



Rep. Emanuel Chris Welch

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LRB100 09446 MJP 21847 a

1 AMENDMENT TO HOUSE BILL 3392

2 AMENDMENT NO. _____. Amend House Bill 3392 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Assisted Living and Shared Housing Act is
5 amended by changing Sections 10, 15, 75, 80, 90, 95, and 110 as
6 follows:

7 (210 ILCS 9/10)

8 Sec. 10. Definitions. For purposes of this Act:

9 "Activities of daily living" means eating, dressing,
10 bathing, toileting, transferring, or personal hygiene.

11 "Assisted living establishment" or "establishment" means a
12 home, building, residence, or any other place where sleeping
13 accommodations are provided for at least 3 unrelated adults, at
14 least 80% of whom are 55 years of age or older and where the
15 following are provided consistent with the purposes of this
16 Act:

1 (1) services consistent with a social model that is
2 based on the premise that the resident's unit in assisted
3 living and shared housing is his or her own home;

4 (2) community-based residential care for persons who
5 need assistance with activities of daily living, including
6 personal, supportive, and intermittent health-related
7 services available 24 hours per day, if needed, to meet the
8 scheduled and unscheduled needs of a resident;

9 (3) mandatory services, whether provided directly by
10 the establishment or by another entity arranged for by the
11 establishment, with the consent of the resident or
12 resident's representative; and

13 (4) a physical environment that is a homelike setting
14 that includes the following and such other elements as
15 established by the Department: individual living units
16 each of which shall accommodate small kitchen appliances
17 and contain private bathing, washing, and toilet
18 facilities, or private washing and toilet facilities with a
19 common bathing room readily accessible to each resident.
20 Units shall be maintained for single occupancy except in
21 cases in which 2 residents choose to share a unit.
22 Sufficient common space shall exist to permit individual
23 and group activities.

24 "Assisted living establishment" or "establishment" does
25 not mean any of the following:

26 (1) A home, institution, or similar place operated by

1 the federal government or the State of Illinois.

2 (2) A long term care facility licensed under the
3 Nursing Home Care Act, a facility licensed under the
4 Specialized Mental Health Rehabilitation Act of 2013, a
5 facility licensed under the ID/DD Community Care Act, or a
6 facility licensed under the MC/DD Act. However, a facility
7 licensed under any of those Acts may convert distinct parts
8 of the facility to assisted living. If the facility elects
9 to do so, the facility shall retain the Certificate of Need
10 for its nursing and sheltered care beds that were
11 converted.

12 (3) A hospital, sanitarium, or other institution, the
13 principal activity or business of which is the diagnosis,
14 care, and treatment of human illness and that is required
15 to be licensed under the Hospital Licensing Act.

16 (4) A facility for child care as defined in the Child
17 Care Act of 1969.

18 (5) A community living facility as defined in the
19 Community Living Facilities Licensing Act.

20 (6) A nursing home or sanitarium operated solely by and
21 for persons who rely exclusively upon treatment by
22 spiritual means through prayer in accordance with the creed
23 or tenants of a well-recognized church or religious
24 denomination.

25 (7) A facility licensed by the Department of Human
26 Services as a community-integrated living arrangement as

1 defined in the Community-Integrated Living Arrangements
2 Licensure and Certification Act.

3 (8) A supportive residence licensed under the
4 Supportive Residences Licensing Act.

5 (9) The portion of a life care facility as defined in
6 the Life Care Facilities Act not licensed as an assisted
7 living establishment under this Act; a life care facility
8 may apply under this Act to convert sections of the
9 community to assisted living.

10 (10) A free-standing hospice facility licensed under
11 the Hospice Program Licensing Act.

12 (11) A shared housing establishment.

13 (12) A supportive living facility as described in
14 Section 5-5.01a of the Illinois Public Aid Code.

15 "Department" means the Department of Public Health.

16 "Director" means the Director of Public Health.

17 "Emergency situation" means imminent danger of death or
18 serious physical harm to a resident of an establishment.

19 "Involuntary termination of residency" means the full
20 release of any resident from a facility, without the informed
21 consent of the resident, freely given and not coerced.

22 "Involuntary termination of residency" includes an assisted
23 living or shared housing establishment's failure to readmit a
24 resident following hospitalization, other medical leave, or
25 other absence from the establishment.

26 "License" means any of the following types of licenses

1 issued to an applicant or licensee by the Department:

2 (1) "Probationary license" means a license issued to an
3 applicant or licensee that has not held a license under
4 this Act prior to its application or pursuant to a license
5 transfer in accordance with Section 50 of this Act.

6 (2) "Regular license" means a license issued by the
7 Department to an applicant or licensee that is in
8 substantial compliance with this Act and any rules
9 promulgated under this Act.

10 "Licensee" means a person, agency, association,
11 corporation, partnership, or organization that has been issued
12 a license to operate an assisted living or shared housing
13 establishment.

14 "Licensed health care professional" means a registered
15 professional nurse, an advanced practice nurse, a physician
16 assistant, and a licensed practical nurse.

17 "Mandatory services" include the following:

18 (1) 3 meals per day available to the residents prepared
19 by the establishment or an outside contractor;

20 (2) housekeeping services including, but not limited
21 to, vacuuming, dusting, and cleaning the resident's unit;

22 (3) personal laundry and linen services available to
23 the residents provided or arranged for by the
24 establishment;

25 (4) security provided 24 hours each day including, but
26 not limited to, locked entrances or building or contract

1 security personnel;

2 (5) an emergency communication response system, which
3 is a procedure in place 24 hours each day by which a
4 resident can notify building management, an emergency
5 response vendor, or others able to respond to his or her
6 need for assistance; and

7 (6) assistance with activities of daily living as
8 required by each resident.

9 "Negotiated risk" is the process by which a resident, or
10 his or her representative, may formally negotiate with
11 providers what risks each are willing and unwilling to assume
12 in service provision and the resident's living environment. The
13 provider assures that the resident and the resident's
14 representative, if any, are informed of the risks of these
15 decisions and of the potential consequences of assuming these
16 risks.

17 "Owner" means the individual, partnership, corporation,
18 association, or other person who owns an assisted living or
19 shared housing establishment. In the event an assisted living
20 or shared housing establishment is operated by a person who
21 leases or manages the physical plant, which is owned by another
22 person, "owner" means the person who operates the assisted
23 living or shared housing establishment, except that if the
24 person who owns the physical plant is an affiliate of the
25 person who operates the assisted living or shared housing
26 establishment and has significant control over the day to day

1 operations of the assisted living or shared housing
2 establishment, the person who owns the physical plant shall
3 incur jointly and severally with the owner all liabilities
4 imposed on an owner under this Act.

5 "Physician" means a person licensed under the Medical
6 Practice Act of 1987 to practice medicine in all of its
7 branches.

8 "Resident" means a person residing in an assisted living or
9 shared housing establishment.

10 "Resident's representative" means a person, other than the
11 owner, agent, or employee of an establishment or of the health
12 care provider unless related to the resident, designated in
13 writing by a resident or a court to be his or her
14 representative. This designation may be accomplished through
15 the Illinois Power of Attorney Act, pursuant to the
16 guardianship process under the Probate Act of 1975, or pursuant
17 to an executed designation of representative form specified by
18 the Department.

19 "Self" means the individual or the individual's designated
20 representative.

21 "Shared housing establishment" or "establishment" means a
22 publicly or privately operated free-standing residence for 16
23 or fewer persons, at least 80% of whom are 55 years of age or
24 older and who are unrelated to the owners and one manager of
25 the residence, where the following are provided:

26 (1) services consistent with a social model that is

1 based on the premise that the resident's unit is his or her
2 own home;

3 (2) community-based residential care for persons who
4 need assistance with activities of daily living, including
5 housing and personal, supportive, and intermittent
6 health-related services available 24 hours per day, if
7 needed, to meet the scheduled and unscheduled needs of a
8 resident; and

9 (3) mandatory services, whether provided directly by
10 the establishment or by another entity arranged for by the
11 establishment, with the consent of the resident or the
12 resident's representative.

