



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3521

by Rep. Emanuel Chris Welch

SYNOPSIS AS INTRODUCED:

See Index

Amends the Assisted Living and Shared Housing Act. Adds provisions concerning involuntary terminations of residency, hearings when residency is involuntarily terminated, and readmission of residents. Provides that an establishment shall notify a resident when the establishment's ability to meet the resident's needs may be affected. Provides that if an establishment initiates a termination of residency, then the resident shall be provided with written notice. Provides that the Department of Public Health shall (rather than may) offer assistance to an establishment and resident in preparation for a residency termination. Provides that an establishment that improperly terminates the residency of a resident shall be assessed a violation. Makes additions to provisions concerning resident rights. Makes other changes. Amends the Nursing Home Care Act. Makes changes to provisions concerning the involuntary transfer or discharge of a resident, hearings when a resident is involuntarily transferred or discharged, and the readmission of residents. Provides that a resident has a right not to be unlawfully transferred or discharged from a facility. Makes other changes. Amends the Assisted Living and Shared Housing Act and the Nursing Home Care Act. Provides that in certain circumstances the Department shall order immediate readmission of a resident. Provides that failure to readmit a resident after receiving an order to do so from the Department shall result in a specified daily fine. Provides that the Department shall adopt rules related to conflicts of interest for persons who conduct specified hearings. Effective immediately.

LRB101 09715 CPF 54814 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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:

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

20 (2) community-based residential care for persons who
21 need assistance with activities of daily living, including
22 personal, supportive, and intermittent health-related
23 services available 24 hours per day, if needed, to meet the

1 scheduled and unscheduled needs of a resident;

2 (3) mandatory services, whether provided directly by
3 the establishment or by another entity arranged for by the
4 establishment, with the consent of the resident or
5 resident's representative; and

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

17 "Assisted living establishment" or "establishment" does
18 not mean any of the following:

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

21 (2) A long term care facility licensed under the
22 Nursing Home Care Act, a facility licensed under the
23 Specialized Mental Health Rehabilitation Act of 2013, a
24 facility licensed under the ID/DD Community Care Act, or a
25 facility licensed under the MC/DD Act. However, a facility
26 licensed under any of those Acts may convert distinct parts

1 of the facility to assisted living. If the facility elects
2 to do so, the facility shall retain the Certificate of Need
3 for its nursing and sheltered care beds that were
4 converted.

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

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

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

13 (6) A nursing home or sanitarium operated solely by and
14 for persons who rely exclusively upon treatment by
15 spiritual means through prayer in accordance with the creed
16 or tenants of a well-recognized church or religious
17 denomination.

18 (7) A facility licensed by the Department of Human
19 Services as a community-integrated living arrangement as
20 defined in the Community-Integrated Living Arrangements
21 Licensure and Certification Act.

22 (8) A supportive residence licensed under the
23 Supportive Residences Licensing Act.

24 (9) The portion of a life care facility as defined in
25 the Life Care Facilities Act not licensed as an assisted
26 living establishment under this Act; a life care facility

1 may apply under this Act to convert sections of the
2 community to assisted living.

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

5 (11) A shared housing establishment.

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

8 "Department" means the Department of Public Health.

9 "Director" means the Director of Public Health.

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

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

15 "Involuntary termination of residency" includes an assisted
16 living or shared housing establishment's failure to readmit a
17 resident following hospitalization, other medical leave, or
18 other absence from the establishment.

19 "License" means any of the following types of licenses
20 issued to an applicant or licensee by the Department:

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

25 (2) "Regular license" means a license issued by the
26 Department to an applicant or licensee that is in

1 substantial compliance with this Act and any rules
2 promulgated under this Act.

3 "Licensee" means a person, agency, association,
4 corporation, partnership, or organization that has been issued
5 a license to operate an assisted living or shared housing
6 establishment.

7 "Licensed health care professional" means a registered
8 professional nurse, an advanced practice registered nurse, a
9 physician assistant, and a licensed practical nurse.

10 "Mandatory services" include the following:

11 (1) 3 meals per day available to the residents prepared
12 by the establishment or an outside contractor;

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

15 (3) personal laundry and linen services available to
16 the residents provided or arranged for by the
17 establishment;

18 (4) security provided 24 hours each day including, but
19 not limited to, locked entrances or building or contract
20 security personnel;

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

26 (6) assistance with activities of daily living as

1 required by each resident.

2 "Negotiated risk" is the process by which a resident, or
3 his or her representative, may formally negotiate with
4 providers what risks each are willing and unwilling to assume
5 in service provision and the resident's living environment. The
6 provider assures that the resident and the resident's
7 representative, if any, are informed of the risks of these
8 decisions and of the potential consequences of assuming these
9 risks.

