals with developmental disabilities will increase wages for non-executive direct care staff (includes direct support persons) effective January 1, 2022. The increase amount will make the wages equal to the federal Department of Labor's Bureau of Labor Statistics' mean hourly wage based on job title.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_20.pdf)

ADOPTED RULES**Illinois Public Aid Code [305 ILCS 5/12-13]****SPECIALIZED CARE DELIVERY SYSTEMS (89 Ill. Adm. Code 146)****45 Ill. Reg. 8319, EFFECTIVE June 28, 2021**

This amendment impacts the Illinois Public Aid Code by establishing the reimbursement rate for therapeutic visits in facilities certified under the Specialized Mental Health Rehabilitation Act of 2013 as 75% of the paid rate between July 27, 2018, through June 30, 2020, rather than the rate established on July 27, 2018. For visits after July 1, 2020, the reimbursement rate is 75% of the current paid rate.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_28.pdf)

Community Services Act [405 ILCS 30] and the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705].

MEDICAID COMMUNITY MENTAL HEALTH SERVICES PROGRAM (59 Ill. Adm. Code 132)**46 Ill. Reg. 2937, EFFECTIVE February 4, 2022**

This amendment relates to the Medicaid Community Mental Health Services Program and impacts the Community Services Act and the Mental Health and Developmental Disabilities Administrative Act. The amendments set forth provisions for COVID-19 Vaccination of Entity Staff and provide definitions for relevant terminology within the section. "Entity" means any entity certified as a Certified Specialty Provider (CSP) or Certified Comprehensive Community Mental Health Center (CMHC) under this Part. The subsections stipulate that all staff within an entity must be fully vaccinated and tested against COVID-19. Those who are not fully vaccinated must be required to obtain at least the first dose and those who are fully vaccinated must provide proof of vaccination through the accepted methods. Exceptions for vaccination against COVID-19 must be made by the entity if it is medically contraindicated or would infringe upon a religious practice or belief. Those staff who are not vaccinated by September 29, 2021, must undergo weekly COVID-19 testing at minimum, and testing should be made available on-site, consistent with other

requirements in the section. Those who test positive must be excluded in alignment with the federal and local regulations. Signage regarding availability of testing and maintenance of records of fully vaccinated staff must be provided by the entity. Lastly, the entity must maintain documentation of each staff member's vaccination history for COVID-19 in their medical records and educate the staff on potential risks associated with the COVID-19 vaccination.

https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_8.pdf

See also: COVID-19

Section 27-8.1 of the School Code [105 ILCS 5]

SOCIO-EMOTIONAL AND DEVELOPMENTAL SCREENING (77 Ill. Adm. Code 664)

46 Ill. Reg. 8337, EFFECTIVE May 5, 2022

These adopted rules relate to Socio-Emotional and Developmental Screening and impacts the School Code. The new rules set forth definitions for relevant terminology within the Act, as well as the referenced materials, such as federal statutes, Illinois statutes, and Illinois Administrative Rules. The rules provide conditions for validated developmental and socio-emotional screening tools which will be provided by the Department through a website. There are also provisions for persons administering screenings in schools shall minimally be: a) A licensed clinical social worker; b) A licensed clinical psychologist; c) A licensed physician; d) A licensed APRN; or e) A licensed physician assistant. The rules set forth procedures for reporting screenings and failures to screen as well as how schools must go about serving as screening locations, confidentiality, school responsibilities, and informed consent.

https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_21.pdf

EMERGENCY RULES

Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]

SPECIALIZED MENTAL HEALTH REHABILITATION FACILITIES CODE (77 Ill. Adm. Code 380)

46 Ill. Reg. 5395, EFFECTIVE March 13, 2022

This emergency amendment will be effective for 150 days and was issued in response to the COVID-19 pandemic. It establishes the COVID-19 training requirements for specialized mental health rehabilitation facilities. This includes that frontline clinical and management staff at the facilities must complete a free Targeted COVID-19 Training for Frontline Nursing Home Staff & Management from CMS. There are 5 modules for frontline staff: (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning the nurse home, (4) cohorting, and (5) caring for residents with dementia in a pandemic. There are 10 modules for management staff: (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning the nursing home, (4) cohorting, (5) caring for residents with dementia in a pandemic, (6) infection prevention and control, (7) emergency preparedness and surge capacity, (8) addressing emotional health of residents and staff, (9) telehealth for nursing homes, and (10) preparing vaccine delivery systems. All new frontline and

management staff hired by skilled nursing and intermediate care facilities after January 31, 2021, must complete the training within 14 days after being hired.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_13.pdf)

See also: COVID-19

MC/DD Act [210 ILCS 46]

MEDICALLY COMPLEX FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE
(77 Ill. Adm. Code 390)

46 Ill. Reg. 5403, EFFECTIVE March 13, 2022

This is an emergency amendment that will be effective for 150 days. It relates to the COVID-19 pandemic. It outlines the COVID-19 training requirements for MC/DD facilities, including the requirements that frontline clinical and management staff must complete the free Targeted COVID-19 Training for Frontline Nursing Home Staff & Management that is provided by CMS. There are 5 modules for frontline staff: (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning the nurse home, (4) cohorting, and (5) caring for residents with dementia in a pandemic. There are 10 modules for management staff: (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning the nursing home, (4) cohorting, (5) caring for residents with dementia in a pandemic, (6) infection prevention and control, (7) emergency preparedness and surge capacity, (8) addressing emotional health of residents and staff, (9) telehealth for nursing homes, and (10) preparing vaccine delivery systems. All new frontline and management staff hired by MC/DD facilities after January 31, 2021, must complete the required training within 14 days after they are hired.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_13.pdf)

See also: COVID-19

REGULATORY AGENDA

Home-Based Support Services Law for Mentally Disabled Adults [405 ILCS 80/2-1] and the Family Assistance Law for Mentally Disabled Children [405 ILCS 80/3-1] and authorized by Section 2-16 of the Home-Based Support Services Law for Mentally Disabled Adults [405 ILCS 80/2-16], Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104], and Section 5 of the Mental Health and Developmental Disabilities Act [20 ILCS 1705/5] FAMILY ASSISTANCE AND HOME-BASED SUPPORT PROGRAMS FOR PERSONS WITH MENTAL DISABILITIES (59 Ill. Adm. Code 117)

45 Ill. Reg. 9254, EFFECTIVE December 2021

This rulemaking is created in regard to Family Assistance and Home-Based Support Programs for Persons with Mental Disabilities. The rulemaking is meant to ensure that the language regarding terminations and/or discharges, modifications to addresses, and program oversight is consistent with the current established standards and practices. It also addresses repealing the Family Assistance Program. These rules may be commented on by the Public and hearings will be held as deemed necessary. The rule may also impact small businesses and non-profit organizations focused on community integrated living.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_29.pdf)

OTHER INFORMATION TO BE PUBLISHED IN THE ILLINOIS REGISTER

Department of Public Health

SOCIO-EMOTIONAL DEVELOPMENTAL SCREENING (89 Ill. Adm. Code 140)

45 Ill. Reg. 12238, EFFECTIVE October 8, 2021

This agency response to a rule relates to the Socio-Emotional and Developmental Screening and impacts the School Code. The JCAR recommended that the statute be implemented into a rule in a timelier manner. The proposed rule focuses on developmental and socio-emotional screening for children. The Department of Public Health reviewed the JCAR statement and ensured that the statutorily required change would be completed quickly.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_41.pdf)

NATURAL RESOURCE**PUBLIC ACT**

Department of Natural Resources Act [20 ILCS 801/1-17]

PUBLIC ACT 102-0950, EFFECTIVE January 1, 2021

House Bill 4696

This Act amends the Department of Natural Resources Act. It provides that the Department must offer the opportunity to be redirected to the First-Person Consent organ and tissue donor registry website maintained by the Secretary of State to any successful purchaser of a hunting license that was obtained by online purchase and issued pursuant to the Wildlife Code.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0950.pdf>)

NEGLIGENCE**CASE LAW**

GAVLIN V. ADVENTIST BOLINGBROOK HOSPITAL, 2022 IL App (3d) 200282.

In 2016 the plaintiff, as a special administrator of a patient of the defendant's center, filed suit against defendant alleging medical negligence after their patient sustained injuries from a fall at the defendant's center. In 2019, the plaintiff filed an amended two count complaint alleging medical negligence against an additional new defendant. The defendant filed a motion to dismiss, asserting that the claim was untimely. The trial court granted the motion, but later reversed its decision. The court then certified a question for interlocutory review. The defendant also filed an application for interlocutory appeal which was granted. The court was asked to determine whether the filing of a cause of action by a representative of a disabled person stops tolling the applicable disability statute so that the statutes of limitations and repose bar the addition of a new defendant to the cause of action. The medical negligence statute of limitations “has been read within the context of the ‘discovery rule’ to mean that the two-year malpractice limitations period begins to run when the party ‘knows or reasonably should know of his injury and also knows or reasonably should know that it was wrongfully caused.’” In Illinois, appointment of a

guardian for a disabled individual or a minor does not terminate the tolling statute and begin the running of the applicable statute of limitations. This is because the cause of action is owned by the minor or disabled person, not the guardian and thus the statute of limitations continues to be tolled upon the appointment of a guardian, and tolling continues until the disability is removed. Since the right to tolling belongs to the disabled person, the guardian's commencement of litigation should have no effect on a tolling statute. Therefore, the court answered the question in the negative, finding that tolling due to a disability terminates only upon the occurrence of one of two events: i) the death of the disabled person; or ii) the removal of the disability. Since the injured patient was still alive and disabled when the plaintiff filed the claim against defendant, it was not untimely. The trial court properly denied the defendant's motion to dismiss.

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/bb669c18-3662-4a39-92ca-fec3c93228bc/Gavlin%20v.%20Adventist%20Bolingbrook%20Hospital,%202022%20IL%20App%20\(3d\)%2000282.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/bb669c18-3662-4a39-92ca-fec3c93228bc/Gavlin%20v.%20Adventist%20Bolingbrook%20Hospital,%202022%20IL%20App%20(3d)%2000282.pdf))

LOVE V. U.S., 17 F.4th 753 No. 20-3534 (7th Cir. 2021)

In this case, the plaintiff argued under the Federal Tort Claims Act, 28 U.S.C. §§ 2671-80, that a nurse employed by the defendant was negligent in failing to order additional tests after receiving the results of a urinalysis in 2015. Plaintiff contended that more testing would have revealed that the plaintiff suffered from a urinary tract infection which led to a heart attack, extensive hospitalization, and pain and inflammation. The district court held a bench trial and ruled against all the plaintiff's principal contentions. The judge found that further testing to identify a potential urinary tract infection was not required by the appropriate standard of care. Additionally, the judge stated each one of the plaintiffs' medical issues stemmed from independent causes. On appeal, plaintiff argued that the judge wrongly prevented the plaintiff from objecting to expert testimony due to missing a deadline. Plaintiff contended that Illinois requires medical professionals to testify within the scope of their specialty and since a nurse practitioner made the decision not to prescribe follow up testing a doctor was not able to testify as an expert witness. However, the court found that which experts may testify about what topics is a matter of competence, which in a federal forum comes within the scope of the Federal Rules of Evidence. Therefore, the expert testimony was admissible under Rule 702 of the Federal Rules of Evidence.

(<https://law.justia.com/cases/federal/appellate-courts/ca7/20-3534/20-3534-2021-11-04.html>)

MCCAVITT V. KIJAKAZI, 6 F.4th 692 No. 20-2727 (7th Cir. 2021)

(<https://law.justia.com/cases/federal/appellate-courts/ca7/20-2727/20-2727-2021-07-21.html>)

See also: EVIDENCE

ADOPTED RULES

Mental Health and Development Disabilities Administrative Act [20 ILCS 1705]

Permanent Supportive Housing & Bridge Subsidy Model for Persons with Mental Illnesses (59 Ill. Adm. Code 145)

45 Ill. Reg. 11027, EFFECTIVE August 30, 2021

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_7.pdf)

See also: DISABILITIES

NURSING

EMERGENCY RULES

Health Care Worker Background Check Act [225 ILCS 46]

HEALTH CARE WORKER BACKGROUND CHECK CODE (77 Ill. Adm. Code 955)

46 Ill. Reg. 2763, EFFECTIVE January 28, 2022

This emergency amendment refers to the Health Care Worker Background Check Code and impacts the Health Care Worker Background Check Act. The emergency rulemaking will expire after 150 days of the effective date, upon repeal, or upon adoption of permanent rulemaking. The Act provides emergency provisions in light of the COVID-19 pandemic and suspends the provisions that prohibit an individual from being hired as a Certified Nursing Assistant (CNA) if he or she has been inactive in the Health Care Worker Registry if the following conditions are met: 1) The individual has been in inactive status for a period of no more than 5 years; 2) The individual was in good standing at the time he or she became inactive; and 3) The individual completes and submits any forms required by the Department of Public Health. Further, military personnel who have been accordingly trained are permitted by the Department to serve as CNAs in order to address the need of health care personnel during the pandemic. Out-of-State licensed CNAs are permitted to work and are limited to providing CNA services and must complete a form providing information before beginning to work in Illinois.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_7.pdf)

See also: COVID-19

NURSING HOMES

CASE LAW

MASON V. ST. VINCENT'S HOME, INC., N.E. 3d, 2022 Ill. App (4th) 210458

Plaintiff sued the nursing home and nursing home employee Defendants after his mother (former resident of the nursing home) died. Court affirmed the circuit court's decision to stay Plaintiff's claims under Wrongful Death Act (740 ILCS 180.0-1 *et seq*) and compel arbitration on the negligence claim and claim brought under the Nursing Home Care Act (210 ILCS 45/1-101 *et seq*). Plaintiff filed complaints for injuries his mother allegedly suffered while at the nursing home. Plaintiff signed the contract for services when his mother entered the nursing home and the contract had an arbitration clause that Plaintiff alleges is unconscionable. Plaintiff alleged that the arbitration clause is unenforceable because (1) the contract was procedurally and substantively unconscionable, (2) the decedent's health care power of attorney did not authorize Plaintiff to bind the decedent to arbitration, and (3) the contract terminated upon the decedent's death. The court said that

the arbitration clause is enforceable because (1) contract was procedurally and substantively unconscionable, (2) the decedent's health care power of attorney did not authorize Plaintiff to bind decedent to arbitration, and (3) the contract terminated upon decedent's death. The court found the arbitration provision in the contract was not procedurally unconscionable because the provision was not hidden, it was written using clear language, the decedent was given time to read the contract, and was not rushed to sign. The provision was also not substantively unconscionable because the terms are not overly one-sided. The court found Plaintiff did not show that there was an imbalance in obligations and rights or a large cost disparity in the contract. Secondly, the court determined Plaintiff had Power of Attorney over the decedent when the contract was signed. Finally, the decedent's death did not cancel out the arbitration clause because it was related to claims brought under the Survival Act.

<https://casetext.com/case/mason-v-st-vincents-home-inc>

TALEVSKI V. HEALTH AND HOSPITAL CORPORATION OF MARION COUNTY, 6 F. 4th 713, No. 20-1664 (7th Cir. 2021).

Plaintiff lived at Defendant nursing home with dementia. Plaintiff sued through his wife for violations of Section 1983 in violating the Federal Nursing Home Reform Act (FNHRA). Plaintiff raised two specific violations of resident rights: (1) the right to be free from chemical restraints imposed for purposes of discipline or convenience rather than treatment, and (2) the right not to be transferred or discharged until specific criteria are met. The district court dismissed the claim stating that FNHRA does not provide a private right of action that can be redressed under Section 1983. The court determined the district court erred because Congress intended the FNHRA to benefit nursing home residents which is a conferral of individual rights. Congress spoke of resident rights– not merely steps facilities were required to take which showed intent to benefit nursing home residents directly. As a result, Congress conferred individual private rights of action through FNHRA that nursing home residents can use as the basis of the lawsuit.

<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2021/D07-27/C:20-1664;J:Wood;aut:T:fnOp:N:2739343;S:0>

PUBLIC ACTS

Nursing Home Care Act [210 ILCS 45/3-212]

PUBLIC ACT 102-0947, EFFECTIVE January 1, 2023

House Bill 4674

This Act amends the Nursing Home Care Act. It requires the Department of Public Health to require continuing education of all its employees who inspect, survey, or evaluate a facility by rule guidelines and to offer continuing education opportunities at least quarterly. Additionally, employees of the State or a unit of a local government agency are required to complete at least 10 hours of qualifying continuing education, offered by the Department, annually on topics that support the survey process. This includes, but is not limited to, trauma-informed care, infection control, abuse and neglect, and civil monetary penalties. At least 5 of the 10 hours of required continuing education will be separate and distinct from any other continuing education hours required for any different license the

employee holds. Any continuing education hours provided by the Department that exceeds 10 hours may count towards continuing other licenses that the employee holds. The Act also provides that if a complaint is filed, the Department must conduct an annual review of all survey activity from the preceding fiscal year and make a report concerning the complaint and survey process. The report will include, but is not limited to, the total number of complaints received; the breakdown of 24-hour, 7-day, and 30-day complaints; the breakdown of anonymous and non-anonymous complaints; the number of complaints that were substantiated versus unsubstantiated; or not, the total number of substantiated complaints that were completed in the time frame determined under subsection (d); the total number of informal dispute resolutions requested; the total number of informal dispute resolution requests approved; the total number of informal dispute resolutions that were overturned or reduced in severity; the total number of nurse surveyors hired during the calendar year; the total number of nurse surveyors who left Department employment; the average length of tenure for nurse surveyors employed by the Department at the time the report is created; the total number of times the Department imposed discretionary denial of payment within 15 days of notice and within 2 days of notice as well as the number of times the discretionary denial of payment took effect.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0947>)

The University of Illinois Hospital Act [110 ILCS 330/8g new]

The Assisted Living and Shared Housing Act [210 ILCS 9/77 new]

The Community Living Facilities Licensing Act [210 ILCS 35/5.10 new]

The Life Care Facilities Act [210 ILCS 40/10.2 new]

The Nursing Home Care Act [210 ILCS 45/3-613 new]

The MC/DD Act [210 ILCS 46/3-613 new]

The ID/DD Community Care Act [210 ILCS 47/3-613 new]

The Hospital Licensing Act [210 ILCS 85/6.33 new]

PUBLIC ACT 102-1007, EFFECTIVE January 1, 2023

Senate Bill 3166

This Public Act amends the University of Illinois Hospital Act, the Assisted Living and Shared Housing Act, the Community Living Facilities Licensing Act, the Life Care Facilities Act, the Nursing Home Care Act, the MC/DD Act, the ID/DD Community Care Act, and the Hospital Licensing Act. The Public Act adds a section to each act requiring that employees, nurses, licensed health care professionals, and licensed health professionals respectively, be made aware of available employee assistance programs for their physical and mental wellbeing. Information about these programs can be provided electronically. For nursing, licensed health care professionals, and licensed health professionals, an information form regarding this information be signed by the employee during the employment onboarding process.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1007>)

See also: TRAINING REQUIREMENTS

Reducing Cervical Cancer and Saving Lives Act

The Illinois Public Aid Code [305 ILCS 5/5-5]

PUBLIC ACT 102-1018, EFFECTIVE January 1, 2023

Senate Bill 3682

This Public Act created the Reducing Cervical Cancer and Saving Lives Act and amended the Illinois Public Aid Code. The Reducing Cervical Cancer and Saving Lives Act applies to hospitals, outpatient departments, clinics, mobile units, or other entities that provide cervical cancer screening services in Illinois. When these facilities provide cervical cancer services, they must prepare a written report of the result of the services that were provided to the patient and that report must be provided to the patient's referring health care professional. If that professional is not available, the only requirement is that the written report be sent to the patient. The Department of Public Health must develop cervical cancer screening reporting language that is easy for lay people to understand. However, the Act does not create a duty of care or other legal obligations beyond the duty to prove the written report and the Act applies 6 months after the Department of Public Health makes the reporting language publicly available. The Department of Public Health must also establish a pilot program to administer the human papillomavirus (HPV) vaccines to people enrolled in the Illinois Breast and Cervical Cancer Program who are (1) 26 years or older who have not received the full HPV series and would like to or (2) are 26 years or older, have not completed the HPV series, and their clinicians recommend the series. The pilot program must be implemented by July 1, 2024, but this section of the Act will be repealed on June 30, 2027. The Public Act amends the Illinois Public Aid Code by requiring that after January 1, 2023, providers who participate in a quality improvement program that's approved by the Department of Public Health must be reimbursed for breast tomosynthesis at the same rate as Medicare program's rate. The Public Act also requires that the Department of Public Health provide coverage and reimbursement for HPV vaccine that is approved for marketing by the FDA for all people between 9 and 45 years of age and people aged 46 and older who were diagnosed with cervical dysplasia with a high risk of recurrence or progression. The Department of Public Health will also disallow preauthorization requirements for administering the HPV vaccine. Additionally, the Public Act requires that within 90 days after October 8, 2021, the Department of Public Health will seek federal approval of a state plan amendment to expand coverage for family planning services.

