Sen. Karina Villa

Filed: 4/7/2021

AMENDMENT TO SENATE BILL 1633

AMENDMENT NO. _____. Amend Senate Bill 1633 by replacing everything after the enacting clause with the following:

"Section 5. The Nursing Home Care Act is amended by adding Section 2-100 and by changing Sections 2-101, 2-104, and 2-112 as follows:

(210 ILCS 45/2-100 new)

Sec. 2-100. Legislative purpose; public policy. It is the public policy of the State of Illinois that facilities licensed under this Act are an important part of the continuum of long-term care and must be supported and preserved to ensure that the long-term care needs of residents, current and future, remain a priority for the State of Illinois. In support of this goal, it is imperative that the State, facilities, residents, and residents' families work in partnership to address the needs of residents and facilities

in an ever-changing environment. Sufficient support and flexibility must be provided to facilities and facility staff as they work to preserve each person's dignity, individuality, and decision-making ability and promote each person's health, safety, and welfare.

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

Sec. 2-101. No resident shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Illinois, or the Constitution of the United States solely on account of his or her status as a resident of a facility.

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

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

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

participate in the planning of his total care and medical treatment to the extent that his condition permits. Phone numbers and websites for rights protection services must be posted in common areas and provided upon the request of a resident. No resident shall be subjected to experimental research or treatment without first obtaining his informed, written consent. The conduct of any experimental research or treatment shall be authorized and monitored by an institutional review board appointed by the Director. The membership, operating procedures and review criteria for the institutional review board shall be prescribed under rules and regulations of the Department and shall comply with the requirements for institutional review boards established by the federal Food and Drug Administration. No person who has received compensation in the prior 3 years from an entity that manufactures, distributes, or sells pharmaceuticals, biologics, or medical devices may serve on the institutional review board.

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

provided information that would allow a potential human subject to be individually identified, unless the board asks the Ombudsman for help in securing information from or about the resident. The board shall require frequent reporting of the progress of the approved research or treatment and its impact on residents, including immediate reporting of any adverse impact to the resident, the resident's representative, the Office of the State Long Term Care Ombudsman, and the State Protection and Advocacy organization. The board may not approve any retrospective study of the records of any resident about the safety or efficacy of any care or treatment if the resident was under the care of the proposed researcher or a business associate when the care or treatment was given, unless the study is under the control of a researcher without any business relationship to any person or entity who could benefit from the findings of the study.

No facility shall permit experimental research or treatment to be conducted on a resident, or give access to any person or person's records for a retrospective study about the safety or efficacy of any care or treatment, without the prior written approval of the institutional review board. No nursing home administrator, or person licensed by the State to provide medical care or treatment to any person, may assist or participate in any experimental research on or treatment of a resident, including a retrospective study, that does not have the prior written approval of the board. Such conduct shall be

grounds for professional discipline by the Department of Financial and Professional Regulation.

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

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

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

All physician's orders and plans of treatment shall have the authentication of the physician. For the purposes of this

subsection (b), "authentication" means an original written signature or an electronic signature system that allows for the verification of a signer's credentials. A stamp signature, with or without initials, is not sufficient.

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

(c) Every resident shall be permitted to refuse medical treatment and to know the consequences of such action, unless such refusal would be harmful to the health and safety of others and such harm is documented by a physician in the resident's clinical record. The resident's refusal shall free the facility from the obligation to provide the treatment.

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

(e) A resident shall not perform labor or services for a facility unless those activities are included for therapeutic purposes and appropriately goal-related in his or her individual medical record.

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

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

Sec. 2-112. A resident shall be permitted to present grievances on behalf of himself or others to the administrator, the Long-Term Care Facility Advisory Board, the residents' advisory council, State governmental agencies, or other persons of his or her choice, free from restraint, interference, coercion, or discrimination and without threat of discharge or reprisal in any form or manner whatsoever. Every facility shall have a written internal grievance procedure that, at a minimum: (1) must be posted in common areas and provided to the resident or resident's representative; (2) requires the facility to review all grievances and provide a response; (3) requires the facility to follow applicable State and federal requirements for responding to and reporting any grievance alleging potential abuse, neglect, misappropriation of resident property, or exploitation; and (4) requires the facility to keep a copy of all grievances, responses, and outcomes for 3 years and provide the information to the Department upon request. The administrator shall post in common areas and provide all residents or their representatives with the name, address, and telephone number of the appropriate State governmental office where complaints may be lodged. ~~The administrator shall provide all residents or their representatives with the name, address, and telephone number of the appropriate State governmental office where complaints may be lodged.~~

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