

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 1. Findings.

5 (1) The General Assembly finds that contact with family,
6 friends, and clergy is an integral part of the quality of life
7 for nursing home residents. Social isolation has long been a
8 trigger for declining mental and physical health. While the
9 digital revolution creates a new approach for community
10 connectedness, the State of Illinois stands firmly in
11 agreement with the body of research that shows in-person
12 interactions is the preferable and more impactful avenue for
13 family, friends, and clergy to connect with and support
14 nursing home residents and supports virtual visitation
15 programs as a supplement to in-person interactions.
16 Furthermore, the State of Illinois looks to government payor
17 sources and integrated entities of the health care system,
18 including Medicaid managed care organizations, as key
19 stakeholders in providing the adequate resources for residents
20 to digitally connect with loved ones near and far.

21 (2) The General Assembly further finds that use of
22 electronic devices to make and maintain contact with nursing
23 home residents is a new approach and as such must be approached
24 with care to ensure the protection of nursing home residents

1 from those who would seek to harm or defraud them using this
2 new technology.

3 Section 5. The Nursing Home Care Act is amended by adding
4 Section 3-102.3 as follows:

5 (210 ILCS 45/3-102.3 new)

6 Sec. 3-102.3. Religious and recreational activities;
7 social isolation.

8 (a) In this Section:

9 "Assistive and supportive technology and devices" means
10 computers, video conferencing equipment, distance based
11 communication technology, or other technological equipment,
12 accessories, or electronic licenses as may be necessary to
13 ensure that residents are able to engage in face-to-face,
14 verbal-based, or auditory-based contact, communication,
15 religious activity, or recreational activity with other
16 facility residents and with family members, friends, loved
17 ones, caregivers, and other external support systems, through
18 electronic means, in accordance with the provisions of
19 paragraphs (2) and (3) of subsection (c).

20 "Religious and recreational activities" includes any
21 religious, social, or recreational activity that is consistent
22 with a resident's preferences and choosing, regardless of
23 whether the activity is coordinated, offered, provided, or
24 sponsored by facility staff or by an outside activities

1 provider.

2 "Resident's representative" has the same meaning as
3 provided in Section 1-123.

4 "Social isolation" means a state of isolation wherein a
5 resident of a long-term care facility is unable to engage in
6 social interactions and religious and recreational activities
7 with other facility residents or with family members, friends,
8 loved ones, caregivers and external support systems.

9 "Virtual visitation" means the use of face-to-face,
10 verbal-based, or auditory-based contact through electronic
11 means.

12 (b) The Department shall:

13 (1) require each long-term care facility in the State
14 to adopt and implement written policies, provide for the
15 availability of assistive and supportive technology and
16 devices to facility residents, and ensure that appropriate
17 staff are in place to help prevent the social isolation of
18 facility residents; and

19 (2) communicate regularly with the Department of
20 Healthcare and Family Services and the Department on Aging
21 regarding intergovernmental cooperation concerning best
22 practices for potential funding for facilities to mitigate
23 the potential for racial disparities as an unintended
24 consequence of this Act.

25 The virtual visitation policies shall not be interpreted
26 as a substitute for in-person visitation, but shall be wholly

1 in addition to existing in-person visitation policies.

2 (c) The social isolation prevention policies adopted by
3 each long-term care facility pursuant to subsection (b) shall
4 be consistent with rights and privileges guaranteed to
5 residents and constraints provided under Sections 2-108,
6 2-109, and 2-110 and shall include the following:

7 (1) authorization and inclusion of specific protocols
8 and procedures to encourage and enable residents of the
9 facility to engage in in-person contact, communication,
10 religious activity, and recreational activity with other
11 facility residents and with family members, friends, loved
12 ones, caregivers, and other external support systems,
13 except when prohibited, restricted, or limited by federal
14 or State statute, rule, regulation, executive order, or
15 guidance;