(<https://ilga.gov/legislation/publicacts/102/102-1018.htm>)

Nursing Home Care Act [210 ILCS 45/2-101]

PUBLIC ACT 102-1080, EFFECTIVE January 1, 2023

Senate Bill 1633

This Act amends the Nursing Home Care Act. It provides that no resident shall be deprived of any rights, benefits, or privileges guaranteed by State or federal law. Residents have the right to be treated with courtesy and respect by persons providing medical services or care and shall have their human and civil rights maintained in all aspects of medical care. Residents have the right to maintain their autonomy as much as possible and will have their basic human needs accommodated in a timely manner, as defined by the person and agreed upon by the interdisciplinary team. This includes, but is not limited to, water, food, medication, toileting, and personal hygiene. A resident will be permitted to present grievances on behalf of themselves or others free from restraint, interference, coercion, or discrimination and without threat of discharge or reprisal in any form or manner whatsoever to the administrator, the Long-Term Care Facility Advisory Board, the residents' advisory council, State governmental agencies, or other persons of the president's choice. The Act requires that every facility licensed under this Act have a

written internal grievance procedure that follows the guidelines set forth in this Act. The administrator must provide all residents or their representatives with the name, address, and telephone number of the appropriate State governmental office where complaints may be lodged with notice of the grievance procedure of the facility or program and addresses and phone numbers for the Office of Health Care Regulation and the Long-Term Care Ombudsman Program in the complainants requested language. The Act also provides that a resident may refuse to perform labor for a Facility and may only perform labor or service that is consistent with F566 of the State Operations Manual for Long-Term Care Facilities. The resident must be compensated at or above the prevailing wage rate and the activities must be included for therapeutic purposes and be appropriately goal related to the individual's care plan. Lastly, facilities must post for display in an accessible area for all: phone numbers and websites for rights protection Services and the statement "The Illinois Long-Term Care Ombudsman Program is a free resident advocacy service available to the public."

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-1080.pdf>)

ADOPTED RULES

Illinois Public Aid Code [305 ILCS 5/12-13]

REIMBURSEMENT FOR NURSING COSTS FOR GERIATRIC FACILITIES (89 Ill. Adm. Code 147)

45 Ill. Reg. 8326, EFFECTIVE June 28, 2021

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_2_8.pdf)

See also: HEALTHCARE WORKERS

Nursing Home Care Act [210 ILCS 45]

Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

45 Ill. Reg. 11096, EFFECTIVE August 27, 2021

This rulemaking incorporates federal regulations for licensed intermediate care and skilled nursing care facilities regarding patient abuse, neglect, privacy, and confidentiality. This also includes federal requirements for facilities to establish an antibiotic stewardship program (ASP) pursuant to 42 CFR 483 and requires facilities to comply with the Alzheimer's Disease and Related Dementias Services Act [410 ILCS 406]. Facilities must also notify the Department in the event of an impending strike of staff providing direct care and adds a requirement for submittal of a contingency plan. Additionally, facilities must maintain a facility-specific email address that does not change without prior notification to the Department to facilitate the exchange of information between the Department and the facility despite staffing changes. Part 300 is also amended to implement the federal CMS requirement that federally certified health care facilities comply with the 2012 edition of the National Fire Protection Association 101 Life Safety Code.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_7.pdf)

Nursing Home Care Act [210 ILCS 45]

Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

45 Ill. Reg. 13953, EFFECTIVE October 25, 2021

This rulemaking implements Task 010 of the Implementation Plan Amendment for the Colbert v. Pritzker Consent Decree for the fiscal year 2021. This requires that all Cook County skilled nursing and intermediate care facilities with Colbert Class Members display posters at their facility to inform residents of their right to be free from retaliation if they decide to live in a community-based setting instead of the institutional facility. The poster must include a phone number to report retaliation to the Department and a list of steps a resident should take if retaliation occurs. It also addresses Task 08 of the Implementation Plan Amendment by requiring Cook County facilities to provide support and services to residents to encourage a smooth transition to independent living. (https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_45.pdf)

Nursing Home Care Act [210 ILCS 45]

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)

46 Ill. Reg. 6033, EFFECTIVE April 1, 2022

This rulemaking implements the statutory requirements for skilled nursing facilities. The facilities are required to designate an infection prevention and control professional and create an executive policy to control infections and communicable diseases. It also addresses training and minimum experience requirements for infection preventionists in addition to facility infection preventionist staffing requirements. Furthermore, it also updates infection prevention and control requirements regarding communicable disease outbreaks. These requirements include testing plans and response strategies to address outbreaks in skilled nursing facilities. It also includes new guidance documents and toolkits provided by the Centers for Disease Prevention and Control and the Occupational Safety and Health Administration concerning infection diseases prevention and control. Additionally, it amends the Personnel Policies Section and requires skilled nursing facilities to keep and update an employee confidential medical record for all health-related information which includes vaccinations and required test result information. All staff must be trained at least annually on basic infection prevention and control practices based on their job responsibilities, and records of these trainings must be saved for 3 years. Facility activities must also be monitored ongoing by the infection preventionists to make sure the infection prevention and control policies and procedures are being followed. The facility must also have a testing plan and response strategy to address infectious disease outbreaks. Testing of residents and staff must occur either when the facility is experiencing an outbreak or when it's directed to do so by the Department of Public Health or the certified local health department. The facility must also keep records of when a test was completed for residents, facility staff, and volunteers. Finally, a facility must designate a person or persons to be the infection preventionist (IP) who will develop and execute policies regarding infection and communicable disease control and prevention. The IP's qualifications must be documented. The IP must complete or provide proof of previous completion of an initial infection control and prevention training within 30 days of accepting their position. Starting on July 1, 2022, the IP must have completed at least 19 hours of training in infection prevention and control that includes: (1) standard precautions, (2) transmission-based precautions, (3) healthcare-associated infections, (4) hand hygiene, (5) environmental cleaning, sterilization, disinfection, and asepsis, (6) environment of care and water management, (7) employee/occupational health, (8) surveillance and

epidemiological investigations and (9) antimicrobial stewardship. A facility must have at least one IP on-site at least 20 hours per week. If the facility has more than 100 licensed beds that provide high-acuity services, there must be at least one IP on-site for at least 40 hours per week.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_16.pdf)

See also TRAINING REQUIREMENTS

Nursing Home Care Act [210 ILCS 45/3/-310] and the Equity in Long-term Care Quality Act [30 ILCS 772] and the Department of Public Health Powers and Duties Law (Section 195) [20 ILCS 2310]

CIVIL MONEY PENALTY REINVESTMENT PROGRAM (77 Ill. Adm. Code 425)

46 Ill. Reg. 7766, EFFECTIVE April 26, 2022

This rulemaking creates a new portion in Title 77 to implement the Civil Monetary Penalty Reinvestment Program. The Program intends to, through a competitive grant process, provide grants that utilize civil monetary penalty funds that were collected from facilities due to federally imposed civil monetary penalties to improve the quality of life for individuals in Illinois long-term care facilities. The grant will specifically be used to equip nursing home staff, administrators, and stakeholders with both technical tools and assistance to improve resident care and quality of life. The activities the funds can be used for specifically include (1) supporting and protecting residents of facilities that are decertified, (2) time-limited expenses that occur as a result of relocating residents to other facilities when their current facility is shut down or downsized due to an agreement with the State Medicaid Agency, (3) projects supporting resident and family councils, (4) facility improvement initiatives, and (5) development and maintenance of temporary management or receivership capability. However, the funds may not be used for (1) activities or projects that were disapproved by CMMS, (2) survey and certification operations or state expenses, (3) capital expenses, (4) facility services or supplies that are the facility's responsibility, (5) funding projects, items or services that are unrelated to improving quality of life, (6) projects where there is a conflict of interest or the appearance of a conflict of interest, (7) projects lasting longer than 3 years, (8) temporary manager salaries, (9) supplemental funding of federally required services. CMMS approval is required for certified monetary penalty funds to be used.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_20.pdf)

Nursing Home Care Act [210 ILCS 45]

Public Act 102-0004

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)

46 Ill. Reg. 10460, EFFECTIVE May 31, 2022

This rulemaking implements Public Act 102-0004 which amends the Nursing Home Care Act by adding Section 3-206.06 to address requirements that long-term care facilities must develop a policy to test their water supply for the presence of Legionella bacteria. The Skilled Nursing and Intermediate Care Facilities Code rules provide that the policy must be based on the ASHRAE Guideline "Managing the Risk of Legionellosis Associated with Building Water Systems" and the Centers for Disease Control and Prevention's "Toolkit for Controlling Legionella in Common Sources of Exposure." The policy must include a

risk assessment procedure to identify Legionella bacteria in the water, specific testing protocols, a specific documentation system for testing, and corrective actions. The policy must include how frequently the testing must occur and that the test results must be sent to the Department of Public Health if requested.
(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2_5.pdf)

Nursing Home Care Act [210 ILCS 45]

Public Act 102-0004

SHELTERED CARE FACILITIES CODE (77 Ill. Adm. Code 330)

46 Ill. Reg. 10485, EFFECTIVE June 2, 2022

The rulemaking implements Public Act 102-0004 which amends the Nursing Home Care Act by adding Section 3.206.06 to address requirements that sheltered care facilities must develop a policy to test their water supply for the presence of Legionella bacteria. The Sheltered Care Facilities Code rules provide that the policy must be based on the ASHRAE Guideline “Managing the Risk of Legionellosis Associated with Building Water Systems” and the Centers for Disease Control and Prevention’s “Toolkit for Controlling Legionella in Common Sources of Exposure.” The policy must include a risk assessment procedure to identify Legionella bacteria in the water, specific testing protocols, a specific documentation system for testing, and corrective actions. The policy must include how frequently the testing must occur and that the test results must be sent to the Department of Public Health if requested.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2_5.pdf)

Nursing Home Care Act [210 ILCS 45]

ILLINOIS VETERANS’ HOMES CODE (77 Ill. Adm. Code 340)

46 Ill. Reg. 10504, EFFECTIVE June 2, 2022

The rulemaking implements Public Act 102-0004 which amends the Nursing Home Care Act by adding Section 3.206.06 to address requirements that long-term care facilities must develop a policy to test their water supply for the presence of Legionella bacteria. The Illinois Veterans’ Home Code rules provide that the policy must be based on the ASHRAE Guideline “Managing the Risk of Legionellosis Associated with Building Water Systems” and the Centers for Disease Control and Prevention’s “Toolkit for Controlling Legionella in Common Sources of Exposure.” The policy must include a risk assessment procedure to identify Legionella bacteria in the water, specific testing protocols, a specific documentation system for testing, and corrective actions. The policy must include how frequently the testing must occur and that the test results must be sent to the Department of Public Health if requested.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2_5.pdf)

ID/DD Community Care Act [210 ILCS 47]

Public Act 96-0339

Public Act 97-0038

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE (77 Ill. Adm. Code 350)

46 Ill. Reg. 10519, EFFECTIVE June 2, 2022

This rulemaking implements several Public Acts. Public Act 96-0339 created what is now known as the ID/DD Community Care Act in 2009. Under that Public Act, all intermediate care facilities for the developmentally disabled needed to be licensed by the Department under the ID/DD Community Care Act– not the Nursing Home Care Act. This rulemaking makes technical changes throughout Part 350 to address language that did not conform to the Act. This rulemaking also implements Public Act 97-0038 which incorporated amendments that were made to the Nursing Home Care Act into the ID/DD Community Care Act under PA 96-1372.

https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2_5.pdf

EMERGENCY RULES

Nursing Home Care Act [210 ILCS 45]

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)

45 Ill. Reg. 9498, EFFECTIVE July 8, 2021

This emergency amendment is titled the Skilled Nursing and Intermediate Care Facilities Code and impacts the Nursing Home Care Act. This rulemaking requires that all Cook County nursing and intermediate care facilities with Colbert Class Members publicize to their residents their right to be free from retaliation if they desire to reside in community-based settings, through putting up informative posters. The rulemaking also provides that Cook County facilities allocate resources to assist and support the transition to independent living. This proposed amendment and rulemaking does not affect or establish a state mandate.

https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3.pdf

See also: HEALTHCARE FACILITIES

Nursing Home Care Act [210 ILCS 45]

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)

45 Ill. Reg. 10087, EFFECTIVE July 25, 2021

This emergency amendment repeals an emergency rule Skilled Nursing and Intermediate Care Facilities Code and impacts the Nursing Home Care Act. The rule, which concerned the involuntary transfer or discharge of a resident as a result of late or nonpayment, under the COVID-19 provisions for licenses and inspections, was repealed as the authorizing Executive Order 2020-35 was not renewed.

https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_2.pdf

See also: COVID-19

Nursing Home Care Act [210 ILCS 45]

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)**45 Ill. Reg. 10847, EFFECTIVE August 19, 2021**

This emergency amendment falls under the Skilled Nursing and Intermediate Care Facilities Code and impacts the Nursing Home Care Act. Under federal guidelines, the amendments provide direct links to access various guidelines provided by Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, and Department of Health and Human Services. The addition of 42 CFR 483.80; Infection Control is made under relevant federal regulations. Under infection control policies amendments are made to include testing, staff training, and maintenance and availability of policies and procedures regarding infection control. Infection control investigations must be periodically, no less than annually, reviewed. Guidelines are added for Preventing Healthcare Associated Pneumonia; Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings; Infection Control in Healthcare Personnel: Infrastructure and Routine Practices for Occupational Infection Prevention and Control Services; and Interim Infection Prevention and Control Recommendations to Prevent SARS-CoV-2 Spread in Nursing Homes. Further provisions stipulate that testing of staff and residents must be conducted when an outbreak occurs or upon the direction of the Department or local health department. Testing should be provided on a facility-wide basis, with priority to those experiencing COVID-19 symptoms. Testing must be conducted proportionally to the frequency of outbreaks in the county. Documentation must be completed which records the timing, result, and reliability of a test. Positive tests should render immediate steps to mitigate transmission on behalf of the facility. Procedures must be written in place for handling those who refuse or are unable to test. Facilities should work with labs to get comprehensive tests and provide the data regarding testing and results weekly to the Department.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_6.pdf)

See also: COVID-19

Nursing Home Care Act [210 ILCS 45]

Illinois Veterans' Homes Code (77 Ill. Adm. Code 340)

45 Ill. Reg. 11994, EFFECTIVE September 15, 2021

This emergency rule amends requirements for long term care facilities' infection control policies and procedures.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_0.pdf)

See also: COVID-19

Nursing Home Care Act [210 ILCS 45]

SHELTERED CARE FACILITIES CODE (77 Ill. Adm. Code 330)**45 Ill. Reg. 13711, EFFECTIVE October 14, 2021**

This emergency amendment relates to the Nursing Home Care Act and will expire after 150 days unless it is repealed before then or permanent rulemaking occurs. It was enacted due to the COVID-19 pandemic and outlines the training requirements for sheltered care facilities. Frontline clinical and management staff at sheltered care facilities must complete the Targeted COVID-19 Training for Frontline Nursing Home Staff and Management. This

training is free and provided by the Centers for Medicare & Medicaid Services (CMS). There are 5 specific modules for frontline clinical staff which include (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning, (4) cohorting, and (5) caring for residents with dementia during a pandemic. There are 10 modules for management staff training: (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning, (4) cohorting, (5) caring for residents with dementia in a pandemic, (6) infection prevention and control, (7) emergency preparedness and surge capacity, (8) addressing emotional health of residents and staff, (9) telehealth for nursing homes, and (10) preparing a vaccine delivery system. For both frontline clinical staff and management staff, facilities must ensure that at least 50% of their frontline clinical staff have completed the training by February 28, 2021, and 100% of the frontline clinical staff have completed it by March 31, 2021. The emergency amendment specifies these trainings must be completed by all new frontline and management staff hired by sheltered care facilities after January 31, 2021, and must be completed within 14 days of being hired.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_44.pdf)

See also: COVID-19

Nursing Home Care Act [210 ILCS 45]

ILLINOIS VETERANS' HOMES CODE [77 Ill. Adm. Code 340]

45 Ill. Reg. 13725, EFFECTIVE October 14, 2021

This emergency amendment relates to the Nursing Home Care Act and will expire within 150 days if it is not repealed before then or permanent rulemaking is put in place. It was enacted due to the COVID-19 pandemic and outlines the requirements for veterans' homes. Frontline clinical and management staff at sheltered care facilities must complete the Targeted COVID-19 Training for Frontline Nursing Home Staff and Management. This training is free and provided by the Centers for Medicare & Medicaid Services (CMS). There are 5 specific training modules for frontline clinical staff. There are 5 specific modules for frontline clinical staff which include (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning, (4) cohorting, and (5) caring for residents with dementia during a pandemic. There are 10 modules for management staff training: (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning, (4) cohorting, (5) caring for residents with dementia in a pandemic, (6) infection prevention and control, (7) emergency preparedness and surge capacity, (8) addressing emotional health of residents and staff, (9) telehealth for nursing homes, and (10) preparing a vaccine delivery system. For both frontline clinical staff and management staff, facilities must ensure that at least 50% of their frontline clinical staff have completed the training by February 28, 2021, and 100% of the frontline clinical staff have completed it by March 31, 2021. The emergency amendment requires that the training be completed within 14 days after hiring for all new frontline and management staff hired by veterans' homes after January 31, 2021.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_44.pdf)

See also: COVID-19

ID/DD Community Care Act [210 ILCS 47]

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE
(77 Ill. Adm. Code 350)

45 Ill. Reg. 13735, EFFECTIVE October 14, 2021

This emergency amendment relates to the ID/DD Community Care Act, and it will expire after 150 days if is not repealed before then or permanent rulemaking is put in place. It relates to the COVID-19 pandemic and outlines the COVID-19 training requirements for DD facilities. Frontline clinical and management staff at sheltered care facilities must complete the Targeted COVID-19 Training for Frontline Nursing Home Staff and Management. This training is free and provided by the Centers for Medicare & Medicaid Services (CMS). There are 5 specific training modules for frontline clinical staff. There are 5 specific modules for frontline clinical staff which include (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning, (4) cohorting, and (5) caring for residents with dementia during a pandemic. There are 10 modules for management staff training: (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning, (4) cohorting, (5) caring for residents with dementia in a pandemic, (6) infection prevention and control, (7) emergency preparedness and surge capacity, (8) addressing emotional health of residents and staff, (9) telehealth for nursing homes, and (10) preparing a vaccine delivery system. For both frontline clinical staff and management staff, facilities must ensure that at least 50% of their frontline clinical staff have completed the training by February 28, 2021, and 100% of the frontline clinical staff have completed it by March 31, 2021. The emergency amendment requires that the training be completed within 14 days after hiring for all new frontline and management staff hired by veterans' homes after January 31, 2021.

https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_44.pdf

See also: COVID-19

Community Living Facilities Code [210 ILCS 35]

COMMUNITY LIVING FACILITIES CODE (77 Ill. Adm. Code 370)

45 Ill. Reg. 13750, EFFECTIVE October 14, 2021

This emergency amendment relates to the Community Living Facilities Code and will be effective for 150 days unless it is repealed or established as a permanent rule before then. It relates to the COVID-19 pandemic and the required COVID-19 trainings for community living facilities. Frontline clinical and management staff at sheltered care facilities must complete the Targeted COVID-19 Training for Frontline Nursing Home Staff and Management. This training is free and provided by the Centers for Medicare & Medicaid Services (CMS). There are 5 specific training modules for frontline clinical staff. There are 5 specific modules for frontline clinical staff which include (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning, (4) cohorting, and (5) caring for residents with dementia during a pandemic. There are 10 modules for management staff training: (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning, (4) cohorting, (5) caring for residents with dementia in a pandemic, (6) infection prevention and control, (7) emergency preparedness and surge capacity, (8) addressing emotional health of residents and staff, (9) telehealth for nursing homes, and (10) preparing a vaccine delivery system. For both frontline clinical staff and management staff, facilities must ensure that at least 50% of their frontline clinical staff have completed the training by February 28, 2021, and 100% of the frontline clinical staff have completed it by March 31, 2021. The emergency amendment requires that the training be completed within 14 days after hiring for all new frontline and management staff hired by veterans' homes after January 31, 2021.

https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_44.pdf

See also: COVID-19

Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]

SPECIALIZED MENTAL HEALTH REHABILITATION FACILITIES CODE (77 Ill. Adm. Code 380)