10 "Owner" means the individual, partnership, corporation,
11 association, or other person who owns an assisted living or
12 shared housing establishment. In the event an assisted living
13 or shared housing establishment is operated by a person who
14 leases or manages the physical plant, which is owned by another
15 person, "owner" means the person who operates the assisted
16 living or shared housing establishment, except that if the
17 person who owns the physical plant is an affiliate of the
18 person who operates the assisted living or shared housing
19 establishment and has significant control over the day to day
20 operations of the assisted living or shared housing
21 establishment, the person who owns the physical plant shall
22 incur jointly and severally with the owner all liabilities
23 imposed on an owner under this Act.

24 "Physician" means a person licensed under the Medical
25 Practice Act of 1987 to practice medicine in all of its
26 branches.

1 "Resident" means a person residing in an assisted living or
2 shared housing establishment.

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

12 "Self" means the individual or the individual's designated
13 representative.

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

19 (1) services consistent with a social model that is
20 based on the premise that the resident's unit is his or her
21 own home;

22 (2) community-based residential care for persons who
23 need assistance with activities of daily living, including
24 housing and personal, supportive, and intermittent
25 health-related services available 24 hours per day, if
26 needed, to meet the scheduled and unscheduled needs of a

1 resident; and

2 (3) mandatory services, whether provided directly by
3 the establishment or by another entity arranged for by the
4 establishment, with the consent of the resident or the
5 resident's representative.

6 "Shared housing establishment" or "establishment" does not
7 mean any of the following:

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

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

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

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

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

1 (6) A nursing home or sanitarium operated solely by and
2 for persons who rely exclusively upon treatment by
3 spiritual means through prayer in accordance with the creed
4 or tenants of a well-recognized church or religious
5 denomination.

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

10 (8) A supportive residence licensed under the
11 Supportive Residences Licensing Act.

12 (9) A life care facility as defined in the Life Care
13 Facilities Act; a life care facility may apply under this
14 Act to convert sections of the community to assisted
15 living.

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

18 (11) An assisted living establishment.

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

21 "Total assistance" means that staff or another individual
22 performs the entire activity of daily living without
23 participation by the resident.

24 (Source: P.A. 99-180, eff. 7-29-15; 100-513, eff. 1-1-18.)

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

1 or removal of any appliance.

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

3 (210 ILCS 9/75)

4 Sec. 75. Residency Requirements.

5 (a) No individual shall be accepted for residency or remain
6 in residence if the establishment cannot provide or secure
7 appropriate services, if the individual requires a level of
8 service or type of service for which the establishment is not
9 licensed or which the establishment does not provide, or if the
10 establishment does not have the staff appropriate in numbers
11 and with appropriate skill to provide such services.

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

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

14 (1) the person poses a serious threat to himself or
15 herself or to others;

16 (2) the person is not able to communicate his or her
17 needs and no resident representative residing in the
18 establishment, and with a prior relationship to the person,
19 has been appointed to direct the provision of services;

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

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

25 (5) the person requires more than minimal assistance in

1 moving to a safe area in an emergency;

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

15 (7) the person requires intravenous therapy or
16 intravenous feedings unless self-administered or
17 administered by a qualified, licensed health care
18 professional;

19 (8) the person requires gastrostomy feedings unless
20 self-administered or administered by a licensed health
21 care professional;

22 (9) the person requires insertion, sterile irrigation,
23 and replacement of catheter, except for routine
24 maintenance of urinary catheters, unless the catheter care
25 is self-administered or administered by a licensed health
26 care professional;

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

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

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

10 (13) the person requires treatment of stage 3 or stage
11 4 decubitus ulcers or exfoliative dermatitis;

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

19 (15) other reasons prescribed by the Department by
20 rule.

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

24 (e) Residency shall be terminated when services available
25 to the resident in the establishment are no longer adequate to
26 meet the needs of the resident. The establishment shall notify

1 the resident and the resident's representative, if any, when
2 there is a significant change in the resident's condition that
3 affects the establishment's ability to meet the resident's
4 needs. The requirements of subsection (c) of Section 80 shall
5 then apply. This provision shall not be interpreted as limiting
6 the authority of the Department to require the residency
7 termination of individuals.

8 (f) Subsection (d) of this Section shall not apply to
9 terminally ill residents who receive or would qualify for
10 hospice care and such care is coordinated by a hospice program
11 licensed under the Hospice Program Licensing Act or other
12 licensed health care professional employed by a licensed home
13 health agency and the establishment and all parties agree to
14 the continued residency.

