**Section 330.761 Whistleblower Protection**

a) For the purposes of this Section, *"retaliatory action" means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms and conditions of employment of any employee of a facility that is taken in retaliation for the employee's involvement in a protected activity as set forth in* Section 3-810 of the Act and this Section 330.761. (Section 3-810(a) of the Act)

b) *A facility shall not take any retaliatory action against an employee of the facility, including a nursing home administrator, because the employee does any of the following:*

1) *Discloses or threatens to disclose to a supervisor or to a public body an activity, inaction, policy, or practice implemented by a facility that the employee reasonably believes is in violation of a law, rule, or regulation*.

2) *Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by a nursing home administrator.*

3) *Assists or participates in a proceeding to enforce the provisions of* the *Act* and this Part. (Section 3-810(b) of the Act)

c) *A violation of* the Act and this Section *may be established only upon a finding that the employee of the facility engaged in conduct described in subsection (b) of* Section 3-810 of the Act and this Section 330.761 *and this conduct was a contributing factor in the retaliatory action alleged by the employee. There is no violation of this* Section*, however, if the facility demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of that conduct.* (Section 3-810(c) of the Act)

d) *The employee of the facility may be awarded all remedies necessary to make the employee whole and to prevent future violations of this* Section*. Remedies imposed by the court may include, but are not limited to, all of the following:*

1) *Reinstatement of the employee to either the same position held before the retaliatory action or to an equivalent position;*

2) *Two times the amount of back pay*;

3) *Interest on the back pay*;

4) *Reinstatement of full fringe benefits and seniority rights; and*

5) *Payment of reasonable costs and attorney's fees.* (Section 3-810(d) of the Act)

(Source: Added at 35 Ill. Reg. 11513, effective June 29, 2011)