45 Ill. Reg. 13761, EFFECTIVE October 14, 2021

This emergency amendment impacts the Specialized Mental Health Act of 2013 and will expire after 150 unless it is repealed or enacted as a permanent rule before then. It relates to the COVID-19 pandemic and the COVID-19 required training for skilled nursing and intermediate care facilities. Frontline clinical and management staff at sheltered care facilities must complete the Targeted COVID-19 Training for Frontline Nursing Home Staff and Management. This training is free and provided by the Centers for Medicare & Medicaid Services (CMS). There are 5 specific training modules for frontline clinical staff. There are 5 specific modules for frontline clinical staff which include (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning, (4) cohorting, and (5) caring for residents with dementia during a pandemic. There are 10 modules for management staff training: (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning, (4) cohorting, (5) caring for residents with dementia in a pandemic, (6) infection prevention and control, (7) emergency preparedness and surge capacity, (8) addressing emotional health of residents and staff, (9) telehealth for nursing homes, and (10) preparing a vaccine delivery system. For both frontline clinical staff and management staff, facilities must ensure that at least 50% of their frontline clinical staff have completed the training by February 28, 2021, and 100% of the frontline clinical staff have completed it by March 31, 2021. The emergency amendment requires that the training be completed within 14 days after hiring for all new frontline and management staff hired by veterans' homes after January 31, 2021.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_44.pdf)

See also: COVID-19

MC/DD Act [210 ILCS 46]

MEDICALLY COMPLEX FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE (77 Ill. Adm. Code 390)

45 Ill. Reg. 13769, EFFECTIVE October 14, 2021

This emergency amendment impacts the MC/DD Act and it will expire after 150 days unless it is repealed or enacted as a permanent rule before then. It relates to the COVID-19 pandemic and explains the required COVID-19 training requirements for MC/DD facilities. Frontline clinical and management staff at sheltered care facilities must complete the Targeted COVID-19 Training for Frontline Nursing Home Staff and Management. This training is free and provided by the Centers for Medicare & Medicaid Services (CMS). There are 5 specific training modules for frontline clinical staff. There are 5 specific modules for frontline clinical staff which include (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning, (4) cohorting, and (5) caring for residents with dementia during a pandemic. There are 10 modules for management staff training: (1) hand hygiene and PPE, (2) screening and surveillance, (3) cleaning, (4) cohorting, (5) caring for residents with dementia in a pandemic, (6) infection prevention and control, (7) emergency preparedness and surge capacity, (8) addressing emotional health of residents and staff, (9) telehealth for nursing homes, and (10) preparing a vaccine delivery system. For both frontline clinical staff and management staff, facilities must ensure that at least 50% of

their frontline clinical staff have completed the training by February 28, 2021, and 100% of the frontline clinical staff have completed it by March 31, 2021. The emergency amendment requires that the training be completed within 14 days after hiring for all new frontline and management staff hired by veterans' homes after January 31, 2021.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_44.pdf)

See also: COVID-19

Nursing Home Care Act [210 ILCS 45]

Public Act 102-0640

Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

45 Ill. Reg. 14003, EFFECTIVE October 22, 2021

This emergency amendment will expire after 150 days unless it is repealed or adopted into permanent rulemaking prior. It was adopted in response to the Public Act 102-0640 which was signed into law by Governor Pritzker on August 27, 2021, and allows electronic means for nursing home residents to maintain contact with family, friends, and clergy to supplement in-person contact due to the COVID-19 pandemic. The emergency amendment adds Section 300.3340 that implements Public Act 102-0640, which requires facilities to adopt and implement written policies that allow technology and devices to be accessible to facility residents so they can keep in contact with family, friends, and clergy. These assistive and supportive technology and devices include computers, videoconferencing equipment, distance-based community technology, and other equipment, accessories, or electronic licenses. However, this virtual interaction must not be interpreted as a substitute for in-person visitation; rather, it's in addition. It also allows facilities to apply for competitive civil monetary penalty fund grants and other federal and Illinois state funds. There will be penalties imposed on facilities that do not develop and implement these policies.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_45.pdf)

See also: COVID-19

Nursing Home Care Act [210 ILCS 45]

Public Act 102-640

Sheltered Care Facilities Code (77 Ill. Adm. Code 330)

45 Ill. Reg. 14022, EFFECTIVE October 22, 2021

This emergency amendment will last for 150 days unless it is either repealed or put into permanent rulemaking before that time. It was adopted in response to the Public Act 102-0640 which was signed into law by Governor Pritzker on August 27, 2021, and allows electronic means for sheltered care facility residents to maintain contact with family, friends, and clergy to supplement in-person contact due to the COVID-19 pandemic. The emergency amendment adds Section 300.3340 that implements Public Act 102-0640, which requires facilities to adopt and implement written policies that allow technology and devices to be accessible to facility residents so they can keep in contact with family, friends, and clergy. These assistive and supportive technology and devices include computers, videoconferencing equipment, distance-based community technology, and other equipment, accessories, or electronic licenses. However, this virtual interaction must not be interpreted as a substitute for in-person visitation; rather, it's in addition. It also allows facilities to apply for competitive civil monetary penalty fund grants and other federal and

Illinois state funds. There will be penalties imposed on facilities that do not develop and implement these policies.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_45.pdf)

See also: COVID-19

Nursing Home Care Act [210 ILCS 45]

Public Act 102-0640

Illinois Veterans' Homes Code (77 Ill. Adm. Code 340)

45 Ill. Reg. 14039, EFFECTIVE October 22, 2021

This emergency amendment will last for 150 days unless it is either repealed or put into permanent rulemaking before that time. It was adopted in response to the Public Act 102-0640 which was signed into law by Governor Pritzker on August 27, 2021, and allows electronic means for Illinois veterans' homes residents to maintain contact with family, friends, and clergy to supplement in-person contact due to the COVID-19 pandemic. The emergency amendment adds Section 300.3340 that implements Public Act 102-0640, which requires facilities to adopt and implement written policies that allow technology and devices to be accessible to facility residents so they can keep in contact with family, friends, and clergy. These assistive and supportive technology and devices include computers, videoconferencing equipment, distance-based community technology, and other equipment, accessories, or electronic licenses. However, this virtual interaction must not be interpreted as a substitute for in-person visitation; rather, it's in addition. It also allows facilities to apply for competitive civil monetary penalty fund grants and other federal and Illinois state funds. There will be penalties imposed on facilities that do not develop and implement these policies.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_45.pdf)

See also: COVID-19

Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]

SPECIALIZED MENTAL HEALTH REHABILITATION FACILITIES CODE (77 Ill. Adm. Code 380)

45 Ill. Reg. 14665, EFFECTIVE November 4, 2021

This emergency amendment will be effective for 150 days. It is in response to the COVID-19 pandemic. It amends requirements for long term care facilities' infection control policies and procedures. This includes updated COVID-19 testing requirements and updated incorporated materials from the CDC on infection control. It added the "Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2" and "Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic" to the requirements. It also amends requirements for facilities to educate staff on the COVID-19 vaccination and administer it. If a resident or staff member at the facility tests positive for COVID-19, the facility can use either a unit-based or broad-based approach to test residents and staff regardless of their vaccination status. This testing must include all residents and staff who have not tested positive for COVID-19 in the past 90 days. Under the unit-based approach, the facility must test all residents and staff immediately (but not earlier than two days after exposure) in the unit where the staff worked or where the resident resided. The testing must continue every 3-7 days until there are no more positive cases for 14 days. If

a broad-based approach is used, the facility must test all residents and staff immediately (but not earlier than two days after exposure) and test every 3-7 days until there are no more positive cases for 14 days. Testing for staff who are not fully vaccinated against COVID-19 must occur on-site or the facility must obtain proof that the staff received a negative COVID-19 test. A laboratory RT-PCR test is preferable, but POC antigen tests are also allowed. For a facility to perform these tests on-site, they must have a CLIA Certificate of Waiver. If neither type of test is available, the staff member can use an at-home testing kit so long as the test is observed and verified by a health care provider.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: COVID-19

MC/DD Act [210 ILCS 46]

MEDICALLY COMPLEX FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE
(Ill. 77 Adm. Code 390)

45 Ill. Reg. 14688, EFFECTIVE November 4, 2021

This emergency amendment will be effective for 150 days. It is in response to the COVID-19 pandemic. It amends requirements for long-term care facilities' infection control policies and procedures. This includes updated COVID-19 testing requirements and updated incorporated materials from the CDC addressing infection control. It added the "Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2" and "Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic" to the requirements. It also amends requirements for facilities regarding written policies and procedures to educate staff on the COVID-19 vaccination and administer it. Testing for staff who are not fully vaccinated against COVID-19 must occur on-site or the facility must obtain proof that the staff received a negative COVID-19 test. A laboratory RT-PCR test is preferable, but POC antigen tests are also allowed. For a facility to perform these tests on-site, they must have a CLIA Certificate of Waiver. If neither type of test is available, the staff member can use an at-home testing kit so long as the test is observed and verified by a health care provider. If a resident or staff member at the facility tests positive for COVID-19, the facility can use either a unit-based or broad-based approach to test residents and staff regardless of their vaccination status. This testing must include all residents and staff who have not tested positive for COVID-19 in the past 90 days. Under the unit-based approach, the facility must test all residents and staff immediately (but not earlier than two days after exposure) in the unit where the staff worked or where the resident resided. The testing must continue every 3-7 days until there are no more positive cases for 14 days. If a broad-based approach is used, the facility must test all residents and staff immediately (but not earlier than two days after exposure) and test every 3-7 days until there are no more positive cases for 14 days.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: COVID-19

Assisted Living and Shared Housing Act [210 ILCS 9]

ASSISTED LIVING AND SHARED HOUSING ESTABLISHMENT CODE (77 Ill. Adm. Code 295)

45 Ill. Reg. 14532, EFFECTIVE November 5, 2021

This emergency amendment to the Assisted Living and Shared Housing Act was effective for 150 days. It was enacted in response to the COVID-19 pandemic. The rule amends the requirements for assisted living and shared housing facilities' infection control policies and procedures. Under the rule, infection control policies and procedures must be consistent with and include the requirements of the Control of Communicable Diseases Code. All staff must be trained on these policies and procedures and records of this training must be kept for 3 years. The rule updates COVID-19 testing requirements and specifically, it added "Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2" and "Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic" to the list of federal guidelines that facilities must adhere to. If a resident or staff member in the establishment tests positive for COVID-19, there must be either a unit-based or broad-based approach for testing residents and staff regardless of their vaccination status. Testing must include all residents and staff who have not tested positive within the past 90 days. If a unit-based approach is used, the facility must test all residents and staff immediately (but no earlier than two days after exposure) and continue testing every 3-7 days until there are no more positive cases for 14 days. If a broad-based approach is used, the facility must test all residents and facility staff immediately (but not earlier than two days after exposure) and continue to test every 3-7 days until there are no more positive cases for 14 days. The rule also amends requirements regarding written policies and procedures for educating staff on COVID-19 vaccinations and for administering the vaccine to staff due to the changes in federal guidance on staff vaccinations. Testing of staff who are not fully vaccinated against COVID-19 must take place at the facility or the facility must receive proof that the staff member tested negative. A laboratory RT-PCR test is preferred for this testing, but a POC antigen test is acceptable. If neither of these testing methods are available, the staff may use at-home or self-kits.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: COVID-19

Nursing Home Care Act [210 ILCS 45]

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)

45 Ill. Reg. 14550, EFFECTIVE November 5, 2021

This emergency amendment was effective for 150 days in response to the COVID-19 pandemic. It updates the requirements for skilled nursing facilities regarding written policies and procedures for COVID-19 testing and vaccination of facility staff. Specifically, it added "Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2" and "Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic" to the list of federal guidelines that facilities must adhere to. Testing for staff who are not fully vaccinated against COVID-19 must either occur at the facility or the facility must obtain proof the staff member tested negative elsewhere. A

laboratory RT-PCR test is preferred, but POC antigen test is acceptable. Facilities must have a CLIA Certificate of Waiver to conduct these tests at their facility. If neither of these testing methods are available, a staff can use an at-home testing kit that if the test is observed and verified by a healthcare provider.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: COVID-19

Nursing Home Care Act [210 ILCS 45]

SHELTERED CARE FACILITIES CODE (77 Ill. Adm. Code 330)

45 Ill. Reg. 14569, EFFECTIVE November 5, 2021

This emergency amendment was effective for 150 days in response to the COVID-19 pandemic. It amends the requirements for sheltered care facilities' infection control policies and procedures. Specifically, it added "Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2" and "Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic" to the list of federal guidelines that facilities must adhere to. This includes updated COVID-19 testing requirements and incorporated materials from the CDC on infection control. If a resident or staff member at the facility tests positive for COVID-19, the facility can use either a unit-based or broad-based approach to test residents and staff regardless of their vaccination status. This testing must include all residents and staff who have not tested positive for COVID-19 in the past 90 days. Under the unit-based approach, the facility must test all residents and staff immediately (but not earlier than two days after exposure) in the unit where the staff worked or where the resident resided. The testing must continue every 3-7 days until there are no more positive cases for 14 days. If a broad-based approach is used, the facility must test all residents and staff immediately (but not earlier than two days after exposure) and test every 3-7 days until there are no more positive cases for 14 days. It also amends the requirements for sheltered care facilities regarding written policies and procedures for educating facility staff on the COVID-19 vaccine and administering the vaccine to staff. Testing for staff who are not fully vaccinated against COVID-19 must occur on-site or the facility must obtain proof that the staff received a negative COVID-19 test. A laboratory RT-PCR test is preferable, but POC antigen tests are also allowed. For a facility to perform these tests on-site, it must have a CLIA Certificate of Waiver. If neither type of test is available, the staff member can use an at-home testing kit so long as the test is observed and verified by a health care provider.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: COVID-19

Nursing Home Care Act [210 ILCS 45]

ILLINOIS VETERANS' HOMES CODE (77 Ill. Adm. Code 340)

45 Ill. Reg. 14597, EFFECTIVE November 5, 2021

This emergency amendment was effective for 150 days in response to the COVID-19 pandemic. It amends requirements for veterans' homes' infection control policies and procedures which includes updated COVID-19 testing requirements and updated incorporated materials from the CDC regarding infection control. Specifically, it added "Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or

Exposure to SARS-CoV-2” and “Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic” to the list of federal guidelines that facilities must adhere to. If a resident or staff member at the facility tests positive for COVID-19, the facility can use either a unit-based or broad-based approach to test residents and staff regardless of their vaccination status. This testing must include all residents and staff who have not tested positive for COVID-19 in the past 90 days. Under the unit-based approach, the facility must test all residents and staff immediately (but not earlier than two days after exposure) in the unit where the staff worked or where the resident resided. The testing must continue every 3-7 days until there are no more positive cases for 14 days. If a broad-based approach is used, the facility must test all residents and staff immediately (but not earlier than two days after exposure) and test every 3-7 days until there are no more positive cases for 14 days.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: COVID-19

ID/DD Community Care Act [210 ILCS 47]

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE
(77 Ill Adm. Code 350)

45 Ill. Reg. 14616, EFFECTIVE November 5, 2021

This emergency amendment was effective for 150 days in response to the COVID-19 pandemic. amends the requirements for Developmentally Disabled facilities’ infection control policies and procedures, and updated COVID-19 testing requirements, and updated incorporated materials from the CDC on infection control. Specifically, it added “Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2” and “Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic” to the list of federal guidelines that facilities must adhere to. It also amends the requirements that Developmentally Disabled facilities must fulfill regarding written policies and procedures for educating staff on the COVID-19 vaccination and administering the vaccine. If a resident or staff member at the facility tests positive for COVID-19, the facility can use either a unit-based or broad-based approach to test residents and staff regardless of their vaccination status. This testing must include all residents and staff who have not tested positive for COVID-19 in the past 90 days. Under the unit-based approach, the facility must test all residents and staff immediately (but not earlier than two days after exposure) in the unit where the staff worked or where the resident resided. The testing must continue every 3-7 days until there are no more positive cases for 14 days. If a broad-based approach is used, the facility must test all residents and staff immediately (but not earlier than two days after exposure) and test every 3-7 days until there are no more positive cases for 14 days. Testing for staff who are not fully vaccinated against COVID-19 must occur on-site or the facility must obtain proof that the staff received a negative COVID-19 test. A laboratory RT-PCR test is preferable, but POC antigen tests are also allowed. For a facility to perform these tests on-site, they must have a CLIA Certificate of Waiver. If neither type of test is available, the staff member can use an at-home testing kit so long as the test is observed and verified by a health care provider.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: COVID-19

Community Living Facilities Licensing Act [210 ILCS 35]

COMMUNITY LIVING FACILITIES CODE (77 Ill. Adm. Code 370)

45 Ill. Reg. 14647, EFFECTIVE November 5, 2021

This emergency amendment was effective for 150 days in response to the COVID-19 pandemic. It amends requirements for community living facilities' infection control policies and procedures. This includes updated COVID-19 testing requirements and updated incorporated materials from the CDC on infection control. Specifically, it added "Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2" and "Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic" to the list of federal guidelines that facilities must adhere to. Additionally, it also amends requirements for facilities regarding written policies and procedures for educating staff on the COVID-19 vaccination and administering it. If a resident or staff member at the facility tests positive for COVID-19, the facility can use either a unit-based or broad-based approach to test residents and staff regardless of their vaccination status. This testing must include all residents and staff who have not tested positive for COVID-19 in the past 90 days. Under the unit-based approach, the facility must test all residents and staff immediately (but not earlier than two days after exposure) in the unit where the staff worked or where the resident resided. The testing must continue every 3-7 days until there are no more positive cases for 14 days. If a broad-based approach is used, the facility must test all residents and staff immediately (but not earlier than two days after exposure) and test every 3-7 days until there are no more positive cases for 14 days. Testing for staff who are not fully vaccinated against COVID-19 must occur on-site or the facility must obtain proof that the staff received a negative COVID-19 test. A laboratory RT-PCR test is preferable, but POC antigen tests are also allowed. For a facility to perform these tests on-site, they must have a CLIA Certificate of Waiver. If neither type of test is available, the staff member can use an at-home testing kit so long as the test is observed and verified by a health care provider.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

See also: COVID-19

Nursing Home Care Act [210 ILCS 45]

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)

46 Ill. Reg. 1928, EFFECTIVE January 16, 2022

This emergency amendment relates to the Skilled Nursing and Intermediate Care Facilities Code and impacts the Nursing Home Care Act. The emergency rulemaking expired after 150 days of the effective date, upon repeal, or upon adoption of permanent rulemaking. The Incorporated and Referenced Materials are changed to include Guidelines for Preventing Healthcare-Associated Pneumonia, Infection Control in Healthcare Personnel: Infrastructure and Routine Practices for Occupational Infection Prevention and Control Services, Interim Infection Prevention and Control Recommendations to Prevent SARS-CoV-2 Spread in Nursing Homes, Interim Guidance for Managing Healthcare Personnel with SARSCoV-2 Infection or Exposure to SARS-CoV-2, and Interim Infection

Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic. Under Infection Control, provisions for testing, training, and maintenance of Infection Control and Procedures are added, as well as guidelines regarding the Department's review of facilities infection control investigations and recommendations. Further, guidelines on when to conduct COVID-19 testing, whom to test, how to test, and how to document and record testing are outlined.

https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_5.pdf

See also: COVID-19

Nursing Home Care Act [210 ILCS 45]

Public Act 102-0640

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES ACT (77 Ill. Adm. Code 300)
46 Ill. Reg. 5554, EFFECTIVE March 21, 2022

This emergency amendment was effective for 150 days in response to the COVID-19 pandemic and Public Act 102-0640. The Public Act was signed into law by Governor Pritzker in August 2021 and allowed nursing home residents to use electronic means to stay in contact with friends, family, and clergy as a supplement to in-person contact given the pandemic to prevent social isolation. It adds Section 300.3340, which implements the Public Act and requires facilities to create written policies to make sure that assistive and supportive technology and devices are available to residents to make sure they can communicate with friends, family, and clergy. It also allows the facilities to apply for competitive civil monetary penalty fund grants and other available federal and Illinois state funds. The emergency rules were filed pending the adoption of proposed rulemaking.

https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_14.pdf

See also: COVID-19

Nursing Home Care Act [210 ILCS 45]

Public Act 102-0640

SHELTERED CARE FACILITIES CODE (77 Ill. Adm. Code 330)
46 Ill. Reg. 5573, EFFECTIVE March 17, 2022

This emergency amendment was effective for 150 days in response to the COVID-19 pandemic and Public Act 102-0640. The Public Act was signed into law by Governor Pritzker in August 2021 and allowed nursing home residents to use electronic means to stay in contact with friends, family, and clergy as a supplement to in-person contact given the pandemic to prevent social isolation. It adds Section 330.4340, which implements the Public Act and requires facilities to create written policies to make sure that assistive and supportive technology and devices are available to residents to make sure they can communicate with friends, family, and clergy. It also allows the facilities to apply for competitive civil monetary penalty fund grants and other available federal and Illinois state funds. The emergency rules were filed pending the adoption of proposed rulemaking.