13 "Shared housing establishment" or "establishment" does not
14 mean any of the following:

15 (1) A home, institution, or similar place operated by
16 the federal government or the State of Illinois.

17 (2) A long term care facility licensed under the
18 Nursing Home Care Act, a facility licensed under the
19 Specialized Mental Health Rehabilitation Act of 2013, a
20 facility licensed under the ID/DD Community Care Act, or a
21 facility licensed under the MC/DD Act. A facility licensed
22 under any of those Acts may, however, convert sections of
23 the facility to assisted living. If the facility elects to
24 do so, the facility shall retain the Certificate of Need
25 for its nursing beds that were converted.

26 (3) A hospital, sanitarium, or other institution, the

1 principal activity or business of which is the diagnosis,
2 care, and treatment of human illness and that is required
3 to be licensed under the Hospital Licensing Act.

4 (4) A facility for child care as defined in the Child
5 Care Act of 1969.

6 (5) A community living facility as defined in the
7 Community Living Facilities Licensing Act.

8 (6) A nursing home or sanitarium operated solely by and
9 for persons who rely exclusively upon treatment by
10 spiritual means through prayer in accordance with the creed
11 or tenants of a well-recognized church or religious
12 denomination.

13 (7) A facility licensed by the Department of Human
14 Services as a community-integrated living arrangement as
15 defined in the Community-Integrated Living Arrangements
16 Licensure and Certification Act.

17 (8) A supportive residence licensed under the
18 Supportive Residences Licensing Act.

19 (9) A life care facility as defined in the Life Care
20 Facilities Act; a life care facility may apply under this
21 Act to convert sections of the community to assisted
22 living.

23 (10) A free-standing hospice facility licensed under
24 the Hospice Program Licensing Act.

25 (11) An assisted living establishment.

26 (12) A supportive living facility as described in

1 Section 5-5.01a of the Illinois Public Aid Code.

2 "Total assistance" means that staff or another individual
3 performs the entire activity of daily living without
4 participation by the resident.

5 (Source: P.A. 98-104, eff. 7-22-13; 99-180, eff. 7-29-15.)

6 (210 ILCS 9/15)

7 Sec. 15. Assessment and service plan requirements. Prior to
8 admission to any establishment covered by this Act, a
9 comprehensive assessment that includes an evaluation of the
10 prospective resident's physical, cognitive, and psychosocial
11 condition shall be completed. At least annually, a
12 comprehensive assessment shall be completed, and upon
13 identification of a significant change in the resident's
14 condition, including, but not limited to, a diagnosis of
15 Alzheimer's disease or a related dementia, the resident shall
16 be reassessed. The Department may by rule specify circumstances
17 under which more frequent assessments of skin integrity and
18 nutritional status shall be required. The comprehensive
19 assessment shall be completed by a physician. Based on the
20 assessment, the resident's interests and preferences,
21 dislikes, and any known triggers for behavior that endangers
22 the resident or others, a written service plan shall be
23 developed and mutually agreed upon by the provider, ~~and~~ the
24 resident, and the resident's representative, if any. The
25 service plan, which shall be reviewed annually, or more often

1 as the resident's condition, preferences, or service needs
2 change, shall serve as a basis for the service delivery
3 contract between the provider and the resident. The resident
4 and the resident's representative, if any, shall be given a
5 copy of the most recent assessment; supplemental assessment, if
6 any, done by the establishment; and service plan. Based on the
7 assessment, the service plan may provide for the disconnection
8 or removal of any appliance.

9 (Source: P.A. 91-656, eff. 1-1-01.)

10 (210 ILCS 9/75)

11 Sec. 75. Residency Requirements.

12 (a) No individual shall be accepted for residency or remain
13 in residence if the establishment cannot provide or secure
14 appropriate services, if the individual requires a level of
15 service or type of service for which the establishment is not
16 licensed or which the establishment does not provide, or if the
17 establishment does not have the staff appropriate in numbers
18 and with appropriate skill to provide such services.

19 (b) Only adults may be accepted for residency.

20 (c) A person shall not be accepted for residency if:

21 (1) the person poses a serious threat to himself or
22 herself or to others;

23 (2) the person is not able to communicate his or her
24 needs and no resident representative residing in the
25 establishment, and with a prior relationship to the person,

1 has been appointed to direct the provision of services;

2 (3) the person requires total assistance with 2 or more
3 activities of daily living;

4 (4) the person requires the assistance of more than one
5 paid caregiver at any given time with an activity of daily
6 living;

7 (5) the person requires more than minimal assistance in
8 moving to a safe area in an emergency;

9 (6) the person has a severe mental illness, which for
10 the purposes of this Section means a condition that is
11 characterized by the presence of a major mental disorder as
12 classified in the Diagnostic and Statistical Manual of
13 Mental Disorders, Fourth Edition (DSM-IV) (American
14 Psychiatric Association, 1994), where the individual is a
15 person with a substantial disability due to mental illness
16 in the areas of self-maintenance, social functioning,
17 activities of community living and work skills, and the
18 disability specified is expected to be present for a period
19 of not less than one year, but does not mean Alzheimer's
20 disease and other forms of dementia based on organic or
21 physical disorders;

22 (7) the person requires intravenous therapy or
23 intravenous feedings unless self-administered or
24 administered by a qualified, licensed health care
25 professional;

26 (8) the person requires gastrostomy feedings unless

1 self-administered or administered by a licensed health
2 care professional;

3 (9) the person requires insertion, sterile irrigation,
4 and replacement of catheter, except for routine
5 maintenance of urinary catheters, unless the catheter care
6 is self-administered or administered by a licensed health
7 care professional;

8 (10) the person requires sterile wound care unless care
9 is self-administered or administered by a licensed health
10 care professional;

11 (11) the person requires sliding scale insulin
12 administration unless self-performed or administered by a
13 licensed health care professional;

14 (12) the person is a diabetic requiring routine insulin
15 injections unless the injections are self-administered or
16 administered by a licensed health care professional;

17 (13) the person requires treatment of stage 3 or stage
18 4 decubitus ulcers or exfoliative dermatitis;

19 (14) the person requires 5 or more skilled nursing
20 visits per week for conditions other than those listed in
21 items (13) and (15) of this subsection for a period of 3
22 consecutive weeks or more except when the course of
23 treatment is expected to extend beyond a 3 week period for
24 rehabilitative purposes and is certified as temporary by a
25 physician; or

26 (15) other reasons prescribed by the Department by

1 rule.

2 (d) A resident with a condition listed in items (1) through
3 (15) of subsection (c) shall have his or her residency
4 terminated.

5 (e) Residency shall be terminated when services available
6 to the resident in the establishment are no longer adequate to
7 meet the needs of the resident. The establishment shall notify
8 the resident and the resident's representative, if any, when
9 there is a significant change in the resident's condition that
10 affects the establishment's ability to meet the resident's
11 needs. The requirements of subsection (c) of Section 80 shall
12 then apply. This provision shall not be interpreted as limiting
13 the authority of the Department to require the residency
14 termination of individuals.

15 (f) Subsection (d) of this Section shall not apply to
16 terminally ill residents who receive or would qualify for
17 hospice care and such care is coordinated by a hospice program
18 licensed under the Hospice Program Licensing Act or other
19 licensed health care professional employed by a licensed home
20 health agency and the establishment and all parties agree to
21 the continued residency.

22 (g) Items (3), (4), (5), and (9) of subsection (c) shall
23 not apply to a quadriplegic, paraplegic, or individual with
24 neuro-muscular diseases, such as muscular dystrophy and
25 multiple sclerosis, or other chronic diseases and conditions as
26 defined by rule if the individual is able to communicate his or

1 her needs and does not require assistance with complex medical
2 problems, and the establishment is able to accommodate the
3 individual's needs. The Department shall prescribe rules
4 pursuant to this Section that address special safety and
5 service needs of these individuals.

6 (h) For the purposes of items (7) through (10) of
7 subsection (c), a licensed health care professional may not be
8 employed by the owner or operator of the establishment, its
9 parent entity, or any other entity with ownership common to
10 either the owner or operator of the establishment or parent
11 entity, including but not limited to an affiliate of the owner
12 or operator of the establishment. Nothing in this Section is
13 meant to limit a resident's right to choose his or her health
14 care provider.

