

# HB4407



## 101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

**HB4407**

Introduced 1/29/2020, by Rep. Ryan Spain

### SYNOPSIS AS INTRODUCED:

210 ILCS 45/2-104

from Ch. 111 1/2, par. 4152-104

Amends the Nursing Home Care Act. Makes a technical change in a Section concerning medical treatment.

LRB101 17999 CPF 67437 b

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 Nursing Home Care Act is amended by changing  
5 Section 2-104 as follows:

6 (210 ILCS 45/2-104) (from Ch. 111 1/2, par. 4152-104)

7 Sec. 2-104. (a) A resident shall be permitted to retain the  
8 ~~the~~ services of his own personal physician at his own expense  
9 or under an individual or group plan of health insurance, or  
10 under any public or private assistance program providing such  
11 coverage. However, the facility is not liable for the  
12 negligence of any such personal physician. Every resident shall  
13 be permitted to obtain from his own physician or the physician  
14 attached to the facility complete and current information  
15 concerning his medical diagnosis, treatment and prognosis in  
16 terms and language the resident can reasonably be expected to  
17 understand. Every resident shall be permitted to participate in  
18 the planning of his total care and medical treatment to the  
19 extent that his condition permits. No resident shall be  
20 subjected to experimental research or treatment without first  
21 obtaining his informed, written consent. The conduct of any  
22 experimental research or treatment shall be authorized and  
23 monitored by an institutional review board appointed by the

1 Director. The membership, operating procedures and review  
2 criteria for the institutional review board shall be prescribed  
3 under rules and regulations of the Department and shall comply  
4 with the requirements for institutional review boards  
5 established by the federal Food and Drug Administration. No  
6 person who has received compensation in the prior 3 years from  
7 an entity that manufactures, distributes, or sells  
8 pharmaceuticals, biologics, or medical devices may serve on the  
9 institutional review board.

10 The institutional review board may approve only research or  
11 treatment that meets the standards of the federal Food and Drug  
12 Administration with respect to (i) the protection of human  
13 subjects and (ii) financial disclosure by clinical  
14 investigators. The Office of State Long Term Care Ombudsman and  
15 the State Protection and Advocacy organization shall be given  
16 an opportunity to comment on any request for approval before  
17 the board makes a decision. Those entities shall not be  
18 provided information that would allow a potential human subject  
19 to be individually identified, unless the board asks the  
20 Ombudsman for help in securing information from or about the  
21 resident. The board shall require frequent reporting of the  
22 progress of the approved research or treatment and its impact  
23 on residents, including immediate reporting of any adverse  
24 impact to the resident, the resident's representative, the  
25 Office of the State Long Term Care Ombudsman, and the State  
26 Protection and Advocacy organization. The board may not approve

1 any retrospective study of the records of any resident about  
2 the safety or efficacy of any care or treatment if the resident  
3 was under the care of the proposed researcher or a business  
4 associate when the care or treatment was given, unless the  
5 study is under the control of a researcher without any business  
6 relationship to any person or entity who could benefit from the  
7 findings of the study.

8 No facility shall permit experimental research or  
9 treatment to be conducted on a resident, or give access to any  
10 person or person's records for a retrospective study about the  
11 safety or efficacy of any care or treatment, without the prior  
12 written approval of the institutional review board. No nursing  
13 home administrator, or person licensed by the State to provide  
14 medical care or treatment to any person, may assist or  
15 participate in any experimental research on or treatment of a  
16 resident, including a retrospective study, that does not have  
17 the prior written approval of the board. Such conduct shall be  
18 grounds for professional discipline by the Department of  
19 Financial and Professional Regulation.

20 The institutional review board may exempt from ongoing  
21 review research or treatment initiated on a resident before the  
22 individual's admission to a facility and for which the board  
23 determines there is adequate ongoing oversight by another  
24 institutional review board. Nothing in this Section shall  
25 prevent a facility, any facility employee, or any other person  
26 from assisting or participating in any experimental research on

1 or treatment of a resident, if the research or treatment began  
2 before the person's admission to a facility, until the board  
3 has reviewed the research or treatment and decided to grant or  
4 deny approval or to exempt the research or treatment from  
5 ongoing review.

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

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

15 All physician's orders and plans of treatment shall have  
16 the authentication of the physician. For the purposes of this  
17 subsection (b), "authentication" means an original written  
18 signature or an electronic signature system that allows for the  
19 verification of a signer's credentials. A stamp signature, with  
20 or without initials, is not sufficient.

21 According to rules adopted by the Department, every woman  
22 resident of child-bearing age shall receive routine  
23 obstetrical and gynecological evaluations as well as necessary  
24 prenatal care.

25 (c) Every resident shall be permitted to refuse medical  
26 treatment and to know the consequences of such action, unless

1 such refusal would be harmful to the health and safety of  
2 others and such harm is documented by a physician in the  
3 resident's clinical record. The resident's refusal shall free  
4 the facility from the obligation to provide the treatment.

5 (d) Every resident, resident's guardian, or parent if the  
6 resident is a minor shall be permitted to inspect and copy all  
7 his clinical and other records concerning his care and  
8 maintenance kept by the facility or by his physician. The  
9 facility may charge a reasonable fee for duplication of a  
10 record.

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