https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_14.pdf

See also: COVID-19

Nursing Home Care Act [210 ILCS 45]

Public Act 102-0640

ILLINOIS VETERANS' HOMES CODE (77 Ill. Adm. Code 340)**46 Ill. Reg. 5590, EFFECTIVE March 21, 2022**

This emergency amendment was effective for 150 days in response to the COVID-19 pandemic and Public Act 102-0640. The Public Act was signed into law by Governor Pritzker in August 2021 and allowed nursing home residents to use electronic means to stay in contact with friends, family, and clergy as a supplement to in-person contact given the pandemic to prevent social isolation. It adds Section 340.1491, which implements the Public Act and requires facilities to create written policies to make sure that assistive and supportive technology and devices are available to residents to make sure they can communicate with friends, family, and clergy. It also allows the facilities to apply for competitive civil monetary penalty fund grants and other available federal and Illinois state funds. The emergency rules were filed pending the adoption of proposed rulemaking.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_14.pdf)

See also: COVID-19

JOINT COMMITTEE ON ADMINISTRATIVE RULES' REVIEW REPORT**Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)****46 Ill. Reg. 5791**

This is JCAR's review of emergency rule at 45 Ill. Reg. 15216 from 12/3/2021 (under the Skilled Nursing and Intermediate Care Facilities Code the). JCAR recommended that the Department revisit the requirements for Infection Preventionists in 6 months to determine if more details about submitting infectious disease surveillance testing and outbreak response can be added to Section 300.696.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_15.pdf)

Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)**46 Ill. Reg. 5791**

This is JCAR's review of emergency rule at 46 Ill. Reg. 3243 from 2/25/22 Sections 300.282 and Section 300.698 (under the Skilled Nursing and Intermediate Care Facilities Code). JCAR recommended that the Department review the COVID-19 testing and vaccine requirements and consider (1) aligning the requirements to the current CDC guidelines for long-term care providers, (2) including the public commentators' concerns, and (3) the impact that testing and vaccine requirements have on long-term care provider staffing and costs.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_15.pdf)

Intermediate Care for Developmentally Disabled Facilities code (77 Ill. Adm. Code 350)**46 Ill. Reg. 5793**

This is JCAR's review of the emergency rule at 77 Ill. Adm. Code. 350; 46 Ill. Reg. 3315 from 2/25/2022 (under the Intermediate Care for Developmentally Disabled Facilities Code). JCAR recommends that the Department of Public Health review the COVID-19 testing and vaccine requirements and consider (1) aligning the requirements to the CDC's current guidelines, (2) incorporating public commentators' suggestions, and (3) assessing the impact that testing and vaccine requirements have on long term care provider and staffing costs.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_15.pdf)

Medically Complex for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 390)
46 Ill. Reg. 5794

This is JCAR's review of the emergency rule at 77 Ill. Adm. Code 390; 46 Ill. Reg. 3387 from 2/25/2022 (under the Medically Complex for the Developmentally Disabled Facilities Code). JCAR recommends that the Department of Public Health review the COVID-19 testing and vaccine requirements and consider (1) aligning the requirements to the CDC's current guidelines, (2) incorporating public commentators' suggestions, and (3) assessing the impact that testing and vaccine requirements have on long term care provider and staffing costs.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_15.pdf)

NOTICE OF EXPEDITED CORRECTION

Nursing Home Care Act [210 ILCS 45]

Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

46 Ill. Reg. 4157, effective October 25, 2021

This expedited correction is approved because text that had been added to Section 300.3210 in a previously adopted rulemaking, 45 Ill. Reg. 11096, was inadvertently omitted. The correction restores the omitted text.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_11.pdf)

Nursing Home Care Act [210 ILCS 45]

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)

45 Ill. Reg. 13953, EFFECTIVE October 25, 2021

This notice for expedited correction involves the Skilled Nursing and Intermediate Care Facilities Code. The corrections involve re-establishing previously omitted language and adding other text. Under Subpart P: Resident's Rights, the first provision states that no resident shall be deprived of rights, privileges, or benefits under the Constitution of the State of Illinois, or the Constitution of the United States solely on account of his or her status as a resident of a facility. Other provisions stipulate that upon a physician's order, residents may be required to wear identification wristlets and this should be indicated in a resident's clinical record. Residents in Alzheimer's units may also be required to wear wristlets unless a guardian or legal representative prefers otherwise. The wristlets must provide the resident's name, number, and facility address. Lastly, the facility must ensure that residents are protected and not subject to any form of abuse.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_45.pdf)

OTHER INFORMATION REQUIRED BY THE LAW TO BE PUBLISHED IN THE ILLINOIS REGISTRAR

Nursing Home Care Act [210 ILCS 45]

Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)**46 Ill. Reg. 11332, EFFECTIVE July 1, 2022**

The Joint Committee on Administrative Rules (JCAR) considered the proposed rule, 77 Ill. Adm. Code 300; 45 Ill. Reg. 15216, and recommended that the Department of Public Health (DPH) revisit the requirements for Infection Preventionists in 6 months to evaluate whether additional details regarding the submission of infectious disease surveillance testing and outbreak response could be added. They also recommended that the DPH evaluate whether commenter-suggested changes to the rule could be made without jeopardizing the quality of resident care, if facilities are having a difficult time complying with the detailed requirements of this rule. DPH submitted that the 90-day response creates a significant challenge to conducting a meaningful analysis of the implementation of the rule changes and providing JCAR an update. Since the rules were published, DPH has had the opportunity to provide technical assistance surrounding implementation of the new rule, including a free comprehensive training session to industry representatives, nursing home administrators, and clinicians, titled "Facility Assessment in Long Term Care." DPH continues to provide guidance and technical assistance as infection control deficiencies continue to plague long term care facilities year after year. At this time, DPH will not implement commenters' suggested revisions in the rulemaking and will allow a reasonable period to implement the rules as adopted and meaningfully evaluate the results. DPH is also internally consulting with its medical experts on staff to perform an in-depth review and analysis to further enhance and apply infection control policies and regulations.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2_7.pdf)

PHARMACY**PUBLIC ACTS**

The Regulatory Sunset Act [5 ILCS 80/4.33] [5 ILCS 80/4.38]

The Wholesale Drug Distribution Licensing Act [5 ILCS 80/4.38]

The Pharmacy Practice Act [225 ILCS 85/7.5] [225 ILCS 85/9] [225 ILCS 85/9.5] [225 ILCS 85/16] [225 ILCS 85/25.10] [225 ILCS 85/30] [225 ILCS 85/35.18] [225 ILCS 85/35.21]

PUBLIC ACT 102-0882, EFFECTIVE May 13, 2022

Senate Bill 4018

This Public Act amends the Regulatory Sunset Act, the Wholesale Drug Distribution Licensing Act, and the Pharmacy Practice Act. The Public Act removed the Pharmacy Practice Act from the list of acts to be repealed on January 1, 2023, in the Regulatory Sunset Act and delayed the repeal until January 1, 2028. Regarding the Pharmacy Practice Act, the Public Act added individual taxpayer identification numbers to the information applicants need to provide. It also added final prescription verification to the list of tasks a registered pharmacy technician may not perform. However, a registered certified pharmacy technician may perform a final prescription verification if the prescription was sent by another pharmacy technician using technology-assisted medication verification.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0882>)

The Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25/7-101], [210 ILCS 25/7-102]

The Illinois Insurance Code [215 ILCS 5/356z.45]

The Pharmacy Practice Act [225 ILCS 85/9]

The Illinois Public Aid Code [305 ILCS 5/5-5.12d]

PUBLIC ACT 102-1051, EFFECTIVE January 1, 2023.

House Bill 4430

This Public Act amends a number of statutes to allow for pharmacists to order and review laboratory tests, provide certain services to HIV-positive patients, and requires Illinois Medicaid to reimburse pharmacists for HIV services and hormonal contraceptive counseling. First, the Act amends the Illinois Clinical Laboratory and Blood Bank Act to allow for pharmacists to submit requests to clinical labs for the examination of specimens and receive reports of such results (where previously only physicians, dentists, and other professionals could submit and receive such reports). The Act also amends the Illinois Insurance Code (at Section 356z.45), which states that group or individual insurance policies or plans of managed care that are amended, issued, delivered, or renewed on or after January 1, 2023, shall provide coverage for healthcare services by a pharmacist if the pharmacist meets the requirements and scope of practice as set forth by Section 43 or Section 43.5 of the Pharmacy Practice Act. The Act adds to the definition of “practice of pharmacy” under the Pharmacy Practice Act, which now includes “the initiation, dispensing, or administration of drugs, laboratory tests, assessments, referrals, and consultations for human immunodeficiency virus (HIV) pre-exposure prophylaxis and HIV post-exposure prophylaxis” under Section 43.5. Another amendment states that registered pharmacy technicians may be required to perform tasks within the practice of pharmacy if they are specifically trained for that task, except for patient counseling, drug regimen review, clinical conflict resolution, or providing patients prophylaxis drugs for HIV pre-exposure and post-exposure prophylaxis. The most significant amendments to the Act are found in the newly created Section 43.5, which allows pharmacists to assess and dispense HIV prophylaxis drugs under a standing order from a physician or a medical director of a county or local health department. If a patient’s HIV test results are reactive, the pharmacist may refer the patient to a health care professional or clinic. If the results are non-reactive, the pharmacist may administer pre- and post-exposure prophylaxis to patients. The standing order to perform these services must be consistent with CDC, US Preventive Task Force, and other clinical evidence guidelines. A pharmacist must communicate the list of services to the patient and patient’s physician or primary health care provider. The services described under this section must be appropriately documented and privately administered. A pharmacist must complete training approved by the Accreditation Council for Pharmacy Education and the Department relating to the dispensing and administration of drugs, tests, assessments, referrals, and consultations for HIV. Additionally, the Act amends the Illinois Public Aid Code to provide coverage for patient care services provided by a pharmacist, including hormonal contraceptive counseling and HIV pre- and post-prophylaxis. The medical assistance program shall cover patient care services provided by a pharmacist for hormonal contraceptives and HIV pre- and post-prophylaxis assessment and consultation. The Department will establish a fee schedule for patient care services provided by a pharmacist under Sections 43 and 43.5 of the Pharmacy Practice Act, and such services shall be covered and reimbursed at no less than 85% of the reimbursed rate when provided by a physician. The reimbursement rate for hormonal contraceptives and pre- and post-prophylaxis assessment and consultation is set to 85% of the fee schedule for physician

services. Prior to providing patient care services and HIV assessment and consultation, a pharmacist must be enrolled in the medical assistance program as an ordering and referring provider. Any necessary waivers and approvals must be applied by the Department by January 1, 2023.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1051>)

ADOPTED RULES

Illinois Public Aid Code [305 ILCS 5/12-13]

MEDICAL PAYMENT (89 Ill. Adm. Code 140)

46 Ill. Reg. 2046, EFFECTIVE January 21, 2022

Reimbursement for drugs payable by Illinois Public Aid is contingent on the dispensing fees of Critical Access Pharmacies. The amendments also provide information on what qualifies as a Critical Access Pharmacy. Further, the Department's maximum price is calculated as the lowest of either the Wholesale Acquisition Cost (WAC) minus 17.5% for multiple source drugs; WAC minus 4.4% for brand name drugs; or WAC minus 10% for blood clotting factor; or the National Average Drug Acquisition Cost, if available; or the Federal upper limit as established under section 1927(e)(4) of the Social Security Act; or the State upper limit. The amendments also repeal the section regarding Over-the-Counter Items.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_6.pdf)

NOTICE OF CORRECTION

Illinois Insurance Code [215 ILCS 5]

PHARMACY BENEFIT MANAGERS (50 Ill. Adm. Code 3145)

45 Ill. Reg. 8517, EFFECTIVE May 29, 2020

This correction revised a typographical error in Section 3145.30 and corrected the term "biannually" to "biennially."

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_28.pdf)

See also: INSURANCE

PRISONERS

CASE LAW

QUINN V. WEXFORD HEALTH SOURCES, INC. No. 20-1483 (7th Cir. 2021)

A prisoner died by suicide at a correctional facility operated by the Illinois Department of Corrections. The prisoner's mother, Plaintiff, sued Defendant Wexford Health Sources and two individual employees: a social worker and a warden. Defendant-Wexford provided healthcare services to the Illinois Department of Corrections. Plaintiff sued under 42 CFR 1983 for violations of her son's Eighth Amendment rights. The prisoner was diagnosed with severe mental health issues and was transferred to multiple facilities. Incomplete mental health records and visit histories were kept for the prisoner which concealed

severity of his mental health problems. However, for Plaintiff's case to be successful against Defendant-Employees, Plaintiff must prove the objective and subjective components of the claim. The objective claim was not disputed because it was clear that the imminent risk of death by suicide is not something that should be objectively reasonable. However, the court focused on subjective analysis and said Plaintiff must prove that Defendants (1) subjectively knew the prisoner was at a substantial risk of death by suicide and (2) intentionally disregarded that risk. Therefore, it was not enough to say that the employees should have been aware of the risk. The court reasoned that the employees' actions were poor and even negligent because there were lapses of care. However, the court did not think the evidence Plaintiff presented was sufficient to prove the subjective component of the case, due to the lack of intentionality. Regarding Defendant-Wexford, Plaintiff had to show that Defendant-Wexford had an official policy, established custom, or a decision by a final decision maker caused the alleged constitutional violation. Although the court believes Defendant-Wexford could have done more to take care of the prisoner, there was not enough evidence to show systemic and gross deficiencies in the procedures or that there was a lack of procedures. There were policies; however, they were followed imperfectly. Therefore, the court affirmed the motion for summary judgment for Defendants.

(<https://law.justia.com/cases/federal/appellate-courts/ca7/20-1483/20-1483-2021-08-09.html>)

See also: MENTAL HEALTH

RECK V. WEXFORD HEALTH SERVICES, INC., 27 F. 4th 473, No. 19-2440 (7th Cir. 2022)

Prisoner filed Section 1983 action against prison doctor, health care unit administrator, prison nurse, and the private health care entity that provides medical services to inmates. Plaintiff argued Defendants violated Plaintiff's Eighth Amendment rights through (1) deliberate indifference to his serious medical condition, (2) operating an unconstitutionally ineffective sick call system, and (3) unconstitutionally understaffing the medical unit. However, Defendants' Motion for Summary Judgment was granted by the district court and affirmed by the court. Plaintiff developed complications from his Crohn's disease and sent multiple "sick calls" to alert the medical staff that he was ill, but these calls went unanswered. However, to the Plaintiff's second claim, the court responded the sick call system was not unconstitutionally ineffective because there was no record of the medical personnel receiving or ignoring the sick calls. Regarding the first claim, Plaintiff was eventually examined by Defendant-Doctor who recommended a course of treatment that was incorrect but did not amount to deliberate indifference to Plaintiff's condition. Additionally, Defendant-Nurse was not deliberately indifferent to Plaintiff's condition by relying on and implementing Defendant-Doctor's treatment plan. Therefore, neither Defendant-Doctor nor Defendant-Nurse showed reckless disregard for Plaintiff's medical condition. For Plaintiff's third claim, the individuals Plaintiff sued did not have the authority to control staffing and so they could not be held responsible for the understaffed facility. Therefore, the district court's grant of summary judgment to Defendants was affirmed.

(<https://casetext.com/case/reck-v-wexford-health-sources-inc-3>)

See also: SECTION 1983 ACTION

PROFESSIONAL REGULATION

PUBLIC ACTS

Medical Practice Act of 1987 [225 ILCS 95/6]

PUBLIC ACT 102-0735, EFFECTIVE January 1, 2023

Senate Bill 0145

Section 6 of the Physician Assistant Practice Act was amended to change and clarify filing requirements regarding a collaborative practice relationship with a physician. The amended statute requires that a physician collaborating with a physician assistant must file with the Department a notice of employment, discharge, or collaboration with a physician assistant within 60 days (amended from “at the time of”) employment, discharge, or assumption of collaboration with a physician assistant. The amendment further clarifies that the section does not prevent a physician assistant from beginning their employment before the notice has been filed.

See also: HEALTHCARE WORKERS

Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [755 ILCS 45/4-4.1]

PUBLIC ACT 102-0794, EFFECTIVE January 1, 2023

House Bill 5047

This Act amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois. It provides that an agent may present an electronic device displaying an electronic copy of an executed form as proof of the health care agency. If the agent presents the statutory short form electronically, an attending physician, emergency medical services personnel as defined by Section 3.5 of the Emergency Medical Services (EMS) Systems Act, or health care provider may not refuse to give it effect. Any person or entity that provides a statutory short form to the public shall post for a period of 2 years information on its website regarding the changes made by this amendatory Act.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0794.pdf>)

Task Force on Intentionally-Licensed Health Care Professionals Act

PUBLIC ACT 102-0812, EFFECTIVE January 1, 2023

House Bill 5465

This Act creates the Task Force on Internationally Licensed Health Care Professionals Act. The Task Force is created within the Department of Financial and Professional Regulation. The subject matter of the Task Force is intended to address health care professionals, but also other professionals as needed and be focused on professionals already licensed and practicing in another country or seeking licensure in the State – students not included. The Task Force will include the: Secretary of Financial and Professional Regulation; Director of the Division of Professional Regulation; Chief Medical Coordinator of the Division of Professional Regulation; Nursing Coordinator of the Division of Professional Regulation; Speaker of the House of Representatives; Minority Leader of the House of Representatives; President of the Senate; Minority Leader of the Senate; two representatives of an organization that seek to eliminate employment barriers and advance the skills for

immigrant professionals appointed by the Secretary; one representative of an organization that recruits immigrants and foreign students to work in health related areas, and focus on raising the awareness of social, political, and economic issues related to immigrant health appointed by the Secretary; and one representative of an organization that seeks to increase the number of internationally educated medical professionals for practice within diverse communities appointed by the Secretary. The chair of the Task Force will be the Secretary of Financial and Professional Regulation. The Task Force will meet once every two months beginning only when a majority of members are appointed and will prepare an annual report to address barriers to licensure and practice for health care professionals in Illinois and address strategies for reducing the barriers that must be submitted to the Governor and General Assembly, one year after the first meeting of the Task Force.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0812.pdf>)

See also: HEALTHCARE WORKERS

Behavior Analyst Licensing Act

PUBLIC ACT 102-0953, EFFECTIVE May 27, 2022

House Bill 4769

(<https://www.ilga.gov/legislation/publicacts/102/102-0953.htm>)

See: HEALTHCARE WORKERS Licensed Certified Professional Midwife Practice Act [225 ILCS 64/10]

PUBLIC ACT 102-0963, EFFECTIVE May 27, 2022

House Bill 5012

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0963>)

See: HEALTHCARE WORKERS

Comprehensive Licensing Information to Minimize Barriers Task Force Act

PUBLIC ACT 102-1078, EFFECTIVE June 10, 2022

House Bill 5575

This Act creates the Comprehensive Licensing Information to Minimize Barriers Task Force Act. The Task Force is created within the Department of Financial and Professional Regulation. The Act adds provisions governing task force membership, duties, powers, and compensation and established that the Task Force will meet monthly. The Task Force will provide a final report identifying low-income and middle-income licensed occupations in the State and aggregate the information from those occupations under the occupations' respective regulatory boards overseen by the Department to the General Assembly, the Office of Management and Budget, the Department by December 1, 2023. The Act is repealed on December 1, 2024.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-1078.pdf>)

ADOPTED RULES

Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55].

Home Health, Home Services, and Home Nursing Agency Code (77 Ill. Adm. Code 245)

46 Ill. Reg. 10410, EFFECTIVE May 31, 2022

This rulemaking makes various typographical, grammatical, and form changes to 77 Ill. Adm. Code 245. Additionally, it amends the definition of "Health Care Professional" in

Section 245.20 to include an Advanced Practice Registered Nurse or a Physician Assistant licensed under their respective Acts. It also provides clarification of services that can be provided by home services workers and to remove references to "client-specific" as related to requirements of competency evaluations in subsections 245.40(c)(4)(A) through 245.40(c)(4)(D), 245.40(c)(4)(F), 245.40(c)(4)(G), 245.40(c)(4)(I), 245.40(c)(4)(J), 245.40(c)(4)(M), and 245.40(c)(4)(O); and in Section 245.71, inserted a new subsection (g) to clarify qualification and training requirements for staff training. Lastly, in Section 245.210(d)(2), it changes the word "able" to "unable."