15 (i) Subsection (h) is not applicable to residents admitted
16 to an assisted living establishment under a life care contract
17 as defined in the Life Care Facilities Act if the life care
18 facility has both an assisted living establishment and a
19 skilled nursing facility. A licensed health care professional
20 providing health-related or supportive services at a life care
21 assisted living or shared housing establishment must be
22 employed by an entity licensed by the Department under the
23 Nursing Home Care Act or the Home Health, Home Services, and
24 Home Nursing Agency Licensing Act.

25 (Source: P.A. 99-143, eff. 7-27-15.)

1 (210 ILCS 9/80)

2 Sec. 80. Involuntary termination of residency.

3 (a) Residency shall be involuntarily terminated only for
4 the following reasons:

5 (1) as provided in Section 75 of this Act;

6 (2) nonpayment of contracted charges after the
7 resident and the resident's representative have received a
8 minimum of 30 days' ~~30 days~~ written notice of the
9 delinquency and the resident or the resident's
10 representative has had at least 15 days to cure the
11 delinquency; or

12 (3) failure to execute a service delivery contract or
13 to substantially comply with its terms and conditions,
14 failure to comply with the assessment requirements
15 contained in Section 15, or failure to substantially comply
16 with the terms and conditions of the lease agreement.

17 (b) A 30-day ~~30-day~~ written notice of residency termination
18 shall be provided to the resident, the resident's
19 representative, or both, the Department, and the long term care
20 ombudsman, which shall include the reason for the pending
21 action, the date of the proposed move, and a notice, the
22 content and form to be set forth by rule, of the resident's
23 right to appeal, the steps that the resident or the resident's
24 representative must take to initiate an appeal, and a statement
25 of the resident's right to continue to reside in the
26 establishment until a decision is rendered. The notice shall

1 include a toll free telephone number to initiate an appeal and
2 a written hearing request form, together with a postage paid,
3 pre-addressed envelope to the Department. If the resident or
4 the resident's representative, if any, cannot read English, the
5 notice must be provided in a language the individual receiving
6 the notice can read or the establishment must provide a
7 translator who has been trained to assist the resident or the
8 resident's representative in the appeal process. ~~In emergency
9 situations as defined in Section 10 of this Act, the 30 day
10 provision of the written notice may be waived.~~

11 (b-5) If an establishment initiates a termination of
12 residency due to an emergency situation, then the resident and
13 resident's representative, if any, the Department, and the
14 Office of State Long Term Care Ombudsman, shall be provided
15 with a written notice of residency termination, in a form to be
16 specified by the Department, containing all of the information
17 specified in subsection (b) prior to the establishment
18 initiating a termination of residency.

19 (c) The establishment shall attempt to resolve with the
20 resident or the resident's representative, if any,
21 circumstances that if not remedied have the potential of
22 resulting in an involuntary termination of residency and shall
23 document those efforts in the resident's file. This action may
24 occur prior to or during the 30 day notice period, but must
25 occur prior to the termination of the residency. ~~In emergency
26 situations as defined in Section 10 of this Act, the~~

1 ~~requirements of this subsection may be waived.~~

2 (d) A request for a hearing shall stay an involuntary
3 termination of residency until a decision has been rendered by
4 the Department, according to a process adopted by rule. During
5 this time period, the establishment may not terminate or reduce
6 any service without the consent of the resident or the
7 resident's representative, if any ~~for the purpose of making it~~
8 ~~more difficult or impossible for the resident to remain in the~~
9 ~~establishment.~~

10 (e) The establishment shall offer the resident and the
11 resident's representative, if any, residency termination and
12 relocation assistance including information on available
13 alternative placement. Residents, and the residents'
14 representatives, if any, shall be involved in planning the move
15 and shall choose among the available alternative placements
16 except when an emergency situation makes prior resident
17 involvement impossible. Emergency placements are deemed
18 temporary until the resident's input can be sought in the final
19 placement decision. No resident shall be forced to remain in a
20 temporary or permanent placement.

21 (f) The Department shall ~~may~~ offer assistance to the
22 establishment and the resident in the preparation of residency
23 termination and relocation plans to assure safe and orderly
24 transition and to protect the resident's health, safety,
25 welfare, and rights. In nonemergencies, and where possible in
26 emergencies, the transition plan shall be designed and

1 implemented in advance of transfer or residency termination.

2 (g) An establishment may not initiate a termination of
3 residency due to an emergency situation if (1) a resident has
4 been hospitalized and the resident's physician states that
5 returning to the establishment would not create an imminent
6 danger of death or serious physical harm to a resident; or (2)
7 the emergency can be negated by changes in staffing,
8 activities, health care, personal care, or rooming
9 accommodations, consistent with the license of the
10 establishment. The Department may not find an establishment to
11 be in violation of Section 75 of this Act for failing to
12 initiate an emergency discharge in these circumstances.

13 (h) If the Department determines that an involuntary
14 termination of residency does not meet the requirements of this
15 Act, the Department shall issue a written decision stating that
16 the involuntary termination of residency is denied. If the
17 action of the establishment giving rise to the request for
18 hearings is the establishment's failure to readmit the resident
19 following hospitalization, other medical leave of absence, or
20 other absence, the Department shall order the immediate
21 readmission of the resident to the establishment.

22 (i) If an order to readmit is entered pursuant to
23 subsection (h), the establishment shall immediately comply. A
24 surveyor shall make an on-site inspection of the
25 establishment's compliance with the order within 3 days of the
26 order's entry, unless the resident notifies the Department in

1 writing that there is compliance. As used in this subsection,
2 "compliance" means the resident is living in the establishment
3 or the establishment and the resident have agreed on a schedule
4 for readmission. If the resident or resident's representative
5 notifies the Department that the establishment is not complying
6 with an agreed-upon schedule, or that the establishment is not
7 complying with the representation described in subsection (k),
8 a surveyor shall make an on-site inspection to determine
9 compliance within 3 days of the notification.

10 (j) An establishment that does not readmit a resident after
11 the Department has ordered readmission shall be assessed a
12 daily fine of \$250, beginning on the day of the surveyor's
13 inspection. The fine shall be imposed for every day thereafter,
14 until the establishment notifies the Department that it is in
15 compliance with the order and a surveyor makes an on-site
16 inspection to determine if there is compliance or the resident
17 confirms to the Department that there is compliance, as defined
18 in subsection (i) of this Section. The on-site inspection shall
19 be made within 3 days of the notification by the establishment.

20 (k) Once a notice of appeal is filed, the Department shall
21 hold a hearing unless the notice of appeal is withdrawn. If the
22 notice of appeal is withdrawn based upon a representation made
23 by the establishment to the resident and the Department,
24 including the hearing officer, that a resident who has been
25 previously denied readmission will be readmitted, failure to
26 comply with the representation shall be considered a failure to

1 comply with a Department order pursuant to subsection (h) and
2 shall result in the imposition of a daily fine as provided in
3 subsection (j) of this Section.

4 (l) In addition to any other penalty, an establishment that
5 has improperly terminated the residency of a resident shall be
6 assessed no less than a Type 1 violation. The establishment
7 shall be required to submit an acceptable plan of correction to
8 the Department within 30 days after the violation is affirmed.
9 As used in this subsection, "improperly terminated that
10 residency" does not include issuing a notice of residency
11 termination that the Department finds does not meet the
12 statutory requirements for termination of residency if the
13 establishment complied with the procedural requirements of
14 this Act.

15 (m) A long term care ombudsman may request a hearing on
16 behalf of a resident and secure representation of a resident
17 if, in the judgment of the long term care ombudsman, doing so
18 is in the best interests of the resident and the resident does
19 not object.

20 (Source: P.A. 91-656, eff. 1-1-01.)