15 (g) Items (3), (4), (5), and (9) of subsection (c) shall
16 not apply to a quadriplegic, paraplegic, or individual with
17 neuro-muscular diseases, such as muscular dystrophy and
18 multiple sclerosis, or other chronic diseases and conditions as
19 defined by rule if the individual is able to communicate his or
20 her needs and does not require assistance with complex medical
21 problems, and the establishment is able to accommodate the
22 individual's needs. The Department shall prescribe rules
23 pursuant to this Section that address special safety and
24 service needs of these individuals.

25 (h) For the purposes of items (7) through (10) of
26 subsection (c), a licensed health care professional may not be

1 employed by the owner or operator of the establishment, its
2 parent entity, or any other entity with ownership common to
3 either the owner or operator of the establishment or parent
4 entity, including but not limited to an affiliate of the owner
5 or operator of the establishment. Nothing in this Section is
6 meant to limit a resident's right to choose his or her health
7 care provider.

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

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

19 (210 ILCS 9/80)

20 Sec. 80. Involuntary termination of residency.

21 (a) Residency shall be involuntarily terminated only for
22 the following reasons:

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

24 (2) nonpayment of contracted charges after the
25 resident and the resident's representative have received a

1 minimum of 30 days' ~~30 days~~ written notice of the
2 delinquency and the resident or the resident's
3 representative has had at least 15 days to cure the
4 delinquency; or

5 (3) failure to execute a service delivery contract or
6 to substantially comply with its terms and conditions,
7 failure to comply with the assessment requirements
8 contained in Section 15, or failure to substantially comply
9 with the terms and conditions of the lease agreement.

10 (b) A 30-day ~~30-day~~ written notice of residency termination
11 shall be provided to the resident, the resident's
12 representative, or both, the Department, and the long term care
13 ombudsman, which shall include the reason for the pending
14 action, the date of the proposed move, and a notice, the
15 content and form to be set forth by rule, of the resident's
16 right to appeal, the steps that the resident or the resident's
17 representative must take to initiate an appeal, and a statement
18 of the resident's right to continue to reside in the
19 establishment until a decision is rendered. The notice shall
20 include a toll free telephone number to initiate an appeal and
21 a written hearing request form, together with a postage paid,
22 pre-addressed envelope to the Department. If the resident or
23 the resident's representative, if any, cannot read English, the
24 notice must be provided in a language the individual receiving
25 the notice can read or the establishment must provide a
26 translator who has been trained to assist the resident or the

1 resident's representative in the appeal process. ~~In emergency~~
2 ~~situations as defined in Section 10 of this Act, the 30 day~~
3 ~~provision of the written notice may be waived.~~

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

12 (c) The establishment shall attempt to resolve with the
13 resident or the resident's representative, if any,
14 circumstances that if not remedied have the potential of
15 resulting in an involuntary termination of residency and shall
16 document those efforts in the resident's file. This action may
17 occur prior to or during the 30 day notice period, but must
18 occur prior to the termination of the residency. ~~In emergency~~
19 ~~situations as defined in Section 10 of this Act, the~~
20 ~~requirements of this subsection may be waived.~~

21 (d) A request for a hearing shall stay an involuntary
22 termination of residency until a decision has been rendered by
23 the Department, according to a process adopted by rule. During
24 this time period, the establishment may not terminate or reduce
25 any service without the consent of the resident or the
26 resident's representative, if any ~~for the purpose of making it~~

1 ~~more difficult or impossible for the resident to remain in the~~
2 ~~establishment.~~

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

14 (f) The Department shall ~~may~~ offer assistance to the
15 establishment and the resident in the preparation of residency
16 termination and relocation plans to assure safe and orderly
17 transition and to protect the resident's health, safety,
18 welfare, and rights. In nonemergencies, and where possible in
19 emergencies, the transition plan shall be designed and
20 implemented in advance of transfer or residency termination.

21 (g) An establishment may not initiate a termination of
22 residency due to an emergency situation if (1) a resident has
23 been hospitalized and the resident's physician states that
24 returning to the establishment would not create an imminent
25 danger of death or serious physical harm to a resident; or (2)
26 the emergency can be negated by changes in staffing,

1 activities, health care, personal care, or rooming
2 accommodations, consistent with the license of the
3 establishment. The Department may not find an establishment to
4 be in violation of Section 75 of this Act for failing to
5 initiate an emergency discharge in these circumstances.

6 (h) If the Department determines that an involuntary
7 termination of residency does not meet the requirements of this
8 Act, the Department shall issue a written decision stating that
9 the involuntary termination of residency is denied. If the
10 action of the establishment giving rise to the request for
11 hearings is the establishment's failure to readmit the resident
12 following hospitalization, other medical leave of absence, or
13 other absence, the Department shall order the immediate
14 readmission of the resident to the establishment.