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2_5.pdf)

Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]
Home Health, Home Services, and Home Nursing Agency Code (77 Ill. Adm. Code 245)
45 Ill. Reg. 11077, EFFECTIVE August 27, 2021

This rulemaking amends Section 245.200 to allow home health agencies to accept orders from advanced practice registered nurses and physician assistants and Section 245.205 to address possible conflicts. This will bring 77 Ill. Adm. Code 245 into compliance with State and federal law.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_7.pdf)

Alzheimer's Disease and Related Dementias Services Act [410 ILCS 406]
Alzheimer's Disease and Related Dementia Services Code (77 Ill. Adm. Code 973)
45 Ill. Reg. 12864, EFFECTIVE September 22, 2021

This rulemaking clarifies that prior training (within the last 365 days) in Alzheimer's-related services may be accepted in lieu of the training required under Section 973.140(c). Proposed amendments update the Code to clearly indicate that prior training may be used, if within the last 365 days, to satisfy the requirements under Section 973.140(c).

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_4_1.pdf)

AGENCY REFUSAL

Orthotics, Prosthetics and Pedorthics Practice Act [225 ILCS 84]
Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].
Orthotics, Prosthetics, and Pedorthics Act (68 Ill. Adm. Code 1325)
46 Ill. Reg. 4153, EFFECTIVE March 11, 2022

The Joint Committee on Administrative Rules (JCAR) voted to object to the emergency rule 68 Ill. Adm. Code 1325; 45 Ill. Reg. 15104 because the Department of Financial and Professional Regulation did not meet the criteria established under 1 Ill. Adm. Code 230.400, nor did they clearly state in writing its reasons for finding that an emergency existed. JCAR also objected to the Department's use of blanket variances, stating that the adoption and application of a general variance is contrary to the Department's authority, which permits the granting of individual variances. The Department intends on submitting the following response in support of the Emergency Rules submitted November 1, 2021. The Department found that a far greater threat to public interest, safety, and welfare would

have been not to file emergency rules renewing hundreds of OPP healthcare providers during a pandemic. The Department determined the best route to combat the emergency plaguing OPP renewal was to submit emergency rules. The Department was aware that JCAR previously objected to the use of blanket variances to address issues arising from the pandemic. Not addressing the issues through blanket variance leaves the Department with only one option, submitting emergency rules temporarily changing the existing rules.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_1.pdf)

Clinical Social Work and Social Work Practice Act [225 ILCS 20]

Civil Administrative Code of Illinois [20 ILCS 2105-15(a)(7)].

Clinical Social Work and Social Work Practice Act (68 Ill. Adm. Code 1470)

46 Ill. Reg. 4155, EFFECTIVE November 9, 2021

The Joint Committee on Administrative Rules (JCAR) voted to object to the emergency rule 68 Ill. Adm. Code 1470 because the Department of Financial and Professional Regulation did not meet the criteria established under Ill. Adm. Code 230.400 for use of emergency rulemaking, did not clearly state in writing its reasons for finding that an emergency existed and did not demonstrate that an emergency situation arose through no fault of the agency nor did they clearly state in writing its reasons for finding that an emergency existed. JCAR also objected to the Department's use of blanket variances, stating that the adoption and application of a general variance is contrary to the Department's authority, which permits the granting of individual variances. The Department intends on submitting the following response in support of the Emergency Rules submitted November 1, 2021. The Department found that a far greater threat to public interest, safety, and welfare would have been not to file emergency rules modifying renewal requirements for thousands of mental health providers. Covid-19 made complying with in-person continuing education requirements impossible. Without an emergency rule, those attempting to renew without in-person continuing education would be denied for failure to complete the appropriate continuing education required for renewal. Department determined that the best route available was to submit emergency rules; suspension of these rules would only widen the mental health deficit that Illinois finds itself in. The Department currently is not proposing to make these rule changes permanent.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_1.pdf)

Orthotics, Prosthetics and Pedorthics Practice Act [225 ILCS 84]

ORTHOTICS, PROSTHETICS, AND PEDORTHICS ACT (68 Ill. Adm. Code 1325)

46 Ill. Reg. 564

This statement of objection relates to the Orthotics, Prosthetics and Pedorthics Act. The emergency rulemaking objection arises upon the Department's failure to meet the criteria for review by not clarifying that the emergency situation was no fault of the agency. The Department's filing of an emergency rule was inappropriate as it concerned an issue historically addressed through the normal rulemaking process and therefore was not relevant to an immediate need created by an emergency situation. The use of blanket variances was also objected to, as the policy was considered to be of general applicability and therefore should have undergone the regular rulemaking process so as to allow the

public to comment. JCAR also stated that the Department be clearer and more thorough in explaining the alleged emergency to establish that it truly exists.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_1.pdf)

Clinical Social Work and Social Work Practice Act [225 ILCS 20]

CLINICAL SOCIAL WORK AND SOCIAL WORK PRACTICE ACT (68 Ill. Adm. Code 1470)
46 Ill. Reg. 566

This statement of objection relates to the Clinical Social Work and Social Work Practice Act. This emergency rulemaking is objected to on the basis of not meeting the criteria for emergency rulemaking by the Department by not clarifying that the emergency situation was no fault of the agency. Further, the use of blanket variances was also objected to, as the policy was considered to be of general applicability and therefore should have undergone the regular rulemaking process so as to allow the public to comment. JCAR also stated that the Department be clearer and more thorough in explaining the alleged emergency to establish that it truly exists.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_1.pdf)

REVIEW OF EXISTING RULES STATEMENT OF RECOMMENDATIONS

ID/DD Community Care Act [210 ILCS 47]

Intermediate Care for Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)
46 Ill. Reg. 10715

The Joint Committee on Administrative Rules considered the above-referenced rulemaking and recommended that DPH be timelier in implementing statutory changes in rule. DPH has waited almost 12 years to reflect the establishment of the ID/DD Community Care Act in this Part and has almost 11 years to enact in rule criteria for determining whether an ICF/DD facility is a distressed facility under the Act. The Department of Public Health states that they are committed to ensuring that all future rules are promulgated in a timely manner.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2_5.pdf)

PUBLIC AID

PUBLIC ACTS

The Illinois Public Aid Code [305 ILCS 5/5-5e.1]; [305 ILCS 5/5A-2]; [305 ILCS 5/5A-5]; [305 ILCS 5/5A-8]; [305 ILCS 5/5A-10]; [305 ILCS 5/5A-12.7]; [305 ILCS 5/5A-14]; [305 ILCS 5/5-45 new]; [305 ILCS 5/12-4.105]; [305 ILCS 5/5-5.02]; [The Department of Public Health Powers and Duties Law [20 ILCS 2310/2310-710 new]; The Illinois Income Tax Act [35 ILCS 5/223]; The Use Tax Act [35 ILCS 105/3-8]; The Service Use Tax Act [35 ILCS 110/3-8]; The Service Occupation Tax Act [35 ILCS 115/3-8]; The Retailers' Occupation Tax Act [35 ILCS 120/2-9]

PUBLIC ACT 102-0886, EFFECTIVE UPON BECOMING LAW

House Bill 1950

This Public Act amends the Illinois Public Aid Code by adding guidelines for what qualifies as a Safety-Net Hospital, the reduction of assessments imposed on hospitals, and reimbursements factors for Safety-Net Hospitals. Further, provisions are added regarding fee-for-service supplemental payments for Illinois hospitals. The Department is also required to establish fixed payments for varying classes of hospitals in the state, as well as a semi-annual review that follows. Pass-through payment provisions are also created, as are quantitative sums for final rates, payments, fees, etc. relating to hospitals. The Illinois Public Aid Code is amended with the addition of a section regarding general acute care hospitals. The Department of Public Health Powers and Duties Law is amended to include a section regarding Safety-Net Hospital Health Equity and Access Leadership (HEAL) Programs.

(<https://www.ilga.gov/legislation/publicacts/102/102-0886.htm>)

The Wellness Checks in Schools Program Act; The Illinois Public Aid Code [305 ILCS 5/14-12]; [305 ILCS 5/5-18.5]; [305 ILCS 5/5-4]; [305 ILCS 5/5-5.05d new]; [305 ILCS 5/5-5.05e new]; [305 ILCS 5/5-5.05f new]; [305 ILCS 5/5-5.05g new]; [305 ILCS 5/5-5.06c new]; [305 ILCS 5/5-5.06d new]; [305 ILCS 5/5-5.06e new]; [305 ILCS 5/5-5]; [305 ILCS 5/5-5.01b new]; [305 ILCS 5/5-1.6 new]; [305 ILCS 5/5-13.1 new]; [305 ILCS 5/11-5.1]; [305 ILCS 5/11-5.5 new]; [305 ILCS 5/3-10 rep.]; [305 ILCS 5/3-10.1 rep.]; [305 ILCS 5/3-10.2 rep.]; [305 ILCS 5/3-10.3 rep.]; [305 ILCS 5/3-10.4 rep.]; [305 ILCS 5/3-10.5 rep.]; [305 ILCS 5/3-10.6 rep.]; [305 ILCS 5/3-10.7 rep.]; [305 ILCS 5/3-10.8 rep.]; [305 ILCS 5/3-10.9 rep.]; [305 ILCS 5/3-10.10 rep.]; [305 ILCS 5/3-13.5 rep.]; [305 ILCS 5/5-5.07]; [305 ILCS 5/5-4.2]; [305 ILCS 5/12-4.35]; The Department of Public Health Powers and Duties Law of the Civil Administration Code of Illinois [20 ILCS 2310/2310-434 new]; The Nursing Home Care Act [210 ILCS 45/3-613 new]; The MC/DC Act [210 ILCS 46/3-613 new]; The ID/DD Community Care Act [210 ILCS 47/3-613 new]; The Illinois Administrative Procedure Act [5 ILCS 100/5-45.21 new]; [5 ILCS 100/5-45.22 new]; [5 ILCS 100/5-45.23 new]

PUBLIC ACT 102-1037, EFFECTIVE UPON BECOMING LAW.

House Bill 4343

This Public Act relates to the Wellness Checks in School Programs Act. It amends the Illinois Public Aid Code to provide guidelines regarding outpatient add-on fees for Medicaid services to patients under 19. There are also amendments made regarding the Community Spouse Resource Allowance, academic detailing for behavioral health providers, bed availability tracking, Medicaid coverage for peer support services, substance use prevention and mental health, access to prenatal and postpartum care, external cephalic version rate, and increased dental care funding. Additionally, the Department of Public Health Powers and Duties Law is amended to create the Certified Nursing Assistant Intern Program, and the Assisted Living and Shared Housing Act, Nursing Home Care Act, MD/DD Act, and ID/DD Act further accommodates this. The Illinois Public Aid Code provides details regarding continuous eligibility and ex parte renewals. The Illinois Administrative Procedure Act also adds emergency rulemaking for medical services to noncitizens.

(<https://www.ilga.gov/legislation/publicacts/102/102-1037.htm>)

ADOPTED RULES

Illinois Public Aid Code [305 ILCS 5/12-13]

MEDICAL PAYMENT (89 Ill. Adm. Code 140)

45 Ill. Reg. 8958, EFFECTIVE June 29, 2021

This amendment impacts the Illinois Public Aid Code by providing approval to use other vendors for eyeglasses production when IDOC is unable to do so for the fee-for-service population or a Public Health Emergency (PHE). The non-institutional rate reductions shall not apply to rates or payments for PHE services that are on the Department's fee schedule; match the service specifications on the emergency PHE fee schedule; and that the fee schedule remain until the Department no longer sees fit.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_29.pdf)

See also: PUBLIC HEALTH

Illinois Public Aid Code [305 ILCS 5/12-13]

MEDICAL ASSISTANCE PROGRAM (89 Ill. Adm. Code 120)

45 Ill. Reg. 9995, EFFECTIVE July 26, 2021

This adopted amendment falls under Medical Assistance Programs and impacts the Illinois Public Aid Code. Under home and community-based services waivers for medically fragile, technology dependent, disabled persons, the following services are some of those covered when deemed medically necessary for those eligible: family training; nurse training; placement maintenance; when not covered under the state plan, certified nursing assistant (CNA); and when not covered under the state plan, in home shift nursing. Eligibility requirements are amended to require that the estimated cost paid by the state for an individual's home and community-based care not be greater than 125% of the cost of the institutional level of care appropriate to the individual's medical needs, that the financial status be considered in determining eligibility, and that the plan is person-centered. The person-centered plan must be created individually and made in consultation with a DSCC coordinator, while also following various guidelines regarding participation of family or others, timeline, required information, cultural consideration, conflict resolution strategies, update requests, offering of informed choices, and recorded consideration of alternative settings. The plan must also reflect the participants strengths, weaknesses, preferences, goals, support services provided, risk factors, those involved, be final and agreed to, distributed to those involved, and prevent any unnecessary services. The plan must be reviewed every 12 months at minimum. Eligible individuals do not require waiver services and termination of coverage may occur on failure of the participant to comply with required activities; interference of an individual's family or legal representative in the provision of services; failure to cooperate with the Department; and failure to meet requirements for renewal.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_32.pdf)

Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13] and 20 CFR 416.2096

AID TO AGED, BLIND, OR DISABLED (89 Ill. Adm. Code 113)

45 Ill. Reg. 10022, EFFECTIVE July 26, 2021

This amendment concerns Aid to Aged, Blind, or Disabled and impacts the Illinois Public Aid Code. The amendment increased the monthly AABD Grant Adjustment Allowance and Sheltered Care/Personal or Nursing Care rates by \$11.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_2.pdf)

Illinois Public Aid Code [305 ILCS 5/12-13]

Medical Assistance Program (89 Ill. Adm. Code 120)

46 Ill. Reg. 5203, EFFECTIVE March 11, 2022

This rulemaking reduces the time period for allowable deductions to three months prior to the month of application, provided those expenses remain a current liability to the person and were not used to meet a spenddown. Additionally, this rulemaking changes the commencement of review for eligibility with spenddown for MANG to begin in the seventh month of the 12-month enrollment period. The enrollment time frame for a recipient who uses Medicaid spenddown to qualify for medical assistance is now six months from the time of review implemented by Public Act 102-0074.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_1_3.pdf)

Illinois Public Aid Code [305 ILCS 5/12-13]

Medical Payment (89 Ill. Adm. Code 140)

46 Ill. Reg. 5229, EFFECTIVE March 11, 2022

This rulemaking states that the Illinois Department of Healthcare and Family Services (HFS) will be required to administer and regulate a school-based dental program that allows for the out-of-office delivery of preventative dental services in a school setting to children under the age of 19. HFS will provide guidelines for participation by providers and set requirements for follow-up referral care based on the requirements for dentists participating in the All-Kids Dental School Program, established in the Dental Office Reference Manual.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_1_3.pdf)

Illinois Public Aid Code [305 ILCS 5/12-13]

Hospital Services (89 Ill. Adm. Code 148)

46 Ill. Reg. 5254, EFFECTIVE March 11, 2022

See also: HOSPITALS

Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13]

Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)

45 Ill. Reg. 11667, EFFECTIVE September 8, 2021

This rulemaking provides that the exemption amount for funds specifically and irrevocably set aside in a prepaid funeral and burial plan for the professional funeral services and burial expenses of an individual and their spouse applying for or receiving Assistance to the Aged, Blind or Disabled, will increase to \$6,774.00.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_9.pdf)

EMERGENCY RULES

Illinois Public Aid Code [305 ILCS 5/12-13]

MEDICAL PAYMENT (89 Ill. Adm. Code 140)

46 Ill. Reg. 512, EFFECTIVE December 16, 2021

This emergency amendment relates to the Medical Payment and impacts the Illinois Public Aid Code. The amendment increases the MCO assessment rate for years 2022-2025 to \$69.40 per month in tier 1, \$1.20 per month in tier 2, and \$2.40 per month in tier 3.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_1.pdf)

EXECUTIVE ORDERS

Executive Order 2022-9

Amendment To Executive Order 21 (2021) to Fight Homelessness in Illinois

46 Ill. Reg. 6176, EFFECTIVE March 30, 2022

This executive order is an amendment to Executive Order 21 from 2021 that was about combatting homelessness in Illinois through the Interagency Task Force on Homelessness, the Community Advisory Council on Homelessness, and the State Homelessness Chief. The amendment edits Section 3 to specify that the Illinois Office to Prevent and End Homelessness was created to implement a strategic plan and initiatives. The Office will be led by the Chief. Section 4.1 on the State Plan was also amended to say that the state plan to address homelessness must be delivered to the Governor and the General Assembly by June 1, 2022. Section 7.1 on the Community Advisory Council was also amended to require three members with lived experiences of experiencing homelessness and/or housing insecurity. If those members are not paid by employers to attend the Council, they will receive \$100 per meeting. There must also be a member who represents the domestic violence community.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_16.pdf)

PUBLIC HEALTH

PUBLIC ACTS

The Department of Human Services Act [20 ILCS 1305/1-17]

PUBLIC ACT 102-0883, EFFECTIVE May 13, 2022

Senate Bill 4025

This Public Act amends the Department of Human Services Act. The Public Act requires that the Inspector General reports to the Department of Public Health's Health Care Worker Registry the identity and determination of each facility or agency employee the Office of the Inspector General prepares a final investigative report. However, the report does not need to include the employee's name if the Inspector General requests a disposition of the investigative report that omits the name and the Secretary of Human Services agrees with that request.

<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0883>)

The Department of Public Health Powers and Duties Law of the Civil Administration Code of Illinois [20 ILCS 2310/2310-434 new]

PUBLIC ACT 102-0919, EFFECTIVE May 27, 2022

House Bill 3949

This Public Act amends the Department of Public Health Powers and Duties Law of the Civil Administration Code of Illinois. The amendment adds a new section titled homeless service providers. “Homeless service provider” is defined as a person or entity who provides services to homeless persons under any of the programs of or identified by the Department of Human Services. Following guidelines of the federal Cybersecurity and Infrastructure Security Agency, the Department should deem the State’s homeless service providers as essential critical infrastructure workers. The homeless service providers should be given the same benefits as frontline workers by the State, including: (1) federal funding for relief relating to public health emergencies; (2) personal protective equipment; and (3) vaccinations. In the case of a public health disaster or emergency, the Department and the Illinois Emergency Management Agency shall provide guidance encouraging the use of homeless service providers to their local counterparts when offering assistance. The Department has discretion to adopt rules for the implementation and administration of the section.

<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0919>)

The Youth Health and Safety Act

PUBLIC ACT 102-0685, EFFECTIVE June 1, 2022

House Bill 0370

This Public Act enacted the Youth Health and Safety Act. This act is created in light of the recent barriers being implemented in access to reproductive health resources, such as abortion. In order to maintain safe access for those seeking such healthcare, whether as residents of Illinois or visitors who cannot seek such services in their home state due to restrictive legislation, Illinois emphasizes public policy to ensure access to safe and quality care, as well as legal protection to those who provide such services. The Youth Health and Safety Act serves to preserve the fundamental right of equitable access to reproductive health care regardless of race, ethnicity, age, socioeconomic status, immigration status, geographic location, and other identifiers. The act establishes a Youth and Health Safety Working Group who identifies pregnant and parenting youth, as well as the laws and regulations that potentially impact them. The group also organizes and provides resources regarding the rights of and available services for this demographic. The group will prepare a report with all relevant information, including: (1) consent to medical care, including what healthcare and treatments are available, and access to confidential treatment and care; (2) pregnancy, abortion, adoption, and parenting; (3) counseling services, including but not limited to, reproduction and sexual health, pregnancy and post-pregnancy, mental health, family, and parenting; (4) emancipation; and (5) insurance coverage. The group shall also provide resources and services that encourage and support healthy communication with loved ones and community, including but not limited to, counseling services, classes, and workshops, talk and text-lines, online and social media options, tools targeted to parents and adults, and tools targeted to youth. The group is also required to disseminate

information regarding resources for pregnant and parenting youth that discusses education, employment, housing, food access, childcare, and the existence and prevention of human trafficking. The working group will be representative of Illinois' diversity and therefore composed of members appointed by Senate leaders, House of Representative leaders, the Governor, and consist of a state senator as well as members of the youth. Further, appointments for the group should be made by August 31, 2022. The members will serve without compensation and the Department of Public Health will provide administrative support. The group should submit a report summarizing its findings by July 1, 2023, to the Governor and General Assembly. This act will be repealed on January 1, 2024.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0685>)

The Expressway Camera Act

PUBLIC ACT 102-1043, EFFECTIVE June 3, 2022

House Bill 4481

This Public Act amends the Expressway Camera Act. The Illinois State Police, Department of Transportation, and State Toll Highway Authority should collaborate to create a camera program that increases the number of cameras along expressways and the Illinois highway system in the counties of Boone, Bureau, Champaign, Cook, DeKalb, DuPage, Grundy, Henry, Kane, Kendall, Lake, LaSalle, Macon, Madison, McHenry, Morgan, Peoria, Rock Island, Sangamon, St. Clair, Will, and Winnebago. Additionally, any funds allocated to running the program on State expressways and highways shall be taken from the Road Fund and shall be included in requests for qualification processes, under the jurisdiction of the Department of Transportation. Under the Illinois State Highway Authority, funds shall be taken from the Illinois State Highway Authority and shall be included in requests for qualification processes.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1043>)

Illinois Vehicle Code [625 ILCS 5/3-643]

PUBLIC ACT 102-0967, EFFECTIVE January 1, 2023

House Bill 5026

This Act amends the Illinois Vehicle Code. It removes all language requiring the phrase "The Susan G. Komen Foundation" to be placed on mammogram license plates and money in the Mammogram Fund to be granted to the Susan G. Komen Foundation. It additionally provides that all money in the Mammogram Fund shall be distributed by the Illinois Department of Public Health to the Illinois Breast and Cervical Cancer Program for patient navigation services specifically for populations with the highest rates of breast cancer mortality in the State.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0967>)

Environmental Protection Act [415 ILCS 5/22.62]

PUBLIC ACT 102-1048, EFFECTIVE June 8, 2022

House Bill 4818

This Act amends the Environmental Protection Act. This Act replaces the term "Perfluoroalkyl and Polyfluoroalkyl Substances" with "Toxic Release Inventory Perfluoroalkyl and Polyfluoroalkyl Substances" (TRI-PFAS). It prohibits the disposal of any TRI-PFAS by incineration. This does not apply to (i) the combustion of landfill gas

from the decomposition of waste that may contain TRI-PFAS at a permitted sanitary landfill (ii) the combustion of landfill gas in a landfill gas recovery facility that is located at a sanitary landfill (iii) the incineration of waste at a permitted hospital, medical, and infectious waste incinerator that meets the requirements of specified federal provisions or the Board-adopted State Plan or (iv) to the incineration of sludges, biosolids, other solids or by-products generated at or by a municipal wastewater treatment plant or facility. "Incineration" does not include thermal oxidizers when they are operated as a pollution control or resource recovery device at a facility that is using TRI-PFAS or chemicals containing TRI-PFAS.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1048>)

The Licensed Certified Professional Midwife Practice Act
PUBLIC ACT 102-0683, EFFECTIVE October 1, 2022
House Bill 3401

This Public Act enacts the Licensed Certified Professional Midwife Practice Act, the stated purpose of which is to protect the public through the regulation of licensure as a Midwife. The Act outlines exemptions and establishes the Illinois Midwifery Board. The Act further creates guidelines for Midwife licensure and the qualifications required, as well as provisions for expirations of licensure, renewal, and inactive status. There are also guidelines regarding informed consent and what information must be provided to clients on behalf of the Midwife. Their scope of practice, consultation and referral, annual reports, liability, grounds for discipline and subsequent suspension or removal of licenses is outlined. The legal process of administrative reviews and hearings in the case of malpractice or license suspension is also provided.

