



Sen. Kimberly A. Lightford

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10300SB3723sam003

LRB103 36302 AWJ 73730 a

1 AMENDMENT TO SENATE BILL 3723

2 AMENDMENT NO. _____. Amend Senate Bill 3723 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Assisted Living and Shared Housing Act is
5 amended by changing Sections 10, 15, 75, 80, 90, and 95 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,
14 at 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:

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

4 (2) community-based residential care for persons who
5 need assistance with activities of daily living, including
6 personal, supportive, and intermittent health-related
7 services available 24 hours per day, if needed, to meet
8 the scheduled and unscheduled needs of a resident;

9 (3) mandatory services, whether provided directly by
10 the establishment or by another entity arranged for by the
11 establishment, with the consent of the resident or
12 resident's representative; and

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

24 "Assisted living establishment" or "establishment" does
25 not mean any of the following:

26 (1) A home, institution, or similar place operated by

1 the federal government or the State of Illinois.

2 (2) A long term care facility licensed under the
3 Nursing Home Care Act, a facility licensed under the
4 Specialized Mental Health Rehabilitation Act of 2013, a
5 facility licensed under the ID/DD Community Care Act, or a
6 facility licensed under the MC/DD Act. However, a facility
7 licensed under any of those Acts may convert distinct
8 parts of the facility to assisted living. If the facility
9 elects to do so, the facility shall retain the Certificate
10 of Need for its nursing and sheltered care beds that were
11 converted.

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

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

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

20 (6) A nursing home or sanitarium operated solely by
21 and for persons who rely exclusively upon treatment by
22 spiritual means through prayer in accordance with the
23 creed or tenants of a well-recognized church or religious
24 denomination.

25 (7) A facility licensed by the Department of Human
26 Services as a community-integrated living arrangement as

1 defined in the Community-Integrated Living Arrangements
2 Licensure and Certification Act.

3 (8) A supportive residence licensed under the
4 Supportive Residences Licensing Act.

5 (9) The portion of a life care facility as defined in
6 the Life Care Facilities Act not licensed as an assisted
7 living establishment under this Act; a life care facility
8 may apply under this Act to convert sections of the
9 community to assisted living.

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

12 (11) A shared housing establishment.

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

15 "Department" means the Department of Public Health.

16 "Director" means the Director of Public Health.

17 "Emergency situation" means imminent danger of death or
18 serious physical harm to a resident of an 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
22 an 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
12 prepared 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.
6 The 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
15 another person, "owner" means the person who operates the
16 assisted living or shared housing establishment, except that
17 if the person who owns the physical plant is an affiliate of
18 the 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
2 or 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
10 pursuant to an executed designation of representative form
11 specified by 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
2 and for persons who rely exclusively upon treatment by
3 spiritual means through prayer in accordance with the
4 creed 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
2 to 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
11 circumstances under which more frequent assessments of skin
12 integrity and nutritional status shall be required. The
13 comprehensive assessment shall be completed by a physician.
14 Based on the assessment, the resident's interests and
15 preferences, dislikes, and any known triggers for behavior
16 that endangers the resident or others, a written service plan
17 shall be developed and mutually agreed upon by the provider,
18 ~~and~~ the resident, and the resident's representative, if any.
19 The service plan, which shall be reviewed annually, or more
20 often as the resident's condition, preferences, or service
21 needs 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, upon
24 request, be given a copy of the most recent assessment; a
25 supplemental assessment, if any, completed by the
26 establishment; and a service plan. Based on the assessment,

1 the service plan may provide for the disconnection or removal
2 of any appliance.

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

4 (210 ILCS 9/75)

5 Sec. 75. Residency requirements.

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

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

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

16 (1) the person poses a serious threat to himself or
17 herself or to others;

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

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

25 (4) the person requires the assistance of more than

1 one paid caregiver at any given time with an activity of
2 daily living;

3 (5) the person requires more than minimal assistance
4 in moving to a safe area in an emergency;

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

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

22 (8) the person requires gastrostomy feedings unless
23 self-administered or administered by a licensed health
24 care professional;

25 (9) the person requires insertion, sterile irrigation,
26 and replacement of catheter, except for routine

1 maintenance of urinary catheters, unless the catheter care
2 is self-administered or administered by a licensed health
3 care professional;

4 (10) the person requires sterile wound care unless
5 care is self-administered or administered by a licensed
6 health care professional;

7 (11) (blank);

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

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

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

21 (15) other reasons prescribed by the Department by
22 rule.