21 (210 ILCS 9/90)

22 Sec. 90. Contents of service delivery contract. A contract
23 between an establishment and a resident must be entitled
24 "assisted living establishment contract" or "shared housing
25 establishment contract" as applicable, shall be printed in no

1 less than 12 point type, and shall include at least the
2 following elements in the body or through supporting documents
3 or attachments:

4 (1) the name, street address, and mailing address of
5 the establishment;

6 (2) the name and mailing address of the owner or owners
7 of the establishment and, if the owner or owners are not
8 natural persons, the type of business entity of the owner
9 or owners;

10 (3) the name and mailing address of the managing agent
11 of the establishment, whether hired under a management
12 agreement or lease agreement, if the managing agent is
13 different from the owner or owners;

14 (4) the name and address of at least one natural person
15 who is authorized to accept service on behalf of the owners
16 and managing agent;

17 (5) a statement describing the license status of the
18 establishment and the license status of all providers of
19 health-related or supportive services to a resident under
20 arrangement with the establishment;

21 (6) the duration of the contract;

22 (7) the base rate to be paid by the resident and a
23 description of the services to be provided as part of this
24 rate;

25 (8) a description of any additional services to be
26 provided for an additional fee by the establishment

1 directly or by a third party provider under arrangement
2 with the establishment;

3 (9) the fee schedules outlining the cost of any
4 additional services;

5 (10) a description of the process through which the
6 contract may be modified, amended, or terminated;

7 (11) a description of the establishment's complaint
8 resolution process available to residents and notice of the
9 availability of the Department on Aging's Senior Helpline
10 for complaints;

11 (12) the name of the resident's designated
12 representative, if any;

13 (13) the resident's obligations in order to maintain
14 residency and receive services including compliance with
15 all assessments required under Section 15;

16 (14) the billing and payment procedures and
17 requirements;

18 (15) a statement affirming the resident's freedom to
19 receive services from service providers with whom the
20 establishment does not have a contractual arrangement,
21 which may also disclaim liability on the part of the
22 establishment for those services;

23 (16) a statement that medical assistance under Article
24 V or Article VI of the Illinois Public Aid Code is not
25 available for payment for services provided in an
26 establishment, excluding contracts executed with residents

1 residing in licensed establishments participating in the
2 Department on Aging's Comprehensive Care in Residential
3 Settings Demonstration Project;

4 (17) a statement detailing the admission, risk
5 management, and residency termination criteria and
6 procedures;

7 (18) a written explanation, prepared by the Office of
8 State Long Term Care Ombudsman, of ~~statement listing~~ the
9 rights specified in Sections 80 and ~~Section~~ 95, including
10 an acknowledgement by the establishment and ~~acknowledging~~
11 that, by contracting with the assisted living or shared
12 housing establishment, the resident does not forfeit those
13 rights;

14 (19) a statement detailing the Department's annual
15 on-site review process including what documents contained
16 in a resident's personal file shall be reviewed by the
17 on-site reviewer as defined by rule; ~~and~~

18 (20) a statement outlining whether the establishment
19 charges a community fee and, if so, the amount of the fee
20 and whether it is refundable; if the fee is refundable, the
21 contract must describe the conditions under which it is
22 refundable and how the amount of the refund is determined;
23 and -

24 (21) educational material from the Office of State Long
25 Term Care Ombudsman, written in consultation with a State
26 association dedicated to Alzheimer's care, support, and

1 research with information on Alzheimer's disease and
2 dementia for residents who have been diagnosed with a
3 dementia, including signs and symptoms, stages, and
4 behaviors, and on a statewide helpline with resources for
5 those affected by Alzheimer's and other dementia operated
6 by a State association dedicated to Alzheimer's care,
7 support, and research; receipt of these educational
8 materials shall require signatures of acknowledgement of
9 receipt by a representative of the establishment, the
10 resident, and the resident's representative, if any.

11 (Source: P.A. 93-775, eff. 1-1-05; 94-256, eff. 7-19-05.)

12 (210 ILCS 9/95)

13 Sec. 95. Resident rights. No resident shall be deprived of
14 any rights, benefits, or privileges guaranteed by law, the
15 Constitution of the State of Illinois, or the Constitution of
16 the United States solely on account of his or her status as a
17 resident of an establishment, nor shall a resident forfeit any
18 of the following rights:

19 (1) the right to retain and use personal property and a
20 place to store personal items that is locked and secure;

21 (2) the right to refuse services and to be advised of
22 the consequences of that refusal;

23 (3) the right to respect for bodily privacy and dignity
24 at all times, especially during care and treatment;

25 (4) the right to the free exercise of religion;

1 (5) the right to privacy with regard to mail, phone
2 calls, and visitors;

3 (6) the right to uncensored access to the State
4 Ombudsman or his or her designee;

5 (7) the right to be free of retaliation for criticizing
6 the establishment or making complaints to appropriate
7 agencies;

8 (8) the right to be free of chemical and physical
9 restraints;

10 (9) the right to be free of abuse or neglect or to
11 refuse to perform labor;

12 (10) the right to confidentiality of the resident's
13 medical records;

14 (11) the right of access and the right to copy the
15 resident's personal files maintained by the establishment;

16 (12) the right to 24 hours access to the establishment;

17 (13) the right to a minimum of 90 days' ~~90 days~~ notice
18 of a planned establishment closure;

19 (14) the right to a minimum of 30 days' ~~30 days~~ notice
20 of an involuntary residency termination, ~~except where the~~
21 ~~resident poses a threat to himself or others, or in other~~
22 ~~emergency situations,~~ and the right to appeal such
23 termination; if an establishment withdraws a notice of
24 involuntary termination of residency, then the resident
25 has the right to maintain residency at the establishment;

26 ~~and~~

1 (15) the right to a 30-day notice of delinquency and at
2 least 15 days right to cure delinquency; ~~—~~

3 (16) the right to not be unlawfully transferred or
4 discharged;

5 (17) the right to retain residency during any hospital
6 stay totaling 10 days or less following a hospital
7 admission; and

8 (18) the right not to be charged for any period during
9 which the resident was unlawfully denied residency.

10 (Source: P.A. 91-656, eff. 1-1-01.)

11 (210 ILCS 9/110)

12 Sec. 110. Powers and duties of the Department.

13 (a) The Department shall conduct an annual unannounced
14 on-site visit at each assisted living and shared housing
15 establishment to determine compliance with applicable
16 licensure requirements and standards. Additional visits may be
17 conducted without prior notice to the assisted living or shared
18 housing establishment.

19 (b) Upon receipt of information that may indicate the
20 failure of the assisted living or shared housing establishment
21 or a service provider to comply with a provision of this Act,
22 the Department shall investigate the matter or make appropriate
23 referrals to other government agencies and entities having
24 jurisdiction over the subject matter of the possible violation.
25 The Department may also make referrals to any public or private

1 agency that the Department considers available for appropriate
2 assistance to those involved. The Department may oversee and
3 coordinate the enforcement of State consumer protection
4 policies affecting residents residing in an establishment
5 licensed under this Act.

6 (c) The Department shall establish by rule complaint
7 receipt, investigation, resolution, and involuntary residency
8 termination procedures. Resolution procedures shall provide
9 for on-site review and evaluation of an assisted living or
10 shared housing establishment found to be in violation of this
11 Act within a specified period of time based on the gravity and
12 severity of the violation and any pervasive pattern of
13 occurrences of the same or similar violations.

14 (d) (Blank).

15 (e) The Department shall by rule establish penalties and
16 sanctions, which shall include, but need not be limited to, the
17 creation of a schedule of graduated penalties and sanctions to
18 include closure.

19 (f) The Department shall by rule establish procedures for
20 disclosure of information to the public, which shall include,
21 but not be limited to, ownership, licensure status, frequency
22 of complaints, disposition of substantiated complaints, and
23 disciplinary actions.

24 (g) (Blank).

25 (h) Beginning January 1, 2000, the Department shall begin
26 drafting rules necessary for the administration of this Act.

1 (i) The Department shall by rule provide for a prohibition
2 on conflicts of interest for surveyors and all persons who
3 conduct involuntary transfer or discharge hearings. As used in
4 this subsection, "conflict of interest" includes, but is not
5 limited to, (1) the existence of any professional relationship
6 within 2 years prior to conducting the survey or the hearing or
7 (2) a financial relationship between a surveyor or person
8 conducting an involuntary transfer or discharge hearing or his
9 or her immediate family and an establishment regulated by the
10 Department. As used in this subsection, "immediate family"
11 means a husband or wife, natural or adoptive parents, children,
12 siblings, stepparents, stepchildren, stepbrothers,
13 stepsisters, father-in-law, mother-in-law, brothers-in-law,
14 sisters-in-law, grandparents, and grandchildren.