15 (i) If an order to readmit is entered pursuant to
16 subsection (h), the establishment shall immediately comply. A
17 surveyor shall make an on-site inspection of the
18 establishment's compliance with the order within 3 days of the
19 order's entry, unless the resident notifies the Department in
20 writing that there is compliance. As used in this subsection,
21 "compliance" means the resident is living in the establishment
22 or the establishment and the resident have agreed on a schedule
23 for readmission. If the resident or resident's representative
24 notifies the Department that the establishment is not complying
25 with an agreed-upon schedule, or that the establishment is not
26 complying with the representation described in subsection (k),

1 a surveyor shall make an on-site inspection to determine
2 compliance within 3 days of the notification.

3 (j) An establishment that does not readmit a resident after
4 the Department has ordered readmission shall be assessed a
5 daily fine of \$1,250 beginning on the day of the surveyor's
6 inspection or on the third day after the readmission order was
7 issued by the Department, whichever occurs first. The fine
8 shall be imposed for every day thereafter, until the
9 establishment notifies the Department that it is in compliance
10 with the order and a surveyor makes an on-site inspection to
11 determine if there is compliance or the resident confirms to
12 the Department that there is compliance, as defined in
13 subsection (i) of this Section. The on-site inspection shall be
14 made within 3 days of the notification by the establishment.

15 (k) Once a notice of appeal is filed, the Department shall
16 hold a hearing unless the notice of appeal is withdrawn. If the
17 notice of appeal is withdrawn based upon a representation made
18 by the establishment to the resident and the Department,
19 including the hearing officer, that a resident who has been
20 previously denied readmission will be readmitted, failure to
21 comply with the representation shall be considered a failure to
22 comply with a Department order pursuant to subsection (h) and
23 shall result in the imposition of a daily fine as provided in
24 subsection (j) of this Section.

25 (l) In addition to any other penalty, an establishment that
26 has improperly terminated the residency of a resident shall be

1 assessed no less than a Type 1 violation. The establishment
2 shall be required to submit an acceptable plan of correction to
3 the Department within 30 days after the violation is affirmed.
4 As used in this subsection, "improperly terminated that
5 residency" does not include issuing a notice of residency
6 termination that the Department finds does not meet the
7 statutory requirements for termination of residency if the
8 establishment complied with the procedural requirements of
9 this Act.

10 (m) A long term care ombudsman may request a hearing on
11 behalf of a resident and secure representation of a resident
12 if, in the judgment of the long term care ombudsman, doing so
13 is in the best interests of the resident and the resident does
14 not object.

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

16 (210 ILCS 9/90)

17 Sec. 90. Contents of service delivery contract. A contract
18 between an establishment and a resident must be entitled
19 "assisted living establishment contract" or "shared housing
20 establishment contract" as applicable, shall be printed in no
21 less than 12 point type, and shall include at least the
22 following elements in the body or through supporting documents
23 or attachments:

24 (1) the name, street address, and mailing address of
25 the establishment;

1 (2) the name and mailing address of the owner or owners
2 of the establishment and, if the owner or owners are not
3 natural persons, the type of business entity of the owner
4 or owners;

5 (3) the name and mailing address of the managing agent
6 of the establishment, whether hired under a management
7 agreement or lease agreement, if the managing agent is
8 different from the owner or owners;

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

12 (5) a statement describing the license status of the
13 establishment and the license status of all providers of
14 health-related or supportive services to a resident under
15 arrangement with the establishment;

16 (6) the duration of the contract;

17 (7) the base rate to be paid by the resident and a
18 description of the services to be provided as part of this
19 rate;

20 (8) a description of any additional services to be
21 provided for an additional fee by the establishment
22 directly or by a third party provider under arrangement
23 with the establishment;

24 (9) the fee schedules outlining the cost of any
25 additional services;

26 (10) a description of the process through which the

1 contract may be modified, amended, or terminated;

2 (11) a description of the establishment's complaint
3 resolution process available to residents and notice of the
4 availability of the Department on Aging's Senior Helpline
5 for complaints;

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

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

11 (14) the billing and payment procedures and
12 requirements;

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

18 (16) a statement that medical assistance under Article
19 V or Article VI of the Illinois Public Aid Code is not
20 available for payment for services provided in an
21 establishment, excluding contracts executed with residents
22 residing in licensed establishments participating in the
23 Department on Aging's Comprehensive Care in Residential
24 Settings Demonstration Project;

25 (17) a statement detailing the admission, risk
26 management, and residency termination criteria and