16 (2) authorization and inclusion of specific protocols
17 and procedures to encourage and enable residents to engage
18 in face-to-face, verbal-based, or auditory-based contact,
19 communication, religious activity, and recreational
20 activity with other facility residents and with family
21 members, friends, loved ones, caregivers, and other
22 external support systems through the use of electronic or
23 virtual means and methods, including, but not limited to,
24 computer technology, the Internet, social media,
25 videoconferencing, videophone, and other innovative
26 technological means or methods, whenever the resident is

1 subject to restrictions that limit his or her ability to
2 engage in in-person contact, communication, religious
3 activity, or recreational activity as authorized by
4 paragraph (1) and when the technology requested is not
5 being used by other residents in the event of a limited
6 number of items of technology in a facility;

7 (3) a mechanism for residents of the facility or the
8 residents' representatives to request access to assistive
9 and supportive technology and devices as may be necessary
10 to facilitate the residents' engagement in face-to-face,
11 verbal-based, or auditory-based contact, communication,
12 religious activity, and recreational activity with other
13 residents, family members, friends, and other external
14 support systems, through electronic means, as provided by
15 paragraph (2);

16 (4) specific administrative policies, procedures, and
17 protocols governing:

18 (A) the acquisition, maintenance, and replacement
19 of assistive and supportive technology and devices;

20 (B) the use of environmental barriers and other
21 controls when the assistive and supportive technology
22 and devices acquired pursuant to subparagraph (A) are
23 in use, especially in cases where the assistive and
24 supportive technology and devices are likely to become
25 contaminated with bodily substances, are touched
26 frequently, or are difficult to clean; and

1 (C) the regular cleaning of the assistive and
2 supportive technology and devices acquired pursuant to
3 subparagraph (A) and any environmental barriers or
4 other physical controls used in association therewith;

5 (5) a requirement that (i) upon admission and (ii) at
6 the request of a resident or the resident's
7 representative, appropriate staff shall develop and update
8 an individualized virtual visitation schedule while taking
9 into account the individual's requests and preferences
10 with respect to the residents' participation in social
11 interactions and religious and recreational activities;

12 (6) a requirement that appropriate staff, upon the
13 request of a resident or the resident's family members,
14 guardian, or representative, shall develop an
15 individualized virtual visitation schedule for the
16 resident, which shall:

17 (A) address the need for a virtual visitation
18 schedule and establish a virtual visitation schedule
19 if deemed to be appropriate;

20 (B) identify the assessed needs and preferences of
21 the resident and any preferences specified by the
22 resident's representative, unless a preference
23 specified by the resident conflicts with a preference
24 specified by the resident's representative, in which
25 case the resident's preference shall take priority;

26 (C) document the long-term care facility's defined

1 virtual hours of visitation and inform the resident
2 and the resident's representative that virtual
3 visitation pursuant to paragraph (2) of subsection (c)
4 will adhere to the defined visitation hours;

5 (D) describe the location within the facility and
6 assistive and supportive technology and devices to be
7 used in virtual visitation; and

8 (E) describe the respective responsibilities of
9 staff, visitors, and the resident when engaging in
10 virtual visitation pursuant to the individualized
11 visitation plan;

12 (7) a requirement (i) upon admission and (ii) at the
13 request of the resident or the resident's representative,
14 to provide notification to the resident and the resident's
15 representative that they have the right to request of
16 facility staff the creation and review of a resident's
17 individualized virtual visitation schedule;

18 (8) a requirement (i) upon admission and (ii) at the
19 request of the resident or resident's representative, to
20 provide, in writing to the resident or resident's
21 representative, virtual visitation hours, how to schedule
22 a virtual visitation, and how to request assistive and
23 supportive technology and devices;

24 (9) specific policies, protocols, and procedures
25 governing a resident's requisition, use, and return of
26 assistive and supportive technology and devices maintained

1 pursuant to subparagraph (A) of paragraph (4), and require
2 appropriate staff to communicate those policies,
3 protocols, and procedures to residents; and

4 (10) the designation of at least one member of the
5 therapeutic recreation or activities department, or, if
6 the facility does not have such a department, the
7 designation of at least one senior staff member, as
8 determined by facility management, to train other
9 appropriate facility employees, including, but not limited
10 to, activities professionals and volunteers, social
11 workers, occupational therapists, and therapy assistants,
12 to provide direct assistance to residents upon request and
13 on an as-needed basis, as necessary to ensure that each
14 resident is able to successfully access and use, for the
15 purposes specified in paragraphs (2) and (3) of this
16 subsection, the assistive and supportive technology and
17 devices acquired pursuant to subparagraph (A) of paragraph
18 (4).