15 (Source: P.A. 96-975, eff. 7-2-10.)

16 Section 10. The Nursing Home Care Act is amended by
17 changing Sections 1-111, 1-114.005, 1-128, 2-104, 2-111,
18 3-202.05, 3-209, 3-305, 3-401, 3-401.1, 3-402, 3-404, 3-405,
19 3-410, 3-411, and 3-413 and by adding Sections 3-305.6,
20 3-413.1, and 3-424 as follows:

21 (210 ILCS 45/1-111) (from Ch. 111 1/2, par. 4151-111)

22 Sec. 1-111. "Discharge" means the full release of any
23 resident from a facility. "Discharge" includes a nursing
24 facility's failure to readmit following hospitalization, other

1 medical leave, or other absence.

2 (Source: P.A. 81-223.)

3 (210 ILCS 45/1-114.005)

4 Sec. 1-114.005. High risk designation. "High risk
5 designation" means a violation of a provision of the Illinois
6 Administrative Code or statute that has been identified by the
7 Department through rulemaking or designated in statute to be
8 inherently necessary to protect the health, safety, and welfare
9 of a resident. "High risk designation" includes an unlawful
10 discharge of a resident.

11 (Source: P.A. 96-1372, eff. 7-29-10.)

12 (210 ILCS 45/1-128) (from Ch. 111 1/2, par. 4151-128)

13 Sec. 1-128. "Transfer" means a change in status of a
14 resident's living arrangements from one facility to another
15 facility. "Transfer" includes a nursing facility's failure to
16 readmit a resident following hospitalization, other medical
17 leave, or other absence, resulting in the resident being moved
18 to another institutional setting.

19 (Source: P.A. 81-223.)

20 (210 ILCS 45/2-104) (from Ch. 111 1/2, par. 4152-104)

21 Sec. 2-104. (a) A resident shall be permitted to retain the
22 services of his own personal physician at his own expense or
23 under an individual or group plan of health insurance, or under

1 any public or private assistance program providing such
2 coverage. However, the facility is not liable for the
3 negligence of any such personal physician. Every resident shall
4 be permitted to obtain from his own physician or the physician
5 attached to the facility complete and current information
6 concerning his medical diagnosis, treatment and prognosis in
7 terms and language the resident can reasonably be expected to
8 understand. Every resident shall be permitted to participate in
9 the planning of his total care and medical treatment to the
10 extent that his condition permits. No resident shall be
11 subjected to experimental research or treatment without first
12 obtaining his informed, written consent. The conduct of any
13 experimental research or treatment shall be authorized and
14 monitored by an institutional review board appointed by the
15 Director. The membership, operating procedures and review
16 criteria for the institutional review board shall be prescribed
17 under rules and regulations of the Department and shall comply
18 with the requirements for institutional review boards
19 established by the federal Food and Drug Administration. No
20 person who has received compensation in the prior 3 years from
21 an entity that manufactures, distributes, or sells
22 pharmaceuticals, biologics, or medical devices may serve on the
23 institutional review board.

24 The institutional review board may approve only research or
25 treatment that meets the standards of the federal Food and Drug
26 Administration with respect to (i) the protection of human

1 subjects and (ii) financial disclosure by clinical
2 investigators. The Office of State Long Term Care Ombudsman and
3 the State Protection and Advocacy organization shall be given
4 an opportunity to comment on any request for approval before
5 the board makes a decision. Those entities shall not be
6 provided information that would allow a potential human subject
7 to be individually identified, unless the board asks the
8 Ombudsman for help in securing information from or about the
9 resident. The board shall require frequent reporting of the
10 progress of the approved research or treatment and its impact
11 on residents, including immediate reporting of any adverse
12 impact to the resident, the resident's representative, the
13 Office of the State Long Term Care Ombudsman, and the State
14 Protection and Advocacy organization. The board may not approve
15 any retrospective study of the records of any resident about
16 the safety or efficacy of any care or treatment if the resident
17 was under the care of the proposed researcher or a business
18 associate when the care or treatment was given, unless the
19 study is under the control of a researcher without any business
20 relationship to any person or entity who could benefit from the
21 findings of the study.

22 No facility shall permit experimental research or
23 treatment to be conducted on a resident, or give access to any
24 person or person's records for a retrospective study about the
25 safety or efficacy of any care or treatment, without the prior
26 written approval of the institutional review board. No nursing

1 home administrator, or person licensed by the State to provide
2 medical care or treatment to any person, may assist or
3 participate in any experimental research on or treatment of a
4 resident, including a retrospective study, that does not have
5 the prior written approval of the board. Such conduct shall be
6 grounds for professional discipline by the Department of
7 Financial and Professional Regulation.

8 The institutional review board may exempt from ongoing
9 review research or treatment initiated on a resident before the
10 individual's admission to a facility and for which the board
11 determines there is adequate ongoing oversight by another
12 institutional review board. Nothing in this Section shall
13 prevent a facility, any facility employee, or any other person
14 from assisting or participating in any experimental research on
15 or treatment of a resident, if the research or treatment began
16 before the person's admission to a facility, until the board
17 has reviewed the research or treatment and decided to grant or
18 deny approval or to exempt the research or treatment from
19 ongoing review.

20 The institutional review board requirements of this
21 subsection (a) do not apply to investigational drugs,
22 biological products, or devices used by a resident with a
23 terminal illness as set forth in the Right to Try Act.

24 (b) All medical treatment and procedures shall be
25 administered as ordered by a physician. All new physician
26 orders shall be reviewed by the facility's director of nursing

1 or charge nurse designee within 24 hours after such orders have
2 been issued to assure facility compliance with such orders.

3 All physician's orders and plans of treatment shall have
4 the authentication of the physician. For the purposes of this
5 subsection (b), "authentication" means an original written
6 signature or an electronic signature system that allows for the
7 verification of a signer's credentials. A stamp signature, with
8 or without initials, is not sufficient.

9 According to rules adopted by the Department, every woman
10 resident of child-bearing age shall receive routine
11 obstetrical and gynecological evaluations as well as necessary
12 prenatal care.

13 (c) Every resident shall be permitted to refuse medical
14 treatment and to know the consequences of such action, unless
15 such refusal would be harmful to the health and safety of
16 others and such harm is documented by a physician in the
17 resident's clinical record. The resident's refusal shall free
18 the facility from the obligation to provide the treatment. If a
19 resident's refusal of treatment does not endanger other
20 residents or staff, then the refusal of treatment is not
21 grounds for discharge.

22 (d) Every resident, resident's guardian, or parent if the
23 resident is a minor shall be permitted to inspect and copy all
24 his clinical and other records concerning his care and
25 maintenance kept by the facility or by his physician. The
26 facility may charge a reasonable fee for duplication of a

1 record.

2 (Source: P.A. 99-270, eff. 1-1-16.)

3 (210 ILCS 45/2-111) (from Ch. 111 1/2, par. 4152-111)

4 Sec. 2-111. A resident shall not be transferred or
5 discharged in violation of this Act. A resident may not be
6 charged for any period during which the resident was unlawfully
7 denied the right to reside in a facility. A resident may be
8 discharged from a facility after he gives the administrator, a
9 physician, or a nurse of the facility written notice of his
10 desire to be discharged. If a guardian has been appointed for a
11 resident or if the resident is a minor, the resident shall be
12 discharged upon written consent of his guardian or if the
13 resident is a minor, his parent unless there is a court order
14 to the contrary. In such cases, upon the resident's discharge,
15 the facility is relieved from any responsibility for the
16 resident's care, safety or well-being. A resident has the right
17 to not be unlawfully transferred or discharged. An unlawful
18 transfer or discharge is, at minimum, a type A violation.

19 (Source: P.A. 81-223.)