1 procedures;

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

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

13 (20) a statement outlining whether the establishment
14 charges a community fee and, if so, the amount of the fee
15 and whether it is refundable; if the fee is refundable, the
16 contract must describe the conditions under which it is
17 refundable and how the amount of the refund is determined;
18 and -

19 (21) educational material from the Office of State Long
20 Term Care Ombudsman, written in consultation with a State
21 association dedicated to Alzheimer's care, support, and
22 research with information on Alzheimer's disease and
23 dementia for residents who have been diagnosed with a
24 dementia, including signs and symptoms, stages, and
25 behaviors, and on a statewide helpline with resources for
26 those affected by Alzheimer's and other dementia operated

1 by a State association dedicated to Alzheimer's care,
2 support, and research; receipt of these educational
3 materials shall require signatures of acknowledgment of
4 receipt by a representative of the establishment, the
5 resident, and the resident's representative, if any.

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

7 (210 ILCS 9/95)

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

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

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

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

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

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

23 (6) the right to uncensored access to the State
24 Ombudsman or his or her designee;

25 (7) the right to be free of retaliation for criticizing

1 the establishment or making complaints to appropriate
2 agencies;

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

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

7 (10) the right to confidentiality of the resident's
8 medical records;

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

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

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

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

21 ~~and~~

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

24 (16) the right to not be unlawfully transferred or
25 discharged;

26 (17) the right to retain residency during any hospital

1 stay totaling 10 days or less following a hospital
2 admission; and

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

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

6 (210 ILCS 9/110)

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

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

14 (b) Upon receipt of information that may indicate the
15 failure of the assisted living or shared housing establishment
16 or a service provider to comply with a provision of this Act,
17 the Department shall investigate the matter or make appropriate
18 referrals to other government agencies and entities having
19 jurisdiction over the subject matter of the possible violation.
20 The Department may also make referrals to any public or private
21 agency that the Department considers available for appropriate
22 assistance to those involved. The Department may oversee and
23 coordinate the enforcement of State consumer protection
24 policies affecting residents residing in an establishment
25 licensed under this Act.

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

9 (d) (Blank).

10 (e) The Department shall by rule establish penalties and
11 sanctions, which shall include, but need not be limited to, the
12 creation of a schedule of graduated penalties and sanctions to
13 include closure.

14 (f) The Department shall by rule establish procedures for
15 disclosure of information to the public, which shall include,
16 but not be limited to, ownership, licensure status, frequency
17 of complaints, disposition of substantiated complaints, and
18 disciplinary actions.

19 (g) (Blank).

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

22 (i) The Department shall by rule provide for a prohibition
23 on conflicts of interest for surveyors and all persons who
24 conduct involuntary transfer or discharge hearings. As used in
25 this subsection, "conflict of interest" includes, but is not
26 limited to, (1) the existence of any professional relationship

1 within 2 years prior to conducting the survey or the hearing or
2 (2) a financial relationship between a surveyor or person
3 conducting an involuntary transfer or discharge hearing or his
4 or her immediate family and an establishment regulated by the
5 Department. As used in this subsection, "immediate family"
6 means a husband or wife, natural or adoptive parents, children,
7 siblings, stepparents, stepchildren, stepbrothers,
8 stepsisters, father-in-law, mother-in-law, brothers-in-law,
9 sisters-in-law, grandparents, and grandchildren.

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

11 Section 10. The Nursing Home Care Act is amended by
12 changing Sections 1-111, 1-114.005, 1-128, 2-104, 2-111,
13 3-401, 3-401.1, 3-402, 3-404, 3-405, 3-410, 3-411, and 3-413
14 and by adding Sections 3-305.6, 3-413.1, and 3-424 as follows:

15 (210 ILCS 45/1-111) (from Ch. 111 1/2, par. 4151-111)

16 Sec. 1-111. "Discharge" means the full release of any
17 resident from a facility. "Discharge" includes a nursing
18 facility's failure to readmit following hospitalization, other
19 medical leave, or other absence.

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

21 (210 ILCS 45/1-114.005)

22 Sec. 1-114.005. High risk designation. "High risk
23 designation" means a violation of a provision of the Illinois

1 Administrative Code or statute that has been identified by the
2 Department through rulemaking or designated in statute to be
3 inherently necessary to protect the health, safety, and welfare
4 of a resident. "High risk designation" includes an unlawful
5 discharge of a resident.