(<https://www.ilga.gov/legislation/publicacts/102/102-0683.htm>)

African-American HIV/AIDS Response Act [30 ILCS 105/5.666]
PUBLIC ACT 102-1052, EFFECTIVE January 1, 2023
House Bill 5549

This Act amends the African-American HIV/AIDS Response Act. It adds that the African-American HIV/AIDS Response Fund will provide resources for communities in Illinois to create an HIV/AIDS service delivery system that reduces the disparity of HIV infection and AIDS cases between African-Americans and other population groups in Illinois that may be impacted by the disease by creating and/or maintaining at least one Black-led Center of Excellence HIV Biomedical Resource Hub for every \$3,000,000 of available funding to improve Black health and eliminate Black HIV-related health disparities. A Center of Excellence may be developed as a stand-alone or a collaborative basis and may provide regional comprehensive HIV preventative care and essential support services. The Act also removes language providing that the provisions amending the State Finance Act and the African-American HIV/AIDS Response Act are repealed on July 1, 2026.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-1052.pdf>)

Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois
[20 ILCS 2310/2310-542]

PUBLIC ACT 102-1067, EFFECTIVE January 1, 2023
House Bill 4729

This Act amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois. It requires the Department to develop and implement a two year statewide safe gun storage public awareness campaign that is divided into three phases with specified requirements for each phase. The campaign must include focused messaging about enforcement or incentives for safe gun storage, and geographic and cultural considerations.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-1067.pdf>)

The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-424.5 new]

PUBLIC ACT 102-0938, EFFECTIVE January 1, 2023.

House Bill 4589

This Public Act amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois by adding a section. The section provides that the Department of Public Health shall create a Division of Men's Health. This Division shall focus on spreading awareness for men-specific health issues, such as prostate cancer, testicular cancer, heart disease, smoking cessation, respiratory illness, unintentional injuries, healthy equity, and cultural competency. The Department should also collaborate with mental health service providers to address issues of and raise awareness surrounding developmental issues faced by boys, violence prevention, self-esteem, and communication. An annual assessment shall be done in association with schools of public health in the State regarding the status of men's health and suggest policy changes to address needs and identify services for men. The Division will review this assessment and make subsequent recommendations to the General Assembly with a focus on health disparities faced by men.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0938>)

Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-434 new]

PUBLIC ACT 102-1070, EFFECTIVE January 1, 2023

House Bill 5014

This Act amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois. It requires the Department of Public Health to partner with Governors State University's College of Health and Human Services to establish a twelve-month stroke awareness campaign for select communities, particularly within Chicago's Southland community, at risk for strokes subject to appropriation. It also requires that a mutually agreed upon number of appropriated moneys must be made available to the Governors State University's College of Health and Human Services.

(<https://www.ilga.gov/legislation/publicacts/102/PDF/102-1070.pdf>)

The Lead Poisoning Prevention Act [410 ILCS 45/9]

PUBLIC ACT 102-0771, EFFECTIVE January 1, 2023.

House Bill 4369

This Public Act enacts the Lead Poisoning Prevention Act. The purpose of the Act is to mitigate lead hazards upon discovery. The Act provides that the Department be notified upon discovery of a hazard and that mitigation should follow adopted rules. If the hazard is lead-paint or a lead-bearing coat, it will be deemed mitigated when: (1) the surface no

longer produces hazardous pieces in its condition; (2) the surface is not accessible to children; and (3) the surface coating is removed or covered. Destructive mitigation activities must be conducted by licensed workers. For children and pregnant women, mitigation must take place within 30 days of identifying the hazard. Extensions of the deadline must be applied for through the Department and follow-up inspections will occur when mitigation is complete.

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0771>)

The Latex Glove Ban Act

PUBLIC ACT 102-1095, EFFECTIVE January 1, 2023.

House Bill 0209

(<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1095>)

See also: FOOD SAFETY

The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-705 new]; The Department of State Police Law [20 ILCS 2605/2605-51 new]; The Illinois Police Training Act [50 ILCS 705/7]; [50 ILCS 705/7.1 new]; [430 ILCS 67/5]; [430 ILCS 67/10]; [430 ILCS 67/35]; [430 ILCS 67/40]; [430 ILCS 67/45]; [430 ILCS 67/85 new]

PUBLIC ACT 102-0345

House Bill 1092

This Public Act amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois by creating a section regarding Firearms restraining order awareness. This section provides that the Department shall allocate funding to create a program to raise awareness about firearms restraining orders. The Department of State Police Law is amended to create a commission on the implementation of the Firearms Restraining Order Act, composed of 12 members appointed by the Director of Illinois State Police. The commission will be dissolved after 3 years. A curriculum for training should be created by the Illinois Law Enforcement Training Standards Board and must be completed annually. A yearly report should be submitted to the General Assembly by the State regarding the program.

(<https://www.ilga.gov/legislation/publicacts/102/102-0345.htm>)

ADOPTED RULES

Illinois Public Aid Code [305 ILCS 5/12-13]

MEDICAL PAYMENT (89 Ill. Adm. Code 140)

45 Ill. Reg. 8958, EFFECTIVE June 29, 2021

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_29.pdf)

See also: PUBLIC AID

Ryan White HIV/AIDS Treatment Extension Act of 2009 (P.L. 111-87) and the Civil Administrative Code of Illinois [20 ILCS 2310].

AIDS DRUG ASSISTANCE PROGRAM (77 Ill. Adm. Code 692)

45 Ill. Reg. 9533, EFFECTIVE July 19, 2021

This adopted amendment updates the AIDS Drug Assistance Program and impacts the Ryan White HIV/AIDS Treatment Extension Act of 2009 as well as the Civil Administrative Code of Illinois. This rulemaking updates the Federal Poverty Level numbers from 2020 to 2021 and any relevant and related rules. The provided chart takes into account persons in the family and then provides the qualifying income for 100% Poverty Guideline and Maximum Gross Annual Income ADAP 300% Eligibility.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_31.pdf)

African-American HIV/AIDS Response Act [410 ILCS 303]

African-American HIV/AIDS Response Code (77 Ill. Adm. Code 691)

45 Ill. Reg. 13045, EFFECTIVE September 28, 2021

This rulemaking deleted provisions related to the time frame for accepting grant applications and the restriction of grants to single year grants.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_42.pdf)

Illinois Torture Inquiry and Relief Commission Act [775 ILCS 40]

Organization, Public Information, Procedures and Rulemaking (2 Ill. Adm. Code 2500)

45 Ill. Reg. 13971, EFFECTIVE October 25, 2021

This rulemaking removes the Commission's conflict of interest policy and changes it to the Convicted Person's Procedural Safeguards and Privileges that were originally adopted at 44 Ill. Reg. 13427 that became effective on July 29, 2020. The Commission is now going to adopt those changes through the proposed rulemaking process instead.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_45.pdf)

Disabled Persons Rehabilitation Act [20 ILCS 2405/10 and 11]

ROLE OF RESIDENTIAL EDUCATION FACILITIES OPERATED BY THE ILLINOIS DEPARTMENT OF HUMAN SERVICES (89 Ill. Adm. Code 750)

46 Ill. Reg. 2962, EFFECTIVE February 4, 2022

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_8.pdf)

See also: DISABILITY

EMERGENCY RULES

Communicable Disease Report Act [745 ILCS 45] and Department of Public Health Act [20 ILCS 2305]

CONTROL OF COMMUNICABLE DISEASES CODE (77 Ill. Adm. Code 300)

46 Ill. Reg. 1956, EFFECTIVE January 12, 2022

This emergency amendment relates to the Control of Communicable Diseases Code, impacts the Communicable Disease Report Act and the Department of Public Health Act, and expired 150 days after the effective date. The amendments expand upon the definition of close contact in the context of schools and the COVID-19 pandemic. The provisions also outline the procedure and duration of excluding a student or school personnel from the

school premises upon infection of COVID-19, as well as what to do when in close contact with a probable or confirmed case or when one experiences symptoms of COVID-19.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_5.pdf)

See also: COVID-19

EXECUTIVE ORDERS

Executive Order to Fight Homelessness in Illinois, Executive Order 2021-21

46 Ill. Re. 11632, EFFECTIVE September 3, 2021

This executive order establishes the Illinois Interagency Task Force on Homelessness (“Task Force”), a Community Advisory Council on Homelessness (“Community Advisory Council”), and a State Homelessness Chief (“Chief”). The Chief will chair the Task Force co-chair the Community Advisory Council and lead the State's comprehensive effort to decrease homelessness and unnecessary institutionalization in Illinois, improve health and human services outcomes for people who experience homelessness, and strengthen the safety nets that contribute to housing stability. The executive order sets out the Task Force’s duties and that it will meet at least four times a year. This includes, but is not limited to, planning for and developing a State plan to address homelessness and unnecessary institutionalization to be delivered to the Governor and the General Assembly by March 30, 2022. Task Force membership shall consist of senior members of State agencies to be appointed by the Governor, in consultation with the Chief, that have relevancy to ending and preventing homelessness. The Community Advisory Council will meet at least four times per year as well to discuss and make recommendations to the Task Force. The Community Advisory Council will consist of diverse stakeholders that represent the goals and population described in this executive order, to be appointed by the Governor. Members of the Task Force and of the Community Advisory Council will strive to operate by consensus, serve at the will of the Governor and have a tenure of three years. In addition to any by-laws, policies, or procedures that they may adopt, all operations of the Task Force and of the Community Advisory Council will be subject to the provisions of the Illinois Freedom of Information Act (5 ILCS 140/1 et seq.) and the Illinois Open Meetings Act (5 ILCS 120/1 et seq.). The Illinois Department of Human Services will provide administrative support to the Task Force and the Community Advisory Council.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3_8.pdf)

JOINT COMMITTEE ON ADMINISTRATIVE RULES STATEMENTS OF SUSPENSION

Communicable Disease Report Act [745 ILCS 45]

Department of Public Health Act [20 ILCS 2305]

Control of Communicable Diseases Codes (77 Ill. Adm. Code 690)

46 Ill. Reg. 3608, EFFECTIVE February 14, 2022

The Joint Committee on Administrative Rules (JCAR) voted to object to Emergency Rule 77 Ill. Adm. Code 690 because the Department of Health did not meet the criteria for

emergency rulemaking in 1 Ill. Adm. Code 230.400 (a)(1)(E) and (G). JCAR also voted to notify the Secretary of State of the Suspension of the emergency rule. The Department of Public Health had not taken steps to make this rule known to the parties directly affected by it, and they had failed to clearly state whether this rule as intended to apply to all K-12 schools in Illinois, or only to schools and school districts that were not parties to that legal action. JCAR found that this unlawfully inhibited the equitable free exercise of the rights of citizens of the State and poses a serious threat to the public interest.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_10.pdf)

Control of Communicable Diseases Code [77 Ill. Adm. Code 690]

Department of Public Health Response to JCAR Objection and Suspension of Emergency Rule
46 Ill. Reg. 3608

In February 2022, the Joint Committee on Administrative Rules (JCAR) rejected and suspended the emergency rulemaking 46 Ill. Reg. 3608 that was enacted on March 4, 2022. The Department of Public Health disagrees with JCAR's conclusion that the rulemaking did not make the criteria for emergency rulemaking; however, the Department has withdrawn the rules.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_13.pdf)

NOTICE OF CORRECTION

Illinois Administrative Procedure Act [5 ILCS 100/5-45.14]

Medical Payment (89 Ill. Adm. Code 140)

46 Ill. Reg. 10086, EFFECTIVE June 10, 2022

This notice adds the reason for emergency rulemaking to 89 Ill. Adm. Code 140. It states that the emergency rulemaking authority is granted to implement the Reimagine Public Safety Act in the interest of public interest, safety, and welfare in accordance with Section 5-45 by the Department of Healthcare and Family Services and the Office of Firearm Violence Prevention.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_24.pdf)

Communicable Disease Report Act [745 ILCS 45] and Department of Public Health Act [20 ILCS 2305]

CONTROL OF COMMUNICABLE DISEASES CODE (77 Ill. Adm. Code 690)

46 Ill. Reg. 6968, EFFECTIVE April 22, 2022

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_19.pdf)

See also: COVID-19 REGULATORY AGENDA

Illinois Plumbing License Law [225 ILCS 320]

PLUMBERS LICENSING CODE (68 Ill. Adm. Code 750)

EFFECTIVE Fall 2021

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_29.pdf)

See also: EMPLOYMENT

QUALIFIED IMMUNITY

CASE LAW

TAYLOR V. CITY OF MILFORD, 10 F. 4th 800, No. 20-1109 (7th Cir. 2021).

Defendant police officer responded to a 911 call that a man was experiencing a diabetic emergency caused by dangerously low blood sugar. The police officer restrained the man by using his body weight to press the man face down on the bed for several minutes. The man started vomiting and lost consciousness before dying in the hospital ten days later. Plaintiff sued the Defendant police officer and the city. The court examined on appeal if the district court erred in granting summary judgment based on qualified immunity to Defendant police officer. The court found a reasonable jury could conclude Defendant violated the man's Fourth Amendment right to be free from unreasonable seizure. The court questioned Defendant's actions for three main reasons: (1) officers do not have a right to assault civilians without provocation, (2) officers may not use unnecessary force when the civilian is already subdued or compliant, and (3) a medical emergency does impact the objective reasonableness of the seizure, but it does not remove a civilian's Fourth Amendment rights. The court found the district court erred by implicitly applying the officer's version of events that he was acting in a medical capacity and was protected under qualified immunity. The court noted Defendant responded to the scene as a police officer because he did not have any medical supplies or equipment with him. Additionally, Defendant's conduct restraining by pressing him into the bed with his full body weight despite the man not being a threat to the officer, bystanders, or himself was not clearly medical conduct. Therefore, a jury needs to decide if the force was unreasonable. Therefore, the district court's decision was reversed and the case was remanded.

(<https://casetext.com/case/taylor-v-city-of-milford>)

RADIOACTIVE MATERIALS

ADOPTED RULES

Radiation Protection Act of 1990 [420 ILCS 40]

LICENSING OF RADIOACTIVE MATERIAL (32 Ill. Adm. Code 330)

46 Ill. Reg. 866, EFFECTIVE December 21, 2021

This amendment relates to licensing of radioactive material and impacts the Radiation Protection Act of 1990. Certain amendments were made to maintain compatibility with U.S. Nuclear Regulatory Commission regulations. The amendments add definitions for relevant terms, provisions for disposal and transfer of radioactive materials, registration of devices, storage and testing of radioactive materials, aircraft licensing, use of radioactive materials, compliance with FDA requirements, and use and recording of radiopharmaceuticals. Further, there are provisions regarding the Radiation Protection Program and its assigning, training, certification, qualifications, and duties of a Radiation Safety Officer or nuclear pharmacist. Provisions for exemptions of certain licensees and

device shutters and usage specifications are also presented. An appendix for limits for licenses of broad scope of all concerned radioactive materials is provided.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2.pdf)

Radiation Protection Act of 1990 [420 ILCS 40]

MEDICAL USE OF RADIOACTIVE MATERIAL (32 Ill. Adm. Code 335)

46 Ill. Reg. 966, EFFECTIVE December 21, 2021

This amendment relates to the medical use of radioactive material and impacts the Radiation Protection Act of 1990. Definitions of relevant terminology are added and edited. Guidelines for licensing, notifications, reporting, written directive procedures, technical requirements and training for intravascular brachytherapy units, manual brachytherapy units, teletherapy units and gamma stereotactic radiosurgery units, and use of sealed sources, are added, edited, and removed. These amendments are focused on aligning with the regulations and guidelines provided by the U.S. Nuclear Regulatory Commission (NRC), increasing sampling of radiopharmaceuticals while also requiring changes to the reporting of requirements and duties of a Radiation Safety Officer. Further, the addition of an Ophthalmic Physicist is made, changes to event reporting to provide physicians with discretion in treatment planning as well as changes to their required training and third-party attestations is established. License requirements are amended to make flexible the collaboration with board-certified physicians who are sufficiently qualified for the necessary services. Additionally, language regarding authorized users and their licensing was removed to further align with NRC guidelines.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2.pdf)

NOTICE OF CODIFICATION CHANGES

MEDICAL USE OF RADIOACTIVE MATERIAL (32 Ill. Adm. Code 335)

45 Ill. Reg. 10286, EFFECTIVE July 28, 2021

This notice of recodification affects the medical use of radioactive material. Subpart 1 is recodified as Remote Afterloader Units, Teletherapy Units and Gamma Stereotactic Radiosurgery Units and Section 335.8010 is recodified as use of a sealed source in remote, afterloader units, intravascular brachytherapy units, teletherapy units or gamma stereotactic radiosurgery units.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_3.pdf)

REIMBURSEMENT

ADOPTED RULES

Illinois Public Aid Code [305 ILCS 5/12-13]

SPECIALIZED CARE DELIVERY SYSTEMS (89 Ill. Adm. Code 146)

45 Ill. Reg. 8319, EFFECTIVE June 28, 2021

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_2_8.pdf)

See also: MENTAL HEALTH

Fair Patient Billing Act - Section 27 [210 ILCS 88/27]

HOSPITAL FINANCIAL ASSISTANCE UNDER THE FAIR PATIENT BILLING ACT (77 Ill. Adm. Code 4500)

46 Ill. Reg. 11502, EFFECTIVE June 23, 2022

This rulemaking updates Appendix A of the Fair Patient Billing Act to reflect the 2022 poverty income guidelines that were published by the U.S. Department of Health and Human Services (DHHS) in the Federal Register on January 21, 2022.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2_8.pdf)

RES IPSA LOQUITUR

CASE LAW

JOHNSON V. ARMSTRONG, N.E. 3d, (2022), S. Ct., 127942

Plaintiff, William Johnson, brought a claim of negligence against Defendants, Lucas Armstrong et. al., based on counts of specific negligence and the *res ipsa loquitur* doctrine after suffering permanent and severe nerve damage in his leg following a hip replacement surgery. The Plaintiff provided a surgeon as the expert witness in order to exhibit the elements of *res ipsa loquitur*. The circuit court granted the Defendant summary judgment on the *res ipsa loquitur* claim but did not address the specific negligence claim, which remained in circuit court. The appellate court reversed judgments on both counts. The Supreme Court of Illinois examined whether such an appeal was allowed when another count against the surgeon Defendant is pending judgment. Additionally, the Supreme Court determined whether the elements of *res ipsa loquitur* had been satisfied and if any supplemental expert testimony was necessary for the doctrine's application. The Supreme Court ruled that the appellate court lacked jurisdiction in granting summary judgment and that review of the case would be performed in accordance with the case's standing in October 2020, before the surgeon Defendant's dismissal. Additionally, the Supreme Court decided that the lower court erred in providing summary judgment to the Defendants, reasoning that the elements of *res ipsa loquitur* were both met and the expert testimony provided was sufficient. The Supreme Court expanded on their decision by stating that further expert testimony was not required when the establishment of the control element of *res ipsa loquitur* also worked to establish a duty of care necessary to demonstrate negligence. Further, the standard of care was proven by the Plaintiff through the expert testimony that such severe damage does not ordinarily occur following such a procedure. The Supreme Court dismissed the appeal, affirmed the appellate court's judgment reversing the circuit court's order, and remanded the case for reconsideration in regard to the grant of summary judgment.