20 (210 ILCS 45/3-202.05)

21 Sec. 3-202.05. Staffing ratios effective July 1, 2010 and
22 thereafter.

23 (a) For the purpose of computing staff to resident ratios,
24 direct care staff shall include:

- 1 (1) registered nurses;
- 2 (2) licensed practical nurses;
- 3 (3) certified nurse assistants;
- 4 (4) psychiatric services rehabilitation aides;
- 5 (5) rehabilitation and therapy aides;
- 6 (6) psychiatric services rehabilitation coordinators;
- 7 (7) assistant directors of nursing;
- 8 (8) 50% of the Director of Nurses' time; and
- 9 (9) 30% of the Social Services Directors' time.

10 The Department shall, by rule, allow certain facilities
11 subject to 77 Ill. Admin. Code 300.4000 and following (Subpart
12 S) to utilize specialized clinical staff, as defined in rules,
13 to count towards the staffing ratios.

14 Within 120 days of the effective date of this amendatory
15 Act of the 97th General Assembly, the Department shall
16 promulgate rules specific to the staffing requirements for
17 facilities federally defined as Institutions for Mental
18 Disease. These rules shall recognize the unique nature of
19 individuals with chronic mental health conditions, shall
20 include minimum requirements for specialized clinical staff,
21 including clinical social workers, psychiatrists,
22 psychologists, and direct care staff set forth in paragraphs
23 (4) through (6) and any other specialized staff which may be
24 utilized and deemed necessary to count toward staffing ratios.

25 Within 120 days of the effective date of this amendatory
26 Act of the 97th General Assembly, the Department shall

1 promulgate rules specific to the staffing requirements for
2 facilities licensed under the Specialized Mental Health
3 Rehabilitation Act of 2013. These rules shall recognize the
4 unique nature of individuals with chronic mental health
5 conditions, shall include minimum requirements for specialized
6 clinical staff, including clinical social workers,
7 psychiatrists, psychologists, and direct care staff set forth
8 in paragraphs (4) through (6) and any other specialized staff
9 which may be utilized and deemed necessary to count toward
10 staffing ratios.

11 (b) (Blank). ~~Beginning January 1, 2011, and thereafter,~~
12 ~~light intermediate care shall be staffed at the same staffing~~
13 ~~ratio as intermediate care.~~

14 (b-5) For purposes of the minimum staffing ratios in this
15 Section, all residents shall be classified as requiring either
16 skilled care or intermediate care.

17 As used in this subsection:

18 "Skilled care" means skilled nursing care, continuous
19 skilled nursing observations, restorative nursing, and other
20 services under professional direction with frequent medical
21 supervision.

22 "Intermediate care" means basic nursing care and other
23 restorative services under periodic medical direction.

24 (c) Facilities shall notify the Department within 60 days
25 after the effective date of this amendatory Act of the 96th
26 General Assembly, in a form and manner prescribed by the

1 Department, of the staffing ratios in effect on the effective
2 date of this amendatory Act of the 96th General Assembly for
3 both intermediate and skilled care and the number of residents
4 receiving each level of care.

5 (d) (1) Effective July 1, 2010, for each resident needing
6 skilled care, a minimum staffing ratio of 2.5 hours of nursing
7 and personal care each day must be provided; for each resident
8 needing intermediate care, 1.7 hours of nursing and personal
9 care each day must be provided.

10 (2) Effective January 1, 2011, the minimum staffing ratios
11 shall be increased to 2.7 hours of nursing and personal care
12 each day for a resident needing skilled care and 1.9 hours of
13 nursing and personal care each day for a resident needing
14 intermediate care.

15 (3) Effective January 1, 2012, the minimum staffing ratios
16 shall be increased to 3.0 hours of nursing and personal care
17 each day for a resident needing skilled care and 2.1 hours of
18 nursing and personal care each day for a resident needing
19 intermediate care.

20 (4) Effective January 1, 2013, the minimum staffing ratios
21 shall be increased to 3.4 hours of nursing and personal care
22 each day for a resident needing skilled care and 2.3 hours of
23 nursing and personal care each day for a resident needing
24 intermediate care.

25 (5) Effective January 1, 2014, the minimum staffing ratios
26 shall be increased to 3.8 hours of nursing and personal care

1 each day for a resident needing skilled care and 2.5 hours of
2 nursing and personal care each day for a resident needing
3 intermediate care.

4 (e) Ninety days after the effective date of this amendatory
5 Act of the 97th General Assembly, a minimum of 25% of nursing
6 and personal care time shall be provided by licensed nurses,
7 with at least 10% of nursing and personal care time provided by
8 registered nurses. These minimum requirements shall remain in
9 effect until an acuity based registered nurse requirement is
10 promulgated by rule concurrent with the adoption of the
11 Resource Utilization Group classification-based payment
12 methodology, as provided in Section 5-5.2 of the Illinois
13 Public Aid Code. Registered nurses and licensed practical
14 nurses employed by a facility in excess of these requirements
15 may be used to satisfy the remaining 75% of the nursing and
16 personal care time requirements. Notwithstanding this
17 subsection, no staffing requirement in statute in effect on the
18 effective date of this amendatory Act of the 97th General
19 Assembly shall be reduced on account of this subsection.

20 (f) The Department shall adopt rules by January 1, 2018
21 establishing a system for determining compliance with minimum
22 direct care staffing standards. Compliance shall be determined
23 at least quarterly using the Center for Medicare and Medicaid
24 Services' payroll-based journal and nursing home facility
25 census and payroll data, which shall be obtained quarterly by
26 the Department. The Department shall, at minimum, use the

1 quarterly payroll-based journal and census data to calculate
2 the number of hours provided per resident day, and compare this
3 ratio to the minimums required by this Section.

4 (g) The Department shall adopt rules by January 1, 2018
5 establishing financial penalties for facilities out of
6 compliance with minimum staffing standards. Monetary penalties
7 shall be imposed beginning no later than October 1, 2018, and
8 quarterly thereafter, for the latest quarter for which the
9 Department has data. Monetary penalties shall be established
10 based on a formula that calculates the cost of wages and
11 benefits for the missing staff hours, and in no circumstances
12 shall be less than twice the calculated cost of wages and
13 benefits for the missing staff hours during the quarter, or the
14 minimum penalty for a Type B violation, whichever is greater.
15 The penalty shall be imposed regardless of whether the facility
16 has committed other violations of this Act during the quarter.
17 The penalty may not be waived. Nothing in this Section shall
18 preclude a facility from being given a high risk designation
19 for failure to comply with this Section that, when cited with
20 other violations of this Act, increases the
21 otherwise-applicable penalty.

22 (h) A violation of the minimum staffing requirements under
23 this Section is, at minimum, a Type B violation.

24 (Source: P.A. 97-689, eff. 6-14-12; 98-104, eff. 7-22-13.)

1 Sec. 3-209. Every facility shall conspicuously post for
2 display in an area of its offices accessible to residents,
3 employees, and visitors the following:

4 (1) Its current license;

5 (2) A description, provided by the Department, of complaint
6 procedures established under this Act and the name, address,
7 and telephone number of a person authorized by the Department
8 to receive complaints;

9 (3) A copy of any order pertaining to the facility issued
10 by the Department or a court; and

11 (4) A list of the material available for public inspection
12 under Section 3-210.

13 (5) A facility that has received a notice of violation for
14 having violated the minimum staffing requirements of Section
15 3-202.05 shall display for 3 months following the date that the
16 notice of violation was issued, a notice that it did not have
17 enough staff to meet the needs of the facility's residents
18 during the quarter cited in the notice of violation.

19 (Source: P.A. 81-1349.)

20 (210 ILCS 45/3-305) (from Ch. 111 1/2, par. 4153-305)

21 Sec. 3-305. The license of a facility which is in violation
22 of this Act or any rule adopted thereunder may be subject to
23 the penalties or fines levied by the Department as specified in
24 this Section.

25 (1) A licensee who commits a Type "AA" violation as defined

1 in Section 1-128.5 is automatically issued a conditional
2 license for a period of 6 months to coincide with an acceptable
3 plan of correction and assessed a fine up to \$25,000 per
4 violation.