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

7 (210 ILCS 45/1-128) (from Ch. 111 1/2, par. 4151-128)

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

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

15 (210 ILCS 45/2-104) (from Ch. 111 1/2, par. 4152-104)

16 Sec. 2-104. (a) A resident shall be permitted to retain the
17 services of his own personal physician at his own expense or
18 under an individual or group plan of health insurance, or under
19 any public or private assistance program providing such
20 coverage. However, the facility is not liable for the
21 negligence of any such personal physician. Every resident shall
22 be permitted to obtain from his own physician or the physician
23 attached to the facility complete and current information
24 concerning his medical diagnosis, treatment and prognosis in

1 terms and language the resident can reasonably be expected to
2 understand. Every resident shall be permitted to participate in
3 the planning of his total care and medical treatment to the
4 extent that his condition permits. No resident shall be
5 subjected to experimental research or treatment without first
6 obtaining his informed, written consent. The conduct of any
7 experimental research or treatment shall be authorized and
8 monitored by an institutional review board appointed by the
9 Director. The membership, operating procedures and review
10 criteria for the institutional review board shall be prescribed
11 under rules and regulations of the Department and shall comply
12 with the requirements for institutional review boards
13 established by the federal Food and Drug Administration. No
14 person who has received compensation in the prior 3 years from
15 an entity that manufactures, distributes, or sells
16 pharmaceuticals, biologics, or medical devices may serve on the
17 institutional review board.

18 The institutional review board may approve only research or
19 treatment that meets the standards of the federal Food and Drug
20 Administration with respect to (i) the protection of human
21 subjects and (ii) financial disclosure by clinical
22 investigators. The Office of State Long Term Care Ombudsman and
23 the State Protection and Advocacy organization shall be given
24 an opportunity to comment on any request for approval before
25 the board makes a decision. Those entities shall not be
26 provided information that would allow a potential human subject

1 to be individually identified, unless the board asks the
2 Ombudsman for help in securing information from or about the
3 resident. The board shall require frequent reporting of the
4 progress of the approved research or treatment and its impact
5 on residents, including immediate reporting of any adverse
6 impact to the resident, the resident's representative, the
7 Office of the State Long Term Care Ombudsman, and the State
8 Protection and Advocacy organization. The board may not approve
9 any retrospective study of the records of any resident about
10 the safety or efficacy of any care or treatment if the resident
11 was under the care of the proposed researcher or a business
12 associate when the care or treatment was given, unless the
13 study is under the control of a researcher without any business
14 relationship to any person or entity who could benefit from the
15 findings of the study.

16 No facility shall permit experimental research or
17 treatment to be conducted on a resident, or give access to any
18 person or person's records for a retrospective study about the
19 safety or efficacy of any care or treatment, without the prior
20 written approval of the institutional review board. No nursing
21 home administrator, or person licensed by the State to provide
22 medical care or treatment to any person, may assist or
23 participate in any experimental research on or treatment of a
24 resident, including a retrospective study, that does not have
25 the prior written approval of the board. Such conduct shall be
26 grounds for professional discipline by the Department of

1 Financial and Professional Regulation.

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

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

18 (b) All medical treatment and procedures shall be
19 administered as ordered by a physician. All new physician
20 orders shall be reviewed by the facility's director of nursing
21 or charge nurse designee within 24 hours after such orders have
22 been issued to assure facility compliance with such orders.

23 All physician's orders and plans of treatment shall have
24 the authentication of the physician. For the purposes of this
25 subsection (b), "authentication" means an original written
26 signature or an electronic signature system that allows for the

1 verification of a signer's credentials. A stamp signature, with
2 or without initials, is not sufficient.

3 According to rules adopted by the Department, every woman
4 resident of child-bearing age shall receive routine
5 obstetrical and gynecological evaluations as well as necessary
6 prenatal care.

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

16 (d) Every resident, resident's guardian, or parent if the
17 resident is a minor shall be permitted to inspect and copy all
18 his clinical and other records concerning his care and
19 maintenance kept by the facility or by his physician. The
20 facility may charge a reasonable fee for duplication of a
21 record.

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

23 (210 ILCS 45/2-111) (from Ch. 111 1/2, par. 4152-111)

24 Sec. 2-111. A resident shall not be transferred or
25 discharged in violation of this Act. A resident may not be

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

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

15 (210 ILCS 45/3-305.6 new)

16 Sec. 3-305.6. Failure to readmit a resident. A facility
17 that fails to comply with an order of the Department to readmit
18 a resident, shall be assessed a daily fine of \$1,250. The fine
19 shall be assessed beginning on the date of the surveyor
20 inspection required by Section 3-413.1. The fine shall be
21 imposed for every day thereafter until the facility notifies
22 the Department that the facility is in compliance with the
23 order and a surveyor makes an on-site inspection that confirms
24 compliance or the resident or resident's representative
25 confirms to the Department in writing that there is compliance.