(<https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/ed0097c7-f60e-4002-b61d-071b27c34b54/Johnson%20v.%20Armstrong,%202022%20IL%20127942.pdf>)

SECTION 1983 ACTION

CASE LAW

DIDONATO V. PANATERA, 24 F. 4th 1156, No. 20-1692 (7th Cir. 2022)

Plaintiff brought Section 1983 lawsuit against Defendant-Paramedic who was employed by the city of Chicago as a paramedic. Plaintiff slipped and fell at Defendant-Paramedic's home. The off-duty Defendant-Paramedic rinsed the blood off and wrapped a towel around Plaintiff's head before leading her to the bed and sexually assaulting her. Plaintiff alleged that Defendant-Paramedic was acting "under the color of state law" as a Chicago paramedic and so Plaintiff's constitutional rights were violated. Plaintiff brought the Section 1983 lawsuit against Defendant-Paramedic after Defendant-Paramedic allegedly neglected his responsibility to treat her after she fell in his home and he subsequently sexually assaulted her. Plaintiff claimed this inaction was by someone acting the "color of state law" as a Chicago paramedic and so her rights under Constitution's Fourth Amendment's Due Process Clause were violated by failing to provide medical care after her fall in addition to state law claims for assault, battery, and negligence. Plaintiff did not establish enough facts to show that the City, through the off-duty paramedic, had the constitutional obligation to protect and care for her after the fall. After all, Plaintiff had a personal relationship with Defendant-Paramedic and was in his private residence when the harm occurred. Plaintiff was not in the City's custody. The court emphasized that Section 1983 does not govern disputes between private citizens and just because an individual is employed by the state does not mean that the employee is automatically acting "under the color of law." Plaintiff failed to show that Defendant-Paramedic invoked his authority as a paramedic or that his position as a paramedic facilitated or enabled the misconduct. Since Defendant-Paramedic was not acting in his capacity as a state employee, Section 1983 does not apply. Therefore, the court affirmed the district court's dismissal of Plaintiff's Section 1983 claim.

(<https://casetext.com/case/didonato-v-panatera-2>)

QUAD CAPITAL PORTFOLIO A LLC V. ABBVIE, INC., N.E. 3d, 2022 Ill. App (1st) 200872

(<https://casetext.com/case/quad-capital-portfolio-a-llc-v-abbvie-inc-2>)

See: PRISONERS

SEXUAL ASSAULT

PUBLIC ACTS

The Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70/1a] [410 ILCS 70/1a-1] [410 ILCS 70/2-1] [410 ILCS 70/5-1] [410 ILCS 70/5.4] [410 ILCS 70/5.5] [410 ILCS 70/5.5-1] [410 ILCS 70/7.5] [410 ILCS 70/7.5-1] [410 ILCS 70/9.5]

PUBLIC ACT 102-1077, EFFECTIVE June 16, 2022

Senate Bill 3023

This Public Act amends the Sexual Assault Survivors Emergency Treatment Act. The definitions section (Section 1a) will become effective on January 1, 2024, instead of

January 1, 2022. The Public Act revises the requirements for federally qualified health centers. Facilities may provide forensic services to sexual assault survivors older than 13 years old who request services related to their assault during a Governor-declared public health emergency or 90 days after. The services must be available on-site during the facility's hours of operation. If the treatment plan is terminated, the facility must submit to the Department of Public Health prior to providing medical forensic services, a new treatment plan, and a list of qualified medical providers to make sure there is coverage during the days and hours of the operation. The federally qualified health center must also employ a Sexual Assault Nurse Examiner Coordinator and a Medical Director who are both qualified medical providers. The facility must also report each instance that a sexual assault survivor is transferred to a treatment hospital, a treatment hospital with an approved pediatric transfer, or an approved pediatric health care facility to the Department of Public Health within 24 hours and include the reason for the transfer. Regarding proposed sexual assault treatment plans, the Department of Public Health will approve the proposed plan if it (1) meets the minimum requirements in Section 5-1, (2) provides medical forensic services for sexual assault survivors 13 years and older on-site during hours of operation, and (3) includes an emergency protocol for sexual assault survivors 13 years or older to be transferred to a treatment hospital or treatment hospital with approved pediatric transfer to get medical forensic services if the services are not available by the qualified medical provider during the facility's hours. However, the Department of Public Health will not approve sexual assault treatment plans for more than 6 federally qualified health centers, and the facilities must be located in geographically diverse parts of Illinois. The approved federally qualified health centers will also make sure that any physician, physician assistant, advanced practice registered nurse, or registered professional nurse who (1) provides clinical services to survivors of sexual assault and (2) do not meet the definition of qualified medical provider receive (a) a minimum of 2 hours of sexual assault training within 6 months after the amendment is effective or within 6 months after beginning employment (whichever it later) and (b) a minimum of 2 hours of continuing education every 2 years on responding to survivors of sexual assault. The protocols for these trainings will be included in the facility's sexual assault treatment plan. The training may be provided in-person or online and must include (1) information about providing medical forensic services, (2) information on using the Illinois Sexual Assault Evidence Collection Kit, (3) information on sexual assault epidemiology, neurobiology of trauma, drug-facilitated sexual assault, child sexual abuse, and Illinois sexual abuse-related laws, and (4) information on approved federally qualified health center's policies and procedures on sexual assault. Facilities can use the online training provided by the Office of the Attorney General can be used to comply with these requirements. Additionally, every federally qualified health center with a treatment plan approved by the Department of Public Health must employ or contract with a qualified medical provider to initiate medical forensic services to a sexual assault survivor within 90 minutes of the patient's arrival at the facility. However, this requirement must not delay providing life-saving medical care. The Public Act also amended the section on minimum reimbursement requirements for follow-up healthcare. Reimbursable follow-up healthcare is limited to office visits with a physician, advanced practice registered nurse, or physician assistant within 180 days after an initial visit for hospital medical forensic services. Additionally, a sexual assault survivor who is not the subscriber or primary policyholder of the sexual assault survivor's insurance policy

may opt out of billing the sexual assault survivor's private insurance provider. If they opt out, the bill for the medical forensic services will be sent to the Department of Healthcare and Family Services' Sexual Assault Emergency Treatment program for reimbursement. The Public Act also addressed the Sexual Assault Medical Forensic Services Implementation Task Force and added the requirement that one member must represent an approved federally qualified health center and must be appointed by the Director of Public Health. The task force must submit a report to the General Assembly by January 1, 2024. The Public Act added that the report must also include the impact of medical forensic services provided at an approved federally qualified health center on sexual assault survivors.

(<https://ilga.gov/legislation/publicacts/102/102-1097.htm>)

See also: TRAINING REQUIREMENTS

ADOPTED RULES

Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]

Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545)

45 Ill. Reg. 12852, EFFECTIVE September 24, 2021

This rulemaking requires the Department of Public Health to adopt rules for the qualification of sexual assault forensic examiners in new subsection Section 545.40(f). This rulemaking also Section 5 to require hospitals and approved pediatric health care facilities to comply with Section 50 of the Sexual Assault Evidence Submission Act. Lastly, the standard, Sexual Assault Nurse Examiner Education Guidelines, Adult and Pediatric, is being added to Section 545.25.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_41.pdf)

EMERGENCY RULES

Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]

SEXUAL ASSAULT SURVIVORS EMERGENCY TREATMENT CODE (77 Ill. Adm. Code 545)

45 Ill. Reg. 9188, EFFECTIVE July 1, 2021

This emergency amendment impacts the Sexual Assault Survivors Emergency Treatment Act and expired after 150 days of its effective date or upon repeal. The amendment approves federally qualified health centers (FHQCs) as a provider of medical forensic services to sexual assault provider given that the plan they provide is approved by the Department and the survivors are over the age of 13. This rule will allow survivors to receive treatment without having to go to an emergency room during the pandemic. If the facility fails to comply with the standards asserted by the Department, it will receive a list of items of noncompliance and will be required to submit a plan of correction in response, which the Department will deem to be acceptable or not. This plan, if rejected, will have to be resubmitted within the given timeframe, and if they fail, ultimately will be unable to provide the services and may be subject to a fine. Before assigning a fine, the Department will send a notice offering an administrative hearing to the facility.

(https://www.ilsos.gov/departments/index/register/volume45/register_volume45_issue_29.pdf)

See also: HEALTHCARE FACILITIES

Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]

Public Act 102-0022

SEXUAL ASSAULT SURVIVORS EMERGENCY TREATMENT CODE (77 Ill. Adm. Code 545)

45 Ill. Reg. 15387, EFFECTIVE November 28, 2021

This emergency amendment was effective for 150 days and was issued in response to the COVID-19 pandemic. It implements Public Act 102-0022 which adds federally qualified health centers to the list of providers who may provide medical forensic services to sexual assault survivors so long as the FQHCs have a sexual assault treatment plan that has been approved by the Department to provide these services to sexual assault survivors who are 13 years or older. It will also allow survivors who do not want to go to an emergency room during the pandemic to still receive medical forensic services.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_49.pdf)

See also: COVID-19

Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]

SEXUAL ASSAULT SURVIVORS EMERGENCY TREATMENT CODE (77 Ill. Adm. Code 545)

46 Ill. Reg. 1258, EFFECTIVE January 1, 2022

This emergency amendment relates to the Sexual Assault Survivor Emergency Treatment Code and impacts the Sexual Assault Survivors Emergency Treatment Act. The amendment expired 150 days after its effective date, upon repeal, or upon adoption of permanent rulemaking. This rule relates to the COVID-19 provision that allows federally qualified health centers (FQHC) to provide medical forensic services to sexual assault survivors. The amendments outline the guidelines for who may provide the services to sexual assault survivors at FQHCs, the treatment plans they must and can provide, the advertisement of medical forensic services, the frequency and content of reporting of treating survivors, consent to jurisdiction, as well as compliance review conducted by the Department to each FQHC.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_2.pdf)

See also: HEALTHCARE FACILITIES

NOTIFICATION OF RECODIFICATION

Administrative Procedures for General Professional Regulation Under the Administrative Code [68 Ill. Adm. Code 1130]

45 Ill. Reg. 13783, EFFECTIVE October 14, 2021

This notice of recodification relates to the administrative procedures for the general professional regulation under the Administrative Code. The sections were previously codified as “Subpart E: Sexual Harassment Prevention Training” and “1130.400: Sexual

Harassment Prevention Training.” However, the sections are recodified as “Subpart E: Sexual Harassment Prevention and Implicit Bias Awareness Training” and “1130.400: Sexual Harassment Prevention Training”, respectively.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_44.pdf)

SHAREHOLDER LAWSUIT

CASE LAW

STAISZ V. RESURRECTION PHYSICIANS PROVIDER GROUP, INC., N.E. 3d, 2022 Ill. App (1st) 201316

Plaintiff-Doctor sued Defendant physician provider group and several individual defendants for (1) shareholder oppression under section 12.56 of the Business Corporation Act of 1983 and (2) breach of fiduciary duty due to the medical group terminating Plaintiff’s participating physician provider agreement and shareholder status. Court interpreted the clear and unambiguous language of section 12.56(a) of the Act as requiring a plaintiff to be a shareholder when they commence the lawsuit. Since Plaintiff was not a shareholder when she brought the lawsuit, the court found she does not have standing. Regarding the fiduciary duty claim, if Plaintiff had a breach of fiduciary claim it have to be derivative because she sued for indirect injuries that would be common to all shareholders and not direct, personal losses to herself. However, since Plaintiff was not a shareholder when she brought the losses, she could not bring the derivate breach of fiduciary duty claim either. Therefore, the claims were properly dismissed.

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/13295be7-a06d-4fbf-b310-16812faffed6/Staisz%20v.%20Resurrection%20Physicians%20Provider%20Group.%20Inc..%202022%20IL%20App%20\(1st\)%20201316.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/13295be7-a06d-4fbf-b310-16812faffed6/Staisz%20v.%20Resurrection%20Physicians%20Provider%20Group.%20Inc..%202022%20IL%20App%20(1st)%20201316.pdf))

See also: **STANDING**

SHERMAN ACT

CASE LAW

ASSOCIATION OF AMERICAN PHYSICIANS & SURGEONS, INC. V. AMERICAN BOARD OF MEDICAL SPECIALTIES, No. 20-3072 (7th Cir. 2021)

The Association of American Physicians & Surgeons (AAPS) (Plaintiff) sued the American Board of Medical Specialties under §1 of the Sherman Act and under Illinois state law. Plaintiff-AAPS alleged that the Defendant-Board executed a conspiracy to restrain trade in the market for medical care by requiring the physicians who want to be considered “Board-certified” to participate in the Defendant-Board’s Maintenance of Certification (MOC) program which includes continuing education obligations. Plaintiff-AAPS claims that the MOC just costs physicians time and money but not does really improve the quality of medical care. Plaintiff-AAPS says that Defendant-Board has conspired with hospitals and health insurers nationwide to grant staff privileges and in-network status to Board-certified physicians who participate in the MOC program. However, the court determined there was no evidence that meets the demanding *Twombly*

standard that the Board, hospitals, or insurers were conspiring. Separately, under Illinois state law, Plaintiff-AAPS claimed that the Defendant-Board's use of "Board" is misrepresentative because it tries to convey that "Board" certification relates to the state's medical board. However, the court clarified that, under Illinois state law, the statement cannot be disparaging because false or misleading representations can only disparage another's goods, services, or business. Therefore, the Board's use of the term "Board" when describing itself does not disparage another business. The district court's dismissal of Plaintiff-AAPS' claims was affirmed.

(<https://law.justia.com/cases/federal/appellate-courts/ca7/20-3070/20-3070-2021-06-25.html>)

MARION DIAGNOSTIC CENTER, LLC V. BECTON DICKINSON & CO., 29 F. 4th 337, No. 21-1513 (7th Cir. 2022).

The district court did not err in dismissing the medical providers' (Plaintiffs) claim that there were two vertical conspiracies to drive up the prices of medical products. The Plaintiffs alleged a conspiracy between the Defendant-Manufacturer and two Defendant-Distributors, McKesson and Cardinal. The court agreed with the Defendants and said that the Plaintiffs lacked Article III and antitrust standing to sue Defendant Cardinal because they (1) did not purchase medical devices from Defendant Cardinal (only purchased from Defendant McKesson), (2) Plaintiffs did not allege that either Defendant McKesson or Cardinal had the power to influence market prices, and (3) Plaintiffs' injuries were not logically connected or traceable to Defendant Cardinal's conduct. Although Plaintiffs purchased products from Defendant McKesson, the court found the Plaintiffs failed to state a claim because there was not sufficient evidence under the *Twombly* standard to show that the incentives Defendant McKesson received from Defendant manufacturer were conspiratorial. Therefore, the court affirmed the district court's grant of the Motion to Dismiss Plaintiffs' claims.

(<https://casetext.com/case/marion-diagnostic-ctr-llc-v-becton-dickinson-co-1>)

See also: **STANDING**

SOCIAL SECURITY

CASE LAW

ALBERT V. KIJAKAZI, 34 F.4th 611, No. 21-2592, (7th Cir. 2022)

Plaintiff, Danielle Albert, applied for Social Security benefits following her high school graduation, citing autism and other conditions that she alleged rendered her unable to work and disabled. Plaintiff's claim was denied on the basis of ALJ's determination that she had residual functional capability (RFC) and if provided certain accommodations, would be able to work. The ALJ consulted two doctors, but used only one opinion to supplement their decision. The court also stated that if she tried and was unable to work, she would be eligible to apply for benefits in the future. Plaintiff appealed this ruling. The court affirmed the ruling of the district court, reasoning that the applicable regulations allowed for the ALJ to credit the doctor whose opinion was more consistent with their findings. Additionally, the court reasoned that the RFC determination was consistent with Plaintiff's educational records and her self-assessment. Further, the court acknowledged and validated some of

Plaintiff's criticism of ALJ, but ultimately determined that such factors did not override the evidence and ALJ's finding that she was not disabled. The court clarified that nothing it stated should be interpreted to preclude a future finding of disability.

(<https://law.justia.com/cases/federal/appellate-courts/ca7/21-2592/21-2592-2022-05-18.html>)

See also: DISABILITIES

GROTTS V. KIJAKAZI, 27 F. 4th 1273, No. 21-1572 (7th Cir. 2022)

The district court did not err in upholding the ALJ's denial of benefits to Plaintiff who applied for Social Security benefits for her depression. Plaintiff provided subjective evidence and testimony from therapists and a nurse who treated her. The court found the ALJ was correct that the therapists and nurse were not "treating sources" the regulations and so their testimony could be given less weight under C.F.R. §404.1527(f). Therefore, the ALJ only needed to note that there was testimony from non-treating sources that conflicted with objective evidence and the testimony of the state's psychologists. Regarding the subjective evidence, the court said the ALJ correctly evaluated the Plaintiff's claims and uncovered inconsistencies between the subjective evidence of her disability and the objective evidence that revealed she could work and care for herself. Therefore, the court affirmed the denial of benefits and dismissed Plaintiff's challenges that the ALJ improperly evaluated the case.

(<https://casetext.com/case/grotts-v-kijakazi>)

POOLE V. KIJAKAZI, 28 F. 4th 792, No. 21-2641 (7th Cir. 2022)

The court reversed and remanded the ALJ's denial of SSI disability status and benefits to Plaintiff because the ALJ's decision rested on two contradictory findings. The ALJ determined that Plaintiff was limited to "sedentary work" (defined in 20 C.F.R. §404.1567(a)) and Plaintiff needed to change positions every fifteen minutes which equates to four hours of sitting and four hours of standing during the workday. Therefore, according to the ALJ, Plaintiff must stand for four hours in a workday. However, "sedentary work" under the regulation says that Plaintiff could not stand for more than two hours in a workday. Since Plaintiff cannot both be required to stand for four hours every workday and be prohibited from standing more than two hours every workday at the same time, the court found the ALJ's decision to be irreconcilable. Therefore, the court reversed and remanded the case back to the Social Security Administration for further proceedings.

(<https://casetext.com/case/poole-v-kijakazi>)

See also: DISABILITIES

PRILL V. KIJAKAZI, 23 F.4th 738, No. 21-1381 (7th Cir. 2022)

Plaintiff, Debra Prill, submitted an appeal against the district court's decision to deny her application for benefits based upon the ALJ's determination that she was not disabled since August 2014. Plaintiff argued that the ALJ's analysis was incorrect due to disregard for substantive evidence, such as her personal subjective allegations and varying medical opinions. The court affirmed the decision of the lower court, siding with the conclusions of the ALJ. The court reasoned that Plaintiff's medical records and self-reported activities were inconsistent with the level of severity and limitations she claimed to face by her symptoms. Regarding the medical opinions, the court explained that ALJ's assessment of

Plaintiff was consistent with her medical records and treatment more than her allegations. Further, the medical records supported that Plaintiff was able to perform a medium level of work due to successfully responding to the prescribed medications. The court stated that its decision to weigh different medical opinions differently was based on the fact that the objective medical evidence was more in line with the two other consulted physicians compared to that of Plaintiff's personal doctor. As such, the court ruled that ALJ's determination and reasoning that Plaintiff was capable of medium work and thus not disabled was correct.

(<https://law.justia.com/cases/federal/appellate-courts/ca7/21-1381/21-1381-2022-01-13.html>)

See also: DISABILITIES

REYNOLDS V. KIJAKAZI, 25 F. 4th 470, No. 21-1624 (7th Cir. 2022)

The court affirmed the district court's decision to uphold the ALJ's decision that Plaintiff was not rendered disabled due to her migraines, depression, and difficulty regulating emotions in social settings. Plaintiff applied for Social Security benefits and, based on the evidence, the ALJ determined that she had the residual functional capacity to perform work with some limitations, such as occasional interaction with co-workers and supervisors but no interaction with the public. Plaintiff argued that the ALJ should have awarded her a qualitative interaction limitation to further decrease her interactions with others. However, the ALJ determined there was insufficient evidence in her medical records that she received behavioral health treatment to support this limitation. The court explained that the ALJ only needed to include limitations that were supported by the medical record, and a qualitative interaction limitation was not supported by substantial evidence in Plaintiff's medical records. Therefore, the court declared that Plaintiff was not disabled and that this determination was supported by substantial evidence.