19 (d) A long-term care facility may apply to the Department
20 for civil monetary penalty fund grants for assistive and
21 supportive technology and devices and may request other
22 available federal and State funds.

23 (e) The Department shall determine whether a long-term
24 care facility is in compliance with the provisions of this
25 Section and the policies, protocols, and procedures adopted
26 pursuant to this Section in accordance with the Nursing Home

1 Care Act for surveys and inspections.

2 In addition to any other applicable penalties provided by
3 law, a long-term care facility that fails to comply with the
4 provisions of this Section or properly implement the policies,
5 protocols, and procedures adopted pursuant to subsection (b)
6 shall be liable to pay an administrative penalty as a Type "C"
7 violation, the amount of which shall be determined in
8 accordance with a schedule established by the Department by
9 rule. The schedule shall provide for an enhanced
10 administrative penalty in the case of a repeat or ongoing
11 violation. Implementation of an administrative penalty as a
12 Type "C" violation under this subsection shall not be imposed
13 prior to January 1, 2023.

14 (f) Whenever a complaint received by the Office of State
15 Long Term Care Ombudsman discloses evidence that a long-term
16 care facility has failed to comply with the provisions of this
17 Section or to properly implement the policies, protocols, and
18 procedures adopted pursuant to subsection (b), the Office of
19 State Long Term Care Ombudsman shall refer the matter to the
20 Department.

21 (g) This Section does not impact, limit, or constrict a
22 resident's right to or usage of his or her personal property or
23 electronic monitoring under Section 2-115.

24 (h) Specific protocols and procedures shall be developed
25 to ensure that the quantity of assistive and supportive
26 technology and devices maintained on-site at the facility

1 remains sufficient, at all times, to meet the assessed social
2 and activity needs and preferences of each facility resident.
3 Residents' family members or caregivers should be considered,
4 as appropriate, in the assessment and reassessment.

5 (i) Within 60 days after the effective date of this
6 amendatory Act of the 102nd General Assembly, the Department
7 shall file rules necessary to implement the provisions of this
8 Section. The rules shall include, but need not be limited to,
9 minimum standards for the social isolation prevention policies
10 to be adopted pursuant to subsection (b), a penalty schedule
11 to be used pursuant to subsection (e), and policies regarding
12 a long-term care facility's Internet access and subsequent
13 Internet barriers in relation to a resident's virtual
14 visitation plan pursuant to paragraph (2) of subsection (c).

15 (j) The Department's rules under subsection (i) shall take
16 into account Internet bandwidth limitations outside of the
17 control of a long-term care facility.

18 (k) Nothing in this Section shall be interpreted to mean
19 that addressing the issues of social isolation shall take
20 precedence over providing for the health and safety of the
21 residents.

22 Section 10. The Illinois Administrative Procedure Act is
23 amended by adding Section 5-45.8 as follows:

24 (5 ILCS 100/5-45.8 new)

1 Sec. 5-45.8. Emergency rulemaking; Nursing Home Care Act.
2 To provide for the expeditious and timely implementation of
3 this amendatory Act of the 102nd General Assembly, emergency
4 rules implementing Section 3-102.3 of the Nursing Home Care
5 Act may be adopted in accordance with Section 5-45 by the
6 Department of Public Health. The adoption of emergency rules
7 authorized by Section 5-45 and this Section is deemed to be
8 necessary for the public interest, safety, and welfare.

9 This Section is repealed on January 1, 2027.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.