1 The on-site inspection shall be made within 3 days of the
2 notification by the facility.

3 As used in this Section, "compliance with the order" means
4 a resident is living in a facility, or a facility and a
5 resident have agreed on a schedule for readmission. If a
6 resident subsequently notifies the Department that a facility
7 is not complying with an agreed-upon schedule, a surveyor shall
8 make an on-site inspection to determine compliance within 3
9 days of the notification.

10 (210 ILCS 45/3-401) (from Ch. 111 1/2, par. 4153-401)

11 Sec. 3-401. A facility may involuntarily transfer or
12 discharge a resident only for one or more of the following
13 reasons:

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

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

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

20 (d) for either late payment or nonpayment for the
21 resident's stay, except as prohibited by Titles XVIII and
22 XIX of the federal Social Security Act. For purposes of
23 this Section, "late payment" means non-receipt of payment
24 after submission of a bill. If payment is not received
25 within 45 days after submission of a bill, a facility may

1 send a notice to the resident and responsible party
2 requesting payment within 30 days. If payment is not
3 received within such 30 days, the facility may thereupon
4 institute transfer or discharge proceedings by sending a
5 notice of transfer or discharge to the resident and
6 responsible party by registered or certified mail. The
7 notice shall state, in addition to the requirements of
8 Section 3-403 of this Act, that the responsible party has
9 the right to pay the amount of the bill in full up to the
10 date the transfer or discharge is to be made and then the
11 resident shall have the right to remain in the facility.
12 Such payment shall terminate the transfer or discharge
13 proceedings. This subsection does not apply to those
14 residents whose care is provided for under the Illinois
15 Public Aid Code. The Department shall adopt rules setting
16 forth the criteria and procedures to be applied in cases of
17 involuntary transfer or discharge permitted under this
18 Section.

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

23 In the absence of other bases for transfer or discharge
24 listed in this Section, and unless it has complied with the
25 prior notice and other procedural requirements of this Act, a
26 facility may not refuse to readmit a resident following a

1 medical leave of absence if the resident's need for care does
2 not exceed the provisions of the facility's license.

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

4 (210 ILCS 45/3-401.1) (from Ch. 111 1/2, par. 4153-401.1)

5 Sec. 3-401.1. (a) A facility participating in the Medical
6 Assistance Program is prohibited from failing or refusing to
7 retain as a resident any person because he or she is a
8 recipient of or an applicant for the Medical Assistance
9 Program. A resident who is in the process of appealing the
10 denial of his or her application for the Medical Assistance
11 Program is considered to be a Medicaid applicant under this
12 Section.

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

20 (1) the facility, no later than at the time of
21 admission and at the time of the resident's contract
22 renewal, explains to the resident (unless he or she is
23 incompetent), and to the resident's representative, and to
24 the person making payment on behalf of the resident for the
25 resident's stay, in writing, that the facility may

1 discharge the resident if the resident is no longer able to
2 pay for his or her care in the facility without Medical
3 Assistance;

4 (2) the resident (unless he or she is incompetent), the
5 resident's representative, and the person making payment
6 on behalf of the resident for the resident's stay,
7 acknowledge in writing that they have received the written
8 explanation.

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

24 (b) A facility which violates this Section shall be guilty
25 of a business offense and fined not less than \$500 nor more
26 than \$1,000 for the first offense and not less than \$1,000 nor

1 more than \$5,000 for each subsequent offense.

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

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

4 Sec. 3-402. Involuntary transfer or discharge of a resident
5 from a facility shall be preceded by the discussion required
6 under Section 3-408 and by a minimum written notice of 30 ~~21~~
7 days, except in one of the following instances:

8 (a) When an emergency transfer or discharge is ordered by
9 the resident's attending physician because of the resident's
10 health care needs upon an attending physician completing an
11 in-person assessment.

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

23 (c) When an identified offender is within the provisional
24 admission period defined in Section 1-120.3. If the Identified
25 Offender Report and Recommendation prepared under Section

1 2-201.6 shows that the identified offender poses a serious
2 threat or danger to the physical safety of other residents, the
3 facility staff, or facility visitors in the admitting facility
4 and the facility determines that it is unable to provide a safe
5 environment for the other residents, the facility staff, or
6 facility visitors, the facility shall transfer or discharge the
7 identified offender within 3 days after its receipt of the
8 Identified Offender Report and Recommendation.

