



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1633

Introduced 2/26/2021, by Sen. Karina Villa

SYNOPSIS AS INTRODUCED:

210 ILCS 45/2-101	from Ch. 111 1/2, par. 4152-101
210 ILCS 45/2-104	from Ch. 111 1/2, par. 4152-104
210 ILCS 45/2-112	from Ch. 111 1/2, par. 4152-112

Amends the Nursing Home Care Act. Provides that residents shall have the right to be treated with courtesy and respect for their individuality by employees or persons providing medical services or care, and shall have their human and civil rights maintained in all aspects of medical care. Provides that all applicable rights under the Medical Patient Rights Act apply to residents under the Act. Provides that residents shall not perform labor or services for a facility unless those activities are included for therapeutic purposes and appropriately goal-related in the resident's individual medical record. Provides that every acute care inpatient facility, community-based residential program, and facility employing more than 2 people that provide outpatient mental health services shall have a written internal grievance procedure that, at a minimum: (1) sets forth the process to be followed; (2) specifies time limits, including time limits for facility response; (3) provides for the patient to have the assistance of an advocate; (4) requires a written response to written grievances; and (5) provides for a timely decision by an impartial decision maker if the grievance is not otherwise resolved. Makes other changes.

LRB102 15475 CPF 20838 b

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
5 changing Sections 2-101, 2-104, and 2-112 as follows:

6 (210 ILCS 45/2-101) (from Ch. 111 1/2, par. 4152-101)

7 Sec. 2-101. No resident shall be deprived of any rights,
8 benefits, or privileges guaranteed by law, the Constitution of
9 the State of Illinois, or the Constitution of the United
10 States solely on account of his or her status as a resident of
11 a facility, shall have the right to be treated with courtesy
12 and respect for their individuality by employees or persons
13 providing medical services or care, and shall have their human
14 and civil rights maintained in all aspects of medical care.
15 Employees and persons providing medical services or care must
16 have up-to-date certification, licensure, and training
17 pursuant to applicable Illinois law. A resident shall have his
18 or her basic human needs, including, but not limited to,
19 water, food, medication, toileting, and personal hygiene,
20 accommodated in a timely manner. A resident has the right to
21 maintain his or her autonomy as much as possible, to be a
22 curious and self-actualizing individual, and to engage in
23 intellectual, self-actualizing creative endeavors. All

1 applicable rights under the Medical Patient Rights Act apply
2 to all residents under this Act.

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

4 (210 ILCS 45/2-104) (from Ch. 111 1/2, par. 4152-104)

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

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

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

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

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

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

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

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

9 (b) All medical treatment and procedures shall be
10 administered as ordered by a physician. All new physician
11 orders shall be reviewed by the facility's director of nursing
12 or charge nurse designee within 24 hours after such orders
13 have been issued to assure facility compliance with such
14 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
19 the verification of a signer's credentials. A stamp signature,
20 with 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 (e) A resident shall not perform labor or services for a
12 facility unless those activities are included for therapeutic
13 purposes and appropriately goal-related in his or her
14 individual medical record.

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

16 (210 ILCS 45/2-112) (from Ch. 111 1/2, par. 4152-112)

17 Sec. 2-112. A resident shall be permitted to present
18 grievances on behalf of himself or others to the
19 administrator, the Long-Term Care Facility Advisory Board, the
20 residents' advisory council, State governmental agencies, or
21 other persons of his or her choice, free from restraint,
22 interference, coercion, or discrimination and without threat
23 of discharge or reprisal in any form or manner whatsoever.
24 Every acute care inpatient facility, community-based
25 residential program as defined in Section 6-1 of the

1 Developmental Disability and Mental Disability Services Act,
2 and facility that employ more than 2 people who provide
3 outpatient mental health services shall have a written
4 internal grievance procedure that, at a minimum: (1) sets
5 forth the process to be followed; (2) specifies time limits,
6 including time limits for facility response; (3) provides for
7 the patient to have the assistance of an advocate; (4)
8 requires a written response to written grievances; and (5)
9 provides for a timely decision by an impartial decision maker
10 if the grievance is not otherwise resolved. The administrator
11 shall provide to and post for all residents or their
12 representatives a notice of the grievance procedures of the
13 acute care inpatient facility, community-based residential
14 program, or facility. The notice shall include the name,
15 address, and telephone number of the appropriate State
16 governmental office where complaints may be lodged, including
17 the Department and the area nursing home ombudsman pursuant to
18 Section 307(a)(12) of the federal Older Americans Act of 1965.
19 ~~The administrator shall provide all residents or their~~
20 ~~representatives with the name, address, and telephone number~~
21 ~~of the appropriate State governmental office where complaints~~
22 ~~may be lodged.~~

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