(<https://casetext.com/case/reynolds-v-kijakazi>)

See also: MENTAL HEALTH

RUENGER V. KIJAKAZI, 23 F.4th 760, No. 20-2598, (7th Cir. 2022)

Plaintiff, Randall Ruenger, appealed the decision of the district court regarding his pursuit of Social Security benefits, claiming that the job number estimates provided to him through the vocational expert were not reliable. In applying for disability benefits, one is provided with an estimate of the number of jobs they may be eligible for by the Social Security Administration. Vocational experts provide these numbers to the administrative law judges (ALJs), through utilization of various sources such as the Dictionary of Occupational Titles (DOT), the Standard Occupational Classification System (SOC), and Occupation Employment Quarterly. If the numbers provided are questionable, the ALJ is required to inquire about the vocational expert's methodology. The issue at hand is whether there is substantial evidence to support the vocational expert's and ALJ's conclusion that Plaintiff has a significant number of jobs available to him. The court ruled that there is not, vacated the district court's decision, and remanded the case for further proceedings. The court reasoning validated Plaintiff's arguments, the first of which claimed that the methodology through which the vocation expert obtained such numbers was imprecise. The vocational expert failed to explain cogently her methodology, making it impossible to review and therefore unreliable for the ALJ. The court also agrees with Plaintiff in that the vocational

expert was unable to justify her methodology in her testimony, which is necessary when using an equal distribution method. These reasons, in addition to the ALJ's failure to question and clarify the vocational expert's methodology casts an ultimate doubt on the numbers provided and thus renders her estimates unconvincing.

(<https://law.justia.com/cases/federal/appellate-courts/ca7/20-2598/20-2598-2022-01-14.html>)

See also: DISABILITIES

WILDER V. KIJAKAZI, 22 F.4th 644, No. 21-1607, (7th Cir. 2022)

Plaintiff, Brenda Wilder, submitted an appeal regarding the district court's decision to deny her of Social Security Benefits on the basis of an administrative law judge's (ALJ) determination that her health issues did not qualify as a disability. Plaintiff alleged that she was unable to work due to suffering from lower back and hip pain as well as walking and balance issues. Plaintiff's appeal argued that ALJ failed to determine if she met the requirements of Listing 11.17(a), failed to acquire an expert medical opinion regarding her condition, and that ALJ's assessment of her symptoms was incorrect. The court rejected each of these arguments and affirmed the decision of the district court, citing that it provided sufficient evidence to deny Plaintiff of the benefits she sought. The court reasoned that Plaintiff was unable to prove under Listing 11.17(a) that she was subject to an "extreme limitation" when she would either have to "stand up from a seated position or balance while standing or walking." The proof required to substantiate an "extreme limitation" would be demonstrating her inability to stand without two canes/crutches, or the help of others. Because Plaintiff only utilized one cane and evidence in the record suggested that she was independently capable of walking and standing up for limited periods of time, the court rejected her claim of meeting Listing 11.17(a). Further, the court rejected the necessity for expert medical testimony as obtaining this was not required by the ALJ if they believe that the available evidence substantiates their determination of no listed impairment. Finally, the court explained that the ALJ's error in the record was harmless and would not have led to a different conclusion in the determination of whether Plaintiff was disabled.

(<https://law.justia.com/cases/federal/appellate-courts/ca7/21-1607/21-1607-2022-01-04.html>)

See also: DISABILITIES

STANDING

CASE LAW

MARION DIAGNOSTIC CENTER, LLC V. BECTON DICKINSON & CO., 29 F. 4th 337, No. 21-1513 (7th Cir. 2022)

(<https://casetext.com/case/marion-diagnostic-ctr-llc-v-becton-dickinson-co-1>)

See also: SHERMAN ACT

NOWLIN V. PRITZKER, 34 F.4th 629 No. 21-1479 (7th Cir. 2022)

(<https://law.justia.com/cases/federal/appellate-courts/ca7/21-1479/21-1479-2022-05-20.html>)

See also: COVID-19

PROSSER V. BECERRA, No. 20-3072 (7th Cir. 2021)

Plaintiff-Prosser suffers from brain cancer and needs tumor treating fields therapy for the rest of her life. Plaintiff-Prosser enrolled in the supplemental insurance program Medicare Part B to pay for the treatments and she files a claim for each period during which she receives a treatment. Medicare denied coverage for one of the treatment periods. However, Plaintiff-Prosser did not have to pay for the treatment; rather, the company that provided the treatment had to pay. Plaintiff-Prosser challenged Medicare's denial through the appeals process and eventually reached federal court. Since Plaintiff-Prosser did not have any financial liability to pay for the treatment and future financial risk is unclear and speculative, the court determined that Plaintiff-Prosser does not have injury in fact which is required for Article III standing. The court emphasized that injury in fact cannot be a possible future injury such as that Plaintiff-Prosser may have to pay for the treatments in the future. Congress did not give people a substantive right to Medicare payments every time they submit a claim and, after all, Medicare payments usually go to the provider or supplier of the service and not the recipient of the service. Plaintiff-Prosser failed to identify a concrete injury that goes beyond the statutory right Congress gave her to appeal Medicare's denial. Essentially, the court found there are too many steps between Medicare's coverage denial and any future liability for this to constitute an injury in fact that is sufficient for Article III standing.

(<https://law.justia.com/cases/federal/appellate-courts/ca7/20-3070/20-3070-2021-06-25.html>)

STAISZ V. RESURRECTION PHYSICIANS PROVIDER GROUP, INC., N.E. 3d, 2022 Ill. App (1st) 201316

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/13295be7-a06d-4fbf-b310-16812faffed6/Staiz%20v.%20Resurrection%20Physicians%20Provider%20Group,%20Inc.,%202022%20IL%20App%20\(1st\)%20201316.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/13295be7-a06d-4fbf-b310-16812faffed6/Staiz%20v.%20Resurrection%20Physicians%20Provider%20Group,%20Inc.,%202022%20IL%20App%20(1st)%20201316.pdf))

See also: SHAREHOLDER LAWSUIT

SUPREME COURT**CASE LAW****DOBBS V. JACKSON WOMEN'S HEALTH ORG., 142 S. Ct. 414, 211 L. Ed. 2d 223 (2022)**

The court reverses the Fifth Circuit's decision to grant the Defendants motion for summary judgement and finds that the Constitution does not prohibit the citizens of each State from regulating or prohibiting abortion. *Roe v. Wade*, 410 U.S. 113, and *Planned Parenthood v. Casey*, 505 U.S. 833, are overruled. In 2018, Mississippi passed the "Gestational Age Act," which prohibits all abortions, with few exceptions, after 15 weeks' gestational age. The defendant filed a lawsuit in federal district court challenging the law and requesting an emergency temporary restraining order (TRO). The district court granted the TRO and after discovery the district court granted the defendant's motion for summary judgment and enjoined the plaintiff from enforcing the law, finding that the state had not provided

evidence that a fetus would be viable at 15 weeks, and Supreme Court precedent prohibits states from banning abortions prior to viability. The U.S. Court of Appeals for the Fifth Circuit affirmed. The Supreme Court granted certiorari to the United States Court of Appeals for the Fifth Circuit. The court found that the Constitution does not mention abortion and therefore does not confer a right to abortion. Additionally, the court noted that the right to abortion was neither deeply rooted in the nation's history nor an essential component of "ordered liberty." After discussing the five factors that need to be considered when deciding whether a precedent should be overruled, the court found that *Roe* and *Casey*: (1) "short-circuited the democratic process," (2) both lacked grounding in constitutional text, history, or precedent, (3) the tests they established were not "workable," (4) they caused distortion of law in other areas, and (5) overruling them would not upend concrete reliance interests. Therefore, the judgment of the Fifth Circuit was reversed, and the case remanded for further proceedings consistent with this opinion.

(https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf)

QUAD CAPITAL PORTFOLIO A LLC V. ABBVIE, INC., N.E. 3d, 2022 Ill. App (1st) 200872

This case involves an investment company Plaintiff-Investment company sued Defendant-Pharmaceutical company after Defendant's merger with another pharmaceutical company was terminated. Plaintiff invested based on Defendant's statements about the high likelihood that the merger would go forward. However, Defendant terminated the merger and Plaintiff claimed Defendant's statements about the likelihood of the merger constituted fraud to entice investors. Defendant claimed that Plaintiff was time-barred by the three-year statute of limitations according to the Illinois Securities Law of 1953 which required Plaintiff bring their claim no more than three years after their investment. Plaintiff conceded that the three-year statute of limitations applied to their case, but argued that their purchaser claims were still timely due to Illinois Securities Law's discovery rule that halts the statute of limitations until the party had knowledge of the fraud. The circuit court granted summary judgment to Defendant on the basis that the claim was time-barred by the statute of limitations. The court found that Plaintiff did have knowledge of Defendant's fraud within the statute of limitations and so because Plaintiff did not bring their lawsuit within three years, their claim was time-barred. The court affirmed the circuit court's grant of summary judgment to Defendant.

(<https://casetext.com/case/quad-capital-portfolio-a-llc-v-abbvie-inc-2>)

WHOLE WOMAN'S HEALTH ALLIANCE V. ROKITA, 553 F. Supp. 3d 500, No. 21-2480 (7th Cir. 2021).

(<https://cases.justia.com/federal/appellate-courts/ca7/21-2480/21-2480-2021-09-08.pdf?ts=1631138418>)

See also: ABORTION

SURROGACY

PUBLIC ACTS

The Health Care Surrogate Act [755 ILCS 40/10]
PUBLIC ACT 102-0744, EFFECTIVE May 6, 2022

Senate Bill 2974

This Public Act amends Section 10 of the Health Care Surrogate Act. The Public Act added an option for “attending physicians” to include physicians who are licensed in the state where the patient is being treated. Additionally, it added an option for “health care provider” to be licensed in the state where the patient is being treated to administer treatment. The Public Act also added clarification language to expand who is a “qualified health care practitioner.” Instead of limiting qualified health care practitioners to Illinois licensees, the Public Act broadens the definition to include those who are either licensed in Illinois or in the state where the patient is being treated or hold a temporary license to practice medicine in Illinois. It also added to the definition of “physician” to include providers who are licensed to practice medicine in the state where the patient is being treated, even if that state is not Illinois. The definition of “qualified physician” was also omitted. Instead of requiring a “qualifying condition” be documented by both the attending physician and at least one other physician, the Public Act modified the requirement for verification to be by the attending physician and a qualified health care practitioner.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0744>)

TRAINING REQUIREMENTS**PUBLIC ACTS**

The Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70/1a] [410 ILCS 70/1a-1] [410 ILCS 70/2-1] [410 ILCS 70/5-1] [410 ILCS 70/5.4] [410 ILCS 70/5.5] [410 ILCS 70/5.5-1] [410 ILCS 70/7.5] [410 ILCS 70/7.5-1] [410 ILCS 70/9.5]

PUBLIC ACT 102-1077, EFFECTIVE June 16, 2022

Senate Bill 3023

(<https://ilga.gov/legislation/publicacts/102/102-1097.htm>)

See also: SEXUAL ASSAULT

The University of Illinois Hospital Act [110 ILCS 330/8g new]

The Assisted Living and Shared Housing Act [210 ILCS 9/77 new]

The Community Living Facilities Licensing Act [210 ILCS 35/5.10 new]

The Life Care Facilities Act [210 ILCS 40/10.2 new]

The Nursing Home Care Act [210 ILCS 45/3-613 new]

The MC/DD Act [210 ILCS 46/3-613 new]

The ID/DD Community Care Act [210 ILCS 47/3-613 new]

The Hospital Licensing Act [210 ILCS 85/6.33 new]

PUBLIC ACT 102-1007, EFFECTIVE January 1, 2023

Senate Bill 3166

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1007>)

See also: NURSING HOMES

The Illinois Act on the Aging [2- ILCS 105/4.02h new]

PUBLIC ACT 102-1020, EFFECTIVE January 1, 2023

Senate Bill 3707

This Public Act amends the Illinois Act on the Aging. The Act applies to anyone who is employed by the Department or an agency that contracts with the Department to provide services to individuals participating in the Community Care Program. It requires at least 2 hours of dementia training that must be completed at the start of employment with either the Department or the contractor. Department employees or contractors must complete the training within 6 months of January 1, 2023. The training must cover (1) Alzheimer's disease and dementia, (2) safety risks, and (3) communication and behavior. There must also be annual continuing education training that includes at least 2 hours of dementia training. If more rigorous dementia training requirements for employees or contractors providing services to Community Care Program participants, those requirements will apply and individuals will be considered exempt from the requirements in this Act so long as they show proof, they completed the training.

(<https://ilga.gov/legislation/publicacts/fulltext.asp?Name=102-1020>)

See also: DEMENTIA

ADOPTED RULES

Nursing Home Care Act [210 ILCS 45]

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)

46 Ill. Reg. 6033, EFFECTIVE April 1, 2022

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_16.pdf)

See also: NURSING HOMES

Nursing Home Care Act [210 ILCS 45]

SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE (77 Ill. Adm. Code 300)

46 Ill. Reg. 6033, EFFECTIVE April 1, 2022

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_16.pdf)

See also: NURSING HOMES

Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois
- Section 2310-218 [20 ILCS 2310/2310-218]

Public Act 101-0542

RESOURCES (77 Ill. Adm. Code 150)

46 Ill. Reg. 6597, EFFECTIVE April 7, 2022

This rulemaking implements Public Act 101-0542. The Public Act added a new section to the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois pertaining to phlebotomy training. It requires the Department to provide training on the current methods used to draw blood from children and adults with developmental disabilities. This training must be part of a phlebotomist's initial employment training in addition to ongoing training.

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_17.pdf)

EMERGENCY RULES

Implementing the Orthotics, Prosthetics and Pedorthics Practice Act [225 ILCS 84]

Civil Administrative Code of Illinois [20 ILCS 2105/2105-15]

Orthotics, Prosthetics and Pedorthics Practice Act (68 Ill. Adm. Code 1325)

45 Ill. Reg. 14508, EFFECTIVE November 1, 2021

This emergency amendment expired after 150 days unless it was repealed or enacted into permanent rulemaking before that time. The emergency amendment is in response to the COVID-19 pandemic that prevents licensees from attending in-person CE programs and relaxes the in-person requirement by allowing orthotists, prosthetists, and pedorthists licensees to fulfill their CE requirements by participating in online courses instead of the 15 hours limitation on online CE. The renewal deadline is pushed back until December 31, 2021, which means that emergency rules must be in place by that date to ensure that there are no licensure lapses for those renewing their licenses with 100% online CE.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_47.pdf)

Clinical Social Work and Social Work Practice Act (68 Ill. Adm. Code 1470)

45 Ill. Reg. 15104, EFFECTIVE November 4, 2021

This emergency amendment was effective for 150 days. It relaxes the in-person requirements for CE programs to allow licensees to meet the requirements by participating in online CE programming. Specifically, it removes the mandate for social workers that 50% of CE hours must be obtained in-person. The renewal deadline was pushed back until February 28, 2022, and so emergency rules needed to be in place by that date to ensure that there was no lapse in licensing for those who are renewing using 100% online CE.

(https://ilsos.gov/departments/index/register/volume45/register_volume45_issue_48.pdf)

WORKERS' COMPENSATION

CASE LAW

COUNTRY MUTUAL INSURANCE CO. V. UNDER CONSTRUCTION AND REMODELING, INC., 2021 IL App (1st) 210600.

See also: EMPLOYMENT

MCDONALD V. SYMPHONY BRONZEVILLE PARK, LLC., N.E. 3d, (2022), S. Ct., 126511

(<https://law.justia.com/cases/illinois/supreme-court/2022/126511.html>)

See also: DATA PRIVACY

TORRIJOS V. INTERNATIONAL PAPER CO., 2021 IL App (2d) 191150.

See also: EMPLOYMENT

ADOPTED RULES

Workers' Compensation Act [820 ILCS 305]; Illinois Insurance Code [215 ILCS 5]

Registration of Workers' Compensation Utilization Review Organization (50 Ill. Adm. Code 2905)

46 Ill. Reg. 9867, EFFECTIVE May 31, 2022

This rulemaking makes minor edits to Section 2905.20, including adding that the application for registration will include, but not be limited to: applicant's identifying and contact information; applicant's agent for service of process in Illinois; applicant's accreditation status; signed affirmation by an officer or director; and for each utilization review program: contact information and business hours; organization and governing structure; number of reviews in Illinois for the current and previous years; description of the grievance process; written policies and procedures for protection of confidential information; and biographical information for officers and directors. The Department will accept the biographical affidavit, and any supplement to that affidavit, that is obtained from the website of the National Association of Insurance Commissioners (NAIC) or the Department.

(https://www.ilsos.gov/departments/index/register/volume46/register_volume46_issue_24.pdf)

Workers' Compensation Act (Section 4) [820 ILCS 305]

Workers' Occupational Diseases Act (Section 4) [820 ILCS 310]

Civil Administrative Code of Illinois (Section 1405-40) [20 ILCS 1405]

Illinois Insurance Code (Section 401) [215 ILCS 5/401]

NOTICE OF NON-COMPLIANCE WITH WORKERS' COMPENSATION ACT (50 Ill. Adm. Code 2915)

46 Ill. Reg. 7761, EFFECTIVE April 28, 2022

This rulemaking established the required statutory change that a portion of 50 Ill. Adm. Code 9100.90 was transferred from the Workers' Compensation Commission to the Department of Insurance. This requirement was preceded by the statutory changes that moved the Insurance Compliance Unit from the Workers' Compensation Commission to the Department of Insurance (refer to 20 ILCS 1405/1405-40).

(https://ilsos.gov/departments/index/register/volume46/register_volume46_issue_20.pdf)

WRONGFUL DEATH**CASE LAW****SEALS V. RUSH UNIVERSITY MEDICAL CENTER., N.E. 3d, 2021 Ill. App (1st) 200558**

Plaintiff, Quatanya Seals, acting as administrator for her daughter's (Kelli Danelle Brown) estate, appeals a judgment of the trial court, who dismissed her fourth amended complaint citing failure to state a claim under section 2-615 under the Code of Civil Procedure (Code) and denied her motion to reconsider. Plaintiff filed a wrongful death and survival action against Walgreens, Melamed, and Rush University Medical Center (Defendants) after the decedent was given higher doses of her prescription medication than intended due to Walgreens' alleged negligence in not providing properly demarcated syringes to administer the medication. Additionally, the complaint included that Walgreens did not inform the Plaintiff that the prescribed dosage of medication could not be administered through incorrect syringes in a timely manner. The issue before the court was whether the Plaintiff adequately pleaded her allegations in her complaint. The court ruled that the Plaintiff did sufficiently plead her case so as to withstand a section 2-615 motion to dismiss. The court

reasoned that because the facts were well-pleaded in regard to the mistaken syringes, their inability to properly administer the required dose of medication, and the lack of warnings provided to the Plaintiff, the complaint was sufficient to potentially entitle the Plaintiff to relief. Therefore, the dismissal was reversed and remanded for further proceedings.

([https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/7975ccf9-88f7-42c8-86bc-f5ee6cd88e08/Seals%20v.%20Rush%20University%20Medical%20Center,%202021%20IL%20App%20\(1st\)%20200558.pdf](https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/7975ccf9-88f7-42c8-86bc-f5ee6cd88e08/Seals%20v.%20Rush%20University%20Medical%20Center,%202021%20IL%20App%20(1st)%20200558.pdf))

See also: CIVIL PROCEDURE

QUIROZ V. CHICAGO TRANSIT AUTHORITY., 2021 WL 2853037, Ill. App (1st) 200181-U The Plaintiff-Appellant, Alejandro Quiroz, as administrator of the estate of Ricardo Quiroz (Decedent), appealed a judgment of the circuit court of Cook County which dismissed his complaint against the Chicago Transit Authority (CTA) (Defendant). The Decedent was struck and entangled by several trains after falling next to the tracks, which ultimately led to his death. He was later discovered by a train operator. The circuit court ruled that the CTA did not owe a duty of care to the Decedent. The court reversed and remanded this ruling. The reasoning of the court was based on the court's obligation to accept certain facts as true as long as they are well-pleaded. In particular, the court cited the Plaintiff-Appellant's allegation that the Decedent, in his injured state and unable to help himself off the tracks, was evidently visible to the CTA workers and on the security cameras. Thus, construing these facts as true, the CTA did owe a duty of care to the Decedent and the dismissed complaint survived the standard of the Code of Civil Procedure's section 2-615 motion to dismiss.

(https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/3000dacd-86c1-43fc-9b5a-f50d9eb07296/1200181_R23.pdf)