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

10 (210 ILCS 45/3-404) (from Ch. 111 1/2, par. 4153-404)

11 Sec. 3-404. A request for a hearing made under Section
12 3-403 shall stay a transfer or discharge pending a hearing or
13 appeal of the decision, unless a condition which would have
14 allowed transfer or discharge in less than 30 ~~21~~ days as
15 described under paragraphs (a) and (b) of Section 3-402
16 develops in the interim.

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

18 (210 ILCS 45/3-405) (from Ch. 111 1/2, par. 4153-405)

19 Sec. 3-405. A copy of the notice required by Section 3-402
20 shall be placed in the resident's clinical record and a copy
21 shall be transmitted to the Department, the resident, ~~and~~ the
22 resident's representative, if any, the resident's managed care
23 organization, if applicable, and the Office of State Long Term
24 Care Ombudsman.

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

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

3 Sec. 3-410. A resident subject to involuntary transfer or
4 discharge from a facility, the resident's guardian or if the
5 resident is a minor, his parent shall have the opportunity to
6 file a request for a hearing with the Department within 10 days
7 following receipt of the written notice of the involuntary
8 transfer or discharge by the facility. A long term care
9 ombudsman may request a hearing on behalf of the resident, and
10 secure representation for the resident, if, in the judgment of
11 the long term care ombudsman, doing so is in the best interests
12 of the resident, and the resident does not object.

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

14 (210 ILCS 45/3-411) (from Ch. 111 1/2, par. 4153-411)

15 Sec. 3-411. The Department of Public Health, when the basis
16 for involuntary transfer or discharge is other than action by
17 the Department of Healthcare and Family Services (formerly
18 Department of Public Aid) with respect to the Title XIX
19 Medicaid recipient, shall hold a hearing at the resident's
20 facility not later than 10 days after a hearing request is
21 filed, and render a decision within 14 days after the filing of
22 the hearing request. The Department has continuing
23 jurisdiction over the transfer or discharge irrespective of the
24 timing of the hearing and decision. Once a request for a

1 hearing is filed, the Department shall hold a hearing unless
2 the request is withdrawn by the resident. If the request for a
3 hearing is withdrawn based upon a representation made by the
4 facility to the resident and the Department, including the
5 hearing officer, that a resident who has been denied
6 readmission will be readmitted, and the resident or resident
7 representative notifies the Department that the facility is
8 still denying readmission, failure to readmit is considered
9 failure to comply with a Department order to readmit pursuant
10 to Section 3-305.6, including the imposition of a daily fine
11 under Section 3-305.6.

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

13 (210 ILCS 45/3-413) (from Ch. 111 1/2, par. 4153-413)

14 Sec. 3-413. If the Department determines that a transfer or
15 discharge is authorized under Section 3-401, the resident shall
16 not be required to leave the facility before the 34th day
17 following receipt of the notice required under Section 3-402,
18 or the 10th day following receipt of the Department's decision,
19 whichever is later, unless a condition which would have allowed
20 transfer or discharge in less than 30 ~~21~~ days as described
21 under paragraphs (a) and (b) of Section 3-402 develops in the
22 interim. The Department maintains jurisdiction over the
23 transfer or discharge irrespective of the timing of the notice
24 and discharge.

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

1 (210 ILCS 45/3-413.1 new)

2 Sec. 3-413.1. Denial of transfer or discharge. If the
3 Department determines that a transfer or discharge is not
4 authorized under Section 3-401, then the Department shall issue
5 a written decision stating that the transfer or discharge is
6 denied. If the action of the facility giving rise to the
7 request for hearings is the facility's failure to readmit the
8 resident following hospitalization, other medical leave of
9 absence, or other absence, then the Department shall order the
10 immediate readmission of the resident to the facility. The
11 facility shall comply with the order immediately. A surveyor
12 shall make an on-site inspection of the facility's compliance
13 with the order within 3 days of the order's entry unless the
14 resident notifies the Department in writing that there is
15 compliance.

16 (210 ILCS 45/3-424 new)

17 Sec. 3-424. Conflict of interest. The Department shall
18 adopt rules providing for a prohibition on conflicts of
19 interest for surveyors and all persons who conduct involuntary
20 transfer or discharge hearings. As used in this Section,
21 "conflict of interest" includes, but is not limited to, the
22 existence of any professional relationship within 2 years prior
23 to conducting the survey or the hearing, or a financial
24 relationship between (1) a surveyor or person conducting an

1 involuntary transfer or discharge hearing or their immediate
2 family, and (2) a facility regulated by the Department. As used
3 in this Section, "immediate family" means husband or wife,
4 natural or adoptive parents, children, siblings, stepparents,
5 stepchildren, stepbrothers, stepsisters, father-in-law,
6 mother-in-law, brothers-in-law, sisters-in-law, grandparents,
7 and grandchildren.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.

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