5 (1.5) A licensee who commits a Type "A" violation as
6 defined in Section 1-129 is automatically issued a conditional
7 license for a period of 6 months to coincide with an acceptable
8 plan of correction and assessed a fine of up to \$12,500 per
9 violation.

10 (2) A licensee who commits a Type "B" violation as defined
11 in Section 1-130 shall be assessed a fine of up to \$1,100 per
12 violation or the penalty specified in subsection (g) of Section
13 3-202.05, whichever is greater.

14 (2.5) A licensee who commits 10 or more Type "C"
15 violations, as defined in Section 1-132, in a single survey
16 shall be assessed a fine of up to \$250 per violation. A
17 licensee who commits one or more Type "C" violations with a
18 high risk designation, as defined by rule, shall be assessed a
19 fine of up to \$500 per violation.

20 (3) A licensee who commits a Type "AA" or Type "A"
21 violation as defined in Section 1-128.5 or 1-129 which
22 continues beyond the time specified in paragraph (a) of Section
23 3-303 which is cited as a repeat violation shall have its
24 license revoked and shall be assessed a fine of 3 times the
25 fine computed per resident per day under subsection (1).

26 (4) A licensee who fails to satisfactorily comply with an

1 accepted plan of correction for a Type "B" violation or an
2 administrative warning issued pursuant to Sections 3-401
3 through 3-413 or the rules promulgated thereunder shall be
4 automatically issued a conditional license for a period of not
5 less than 6 months. A second or subsequent acceptable plan of
6 correction shall be filed. A fine shall be assessed in
7 accordance with subsection (2) when cited for the repeat
8 violation. This fine shall be computed for all days of the
9 violation, including the duration of the first plan of
10 correction compliance time.

11 (5) For the purpose of computing a penalty under
12 subsections (2) through (4), the number of residents per day
13 shall be based on the average number of residents in the
14 facility during the 30 days preceding the discovery of the
15 violation.

16 (6) When the Department finds that a provision of Article
17 II has been violated with regard to a particular resident, the
18 Department shall issue an order requiring the facility to
19 reimburse the resident for injuries incurred, or \$100,
20 whichever is greater. In the case of a violation involving any
21 action other than theft of money belonging to a resident,
22 reimbursement shall be ordered only if a provision of Article
23 II has been violated with regard to that or any other resident
24 of the facility within the 2 years immediately preceding the
25 violation in question.

26 (7) For purposes of assessing fines under this Section, a

1 repeat violation shall be a violation which has been cited
2 during one inspection of the facility for which an accepted
3 plan of correction was not complied with or a new citation of
4 the same rule if the licensee is not substantially addressing
5 the issue routinely throughout the facility.

6 (7.5) If an occurrence results in more than one type of
7 violation as defined in this Act (that is, a Type "AA", Type
8 "A", Type "B", or Type "C" violation), the Department shall
9 assess only one fine, which shall not exceed the maximum fine
10 that may be assessed for the most serious type of violation
11 charged. For purposes of the preceding sentence, a Type "AA"
12 violation is the most serious type of violation that may be
13 charged, followed by a Type "A", Type "B", or Type "C"
14 violation, in that order.

15 (8) The minimum and maximum fines that may be assessed
16 pursuant to this Section shall be twice those otherwise
17 specified for any facility that willfully makes a misstatement
18 of fact to the Department, or willfully fails to make a
19 required notification to the Department, if that misstatement
20 or failure delays the start of a surveyor or impedes a survey.

21 (9) High risk designation. If the Department finds that a
22 facility has violated a provision of the Illinois
23 Administrative Code that has a high risk designation, or that a
24 facility has violated the same provision of the Illinois
25 Administrative Code 3 or more times in the previous 12 months,
26 the Department may assess a fine of up to 2 times the maximum

1 fine otherwise allowed.

2 (10) If a licensee has paid a civil monetary penalty
3 imposed pursuant to the Medicare and Medicaid Certification
4 Program for the equivalent federal violation giving rise to a
5 fine under this Section, the Department shall offset the fine
6 by the amount of the civil monetary penalty. The offset may not
7 reduce the fine by more than 75% of the original fine, however.
8 (Source: P.A. 98-104, eff. 7-22-13.)

9 (210 ILCS 45/3-305.6 new)

10 Sec. 3-305.6. Failure to readmit a resident. A facility
11 that fails to comply with an order of the Department to readmit
12 a resident, shall be assessed a daily fine of \$250. The fine
13 shall be assessed beginning on the date of the surveyor
14 inspection required by Section 3-413.1. The fine shall be
15 imposed for every day thereafter until the facility notifies
16 the Department that the facility is in compliance with the
17 order and a surveyor makes an on-site inspection that confirms
18 compliance or the resident or resident's representative
19 confirms to the Department in writing that there is compliance.
20 The on-site inspection shall be made within 3 days of the
21 notification by the facility.

22 As used in this Section, "compliance with the order" means
23 a resident is living in a facility, or a facility and a
24 resident have agreed on a schedule for readmission. If a
25 resident subsequently notifies the Department that a facility

1 is not complying with an agreed-upon schedule, a surveyor shall
2 make an on-site inspection to determine compliance within 3
3 days of the notification.

4 (210 ILCS 45/3-401) (from Ch. 111 1/2, par. 4153-401)

5 Sec. 3-401. A facility may involuntarily transfer or
6 discharge a resident only for one or more of the following
7 reasons:

8 (a) the facility is unable to meet the medical needs of
9 the resident, as documented in the resident's clinical
10 record by his or her physician for medical reasons;

11 (b) for the resident's physical safety;

12 (c) for the physical safety of other residents, the
13 facility staff or facility visitors; or

14 (d) for either late payment or nonpayment for the
15 resident's stay, except as prohibited by Titles XVIII and
16 XIX of the federal Social Security Act. For purposes of
17 this Section, "late payment" means non-receipt of payment
18 after submission of a bill. If payment is not received
19 within 45 days after submission of a bill, a facility may
20 send a notice to the resident and responsible party
21 requesting payment within 30 days. If payment is not
22 received within such 30 days, the facility may thereupon
23 institute transfer or discharge proceedings by sending a
24 notice of transfer or discharge to the resident and
25 responsible party by registered or certified mail. The

1 notice shall state, in addition to the requirements of
2 Section 3-403 of this Act, that the responsible party has
3 the right to pay the amount of the bill in full up to the
4 date the transfer or discharge is to be made and then the
5 resident shall have the right to remain in the facility.
6 Such payment shall terminate the transfer or discharge
7 proceedings. This subsection does not apply to those
8 residents whose care is provided for under the Illinois
9 Public Aid Code. The Department shall adopt rules setting
10 forth the criteria and procedures to be applied in cases of
11 involuntary transfer or discharge permitted under this
12 Section.

13 Prior to issuing the notice of transfer or discharge of a
14 resident under subsection (a), (b), or (c) of this Section, an
15 attending physician shall conduct an in-person assessment,
16 with the findings documented in the resident's clinical record.

17 In the absence of other bases for transfer or discharge
18 listed in this Section, and unless it has complied with the
19 prior notice and other procedural requirements of this Act, a
20 facility may not refuse to readmit a resident following a
21 medical leave of absence if the resident's need for care does
22 not exceed the provisions of the facility's license.

23 (Source: P.A. 91-357, eff. 7-29-99.)

24 (210 ILCS 45/3-401.1) (from Ch. 111 1/2, par. 4153-401.1)

25 Sec. 3-401.1. (a) A facility participating in the Medical

1 Assistance Program is prohibited from failing or refusing to
2 retain as a resident any person because he or she is a
3 recipient of or an applicant for the Medical Assistance
4 Program. A resident who is in the process of appealing the
5 denial of his or her application for the Medical Assistance
6 Program is considered to be a Medicaid applicant under this
7 Section.

8 (a-5) After the effective date of this amendatory Act of
9 1997, a facility of which only a distinct part is certified to
10 participate in the Medical Assistance Program may refuse to
11 retain as a resident any person who resides in a part of the
12 facility that does not participate in the Medical Assistance
13 Program and who is unable to pay for his or her care in the
14 facility without Medical Assistance only if:

15 (1) the facility, no later than at the time of
16 admission and at the time of the resident's contract
17 renewal, explains to the resident (unless he or she is
18 incompetent), and to the resident's representative, and to
19 the person making payment on behalf of the resident for the
20 resident's stay, in writing, that the facility may
21 discharge the resident if the resident is no longer able to
22 pay for his or her care in the facility without Medical
23 Assistance;

24 (2) the resident (unless he or she is incompetent), the
25 resident's representative, and the person making payment
26 on behalf of the resident for the resident's stay,

1 acknowledge in writing that they have received the written
2 explanation.

3 (a-10) For the purposes of this Section, a recipient or
4 applicant shall be considered a resident in the facility during
5 any hospital stay totaling 10 days or less following a hospital
6 admission. The Department of Healthcare and Family Services
7 shall recoup funds from a facility when, as a result of the
8 facility's refusal to readmit a recipient after
9 hospitalization for 10 days or less, the recipient incurs
10 hospital bills in an amount greater than the amount that would
11 have been paid by that Department (formerly the Illinois
12 Department of Public Aid) for care of the recipient in the
13 facility. The amount of the recoupment shall be the difference
14 between the Department of Healthcare and Family Services'
15 (formerly the Illinois Department of Public Aid's) payment for
16 hospital care and the amount that Department would have paid
17 for care in the facility.

18 (b) A facility which violates this Section shall be guilty
19 of a business offense and fined not less than \$500 nor more
20 than \$1,000 for the first offense and not less than \$1,000 nor
21 more than \$5,000 for each subsequent offense.

22 (Source: P.A. 95-331, eff. 8-21-07.)

23 (210 ILCS 45/3-402) (from Ch. 111 1/2, par. 4153-402)

24 Sec. 3-402. Involuntary transfer or discharge of a resident
25 from a facility shall be preceded by the discussion required

1 under Section 3-408 and by a minimum written notice of 30 ~~21~~
2 days, except in one of the following instances:

3 (a) When an emergency transfer or discharge is ordered by
4 the resident's attending physician because of the resident's
5 health care needs upon an attending physician completing an
6 in-person assessment.

7 (b) When the transfer or discharge is mandated by the
8 physical safety of other residents, the facility staff, or
9 facility visitors, as documented in the clinical record. The
10 Department, the Office of State Long Term Care Ombudsman, and
11 the resident's managed care organization, if applicable, shall
12 be notified prior to any such involuntary transfer or
13 discharge. The Department shall immediately offer transfer, or
14 discharge and relocation assistance to residents transferred
15 or discharged under this subparagraph (b), and the Department
16 may place relocation teams as provided in Section 3-419 of this
17 Act.

18 (c) When an identified offender is within the provisional
19 admission period defined in Section 1-120.3. If the Identified
20 Offender Report and Recommendation prepared under Section
21 2-201.6 shows that the identified offender poses a serious
22 threat or danger to the physical safety of other residents, the
23 facility staff, or facility visitors in the admitting facility
24 and the facility determines that it is unable to provide a safe
25 environment for the other residents, the facility staff, or
26 facility visitors, the facility shall transfer or discharge the

1 identified offender within 3 days after its receipt of the
2 Identified Offender Report and Recommendation.

3 (Source: P.A. 96-1372, eff. 7-29-10.)

4 (210 ILCS 45/3-404) (from Ch. 111 1/2, par. 4153-404)

5 Sec. 3-404. A request for a hearing made under Section
6 3-403 shall stay a transfer or discharge pending a hearing or
7 appeal of the decision, unless a condition which would have
8 allowed transfer or discharge in less than 30 ~~21~~ days as
9 described under paragraphs (a) and (b) of Section 3-402
10 develops in the interim.

11 (Source: P.A. 81-223.)

12 (210 ILCS 45/3-405) (from Ch. 111 1/2, par. 4153-405)

13 Sec. 3-405. A copy of the notice required by Section 3-402
14 shall be placed in the resident's clinical record and a copy
15 shall be transmitted to the Department, the resident, ~~and~~ the
16 resident's representative, if any, the resident's managed care
17 organization, if applicable, and the Office of State Long Term
18 Care Ombudsman.

19 (Source: P.A. 97-820, eff. 7-17-12.)

20 (210 ILCS 45/3-410) (from Ch. 111 1/2, par. 4153-410)

21 Sec. 3-410. A resident subject to involuntary transfer or
22 discharge from a facility, the resident's guardian or if the
23 resident is a minor, his parent shall have the opportunity to

1 file a request for a hearing with the Department within 10 days
2 following receipt of the written notice of the involuntary
3 transfer or discharge by the facility. A long term care
4 ombudsman may request a hearing on behalf of the resident, and
5 secure representation for the resident, if, in the judgment of
6 the long term care ombudsman, doing so is in the best interests
7 of the resident, and the resident does not object.

8 (Source: P.A. 81-223.)

9 (210 ILCS 45/3-411) (from Ch. 111 1/2, par. 4153-411)

10 Sec. 3-411. The Department of Public Health, when the basis
11 for involuntary transfer or discharge is other than action by
12 the Department of Healthcare and Family Services (formerly
13 Department of Public Aid) with respect to the Title XIX
14 Medicaid recipient, shall hold a hearing at the resident's
15 facility not later than 10 days after a hearing request is
16 filed, and render a decision within 14 days after the filing of
17 the hearing request. Once a request for a hearing is filed, the
18 Department shall hold a hearing unless the request is withdrawn
19 by the resident. If the request for a hearing is withdrawn
20 based upon a representation made by the facility to the
21 resident and the Department, including the hearing officer,
22 that a resident who has been denied readmission will be
23 readmitted, and the resident or resident representative
24 notifies the Department that the facility is still denying
25 readmission, failure to readmit is considered failure to comply

1 with a Department order to readmit pursuant to Section 3-305.6,
2 including the imposition of a daily fine under Section 3-305.6.
3 (Source: P.A. 95-331, eff. 8-21-07.)

4 (210 ILCS 45/3-413) (from Ch. 111 1/2, par. 4153-413)

5 Sec. 3-413. If the Department determines that a transfer or
6 discharge is authorized under Section 3-401, the resident shall
7 not be required to leave the facility before the 34th day
8 following receipt of the notice required under Section 3-402,
9 or the 10th day following receipt of the Department's decision,
10 whichever is later, unless a condition which would have allowed
11 transfer or discharge in less than 30 ~~21~~ days as described
12 under paragraphs (a) and (b) of Section 3-402 develops in the
13 interim.

14 (Source: P.A. 81-223.)

15 (210 ILCS 45/3-413.1 new)

16 Sec. 3-413.1. Denial of transfer or discharge. If the
17 Department determines that a transfer or discharge is not
18 authorized under Section 3-401, then the Department shall issue
19 a written decision stating that the transfer or discharge is
20 denied. If the action of the facility giving rise to the
21 request for hearings is the facility's failure to readmit the
22 resident following hospitalization, other medical leave of
23 absence, or other absence, then the Department shall order the
24 immediate readmission of the resident to the facility. The

1 facility shall comply with the order immediately. A surveyor
2 shall make an on-site inspection of the facility's compliance
3 with the order within 3 days of the order's entry unless the
4 resident notifies the Department in writing that there is
5 compliance.

6 (210 ILCS 45/3-424 new)

7 Sec. 3-424. Conflict of interest. The Department shall
8 adopt rules providing for a prohibition on conflicts of
9 interest for surveyors and all persons who conduct involuntary
10 transfer or discharge hearings. As used in this Section,
11 "conflict of interest" includes, but is not limited to, the
12 existence of any professional relationship within 2 years prior
13 to conducting the survey or the hearing, or a financial
14 relationship between (1) a surveyor or person conducting an
15 involuntary transfer or discharge hearing or their immediate
16 family, and (2) a facility regulated by the Department. As used
17 in this Section, "immediate family" means husband or wife,
18 natural or adoptive parents, children, siblings, stepparents,
19 stepchildren, stepbrothers, stepsisters, father-in-law,
20 mother-in-law, brothers-in-law, sisters-in-law, grandparents,
21 and grandchildren.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."