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

26 (e) Residency shall be terminated when services available

1 to the resident in the establishment are no longer adequate to
2 meet the needs of the resident. The establishment shall notify
3 the resident and the resident's representative, if any, when
4 there is a significant change in the resident's condition that
5 affects the establishment's ability to meet the resident's
6 needs. The requirements of subsection (c) of Section 80 shall
7 then apply. This provision shall not be interpreted as
8 limiting the authority of the Department to require the
9 residency termination of individuals.

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

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

1 (h) For the purposes of items (7) through (10) of
2 subsection (c), a licensed health care professional may not be
3 employed by the owner or operator of the establishment, its
4 parent entity, or any other entity with ownership common to
5 either the owner or operator of the establishment or parent
6 entity, including but not limited to an affiliate of the owner
7 or operator of the establishment. Nothing in this Section is
8 meant to limit a resident's right to choose his or her health
9 care provider.

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

20 (Source: P.A. 103-444, eff. 1-1-24.)

21 (210 ILCS 9/80)

22 Sec. 80. Involuntary termination of residency.

23 (a) Residency shall be involuntarily terminated only for
24 the following reasons:

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

1 (2) nonpayment of contracted charges after the
2 resident and the resident's representative have received a
3 minimum of 30 days' ~~30 days~~ written notice of the
4 delinquency and the resident or the resident's
5 representative has had at least 15 days to cure the
6 delinquency; or

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

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

1 the notice must be provided in a language the individual
2 receiving the notice can read or the establishment must
3 provide a translator who has been trained to assist the
4 resident or the resident's representative in the appeal
5 process. In emergency situations as defined in Section 10 of
6 this Act, the 30-day provision of the written notice may be
7 waived.

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

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

25 (e) The establishment shall offer the resident and the
26 resident's representative, if any, residency termination and

1 relocation assistance including information on available
2 alternative placement. Residents shall be involved in planning
3 the move and shall choose among the available alternative
4 placements except when an emergency situation makes prior
5 resident involvement impossible. Emergency placements are
6 deemed temporary until the resident's input can be sought in
7 the final placement decision. No resident shall be forced to
8 remain in a temporary or permanent placement.

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

16 (g) An establishment may not initiate a termination of
17 residency due to an emergency situation if the establishment
18 is able to safely care for the resident and (1) the resident
19 has been hospitalized and the resident's physician, the
20 establishment's manager, and the establishment's director of
21 nursing state that returning to the establishment would not
22 create an imminent danger of death or serious physical harm to
23 the resident; or (2) the emergency can be negated by changes in
24 activities, health care, personal care, or available rooming
25 accommodations, consistent with the license and services of
26 the establishment. The Department may not find an

1 establishment to be in violation of Section 75 of this Act for
2 failing to initiate an emergency discharge in these
3 circumstances.

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

15 (i) If an order to readmit is entered pursuant to
16 subsection (h), the establishment shall immediately comply. As
17 used in this subsection, "comply" means the establishment and
18 the resident have agreed on a schedule for readmission or the
19 resident is living in the establishment.

20 (j) An establishment that does not readmit a resident
21 after the Department has ordered readmission shall be assessed
22 a fine. The establishment shall be required to submit an
23 acceptable plan of correction to the Department within 30 days
24 after the violation is affirmed.

25 (k) Once a notice of appeal is filed, the Department shall
26 hold a hearing unless the notice of appeal is withdrawn. If the

1 notice of appeal is withdrawn based upon a representation made
2 by the establishment to the resident and the Department,
3 including the hearing officer, that a resident who has been
4 previously denied readmission will be readmitted, failure to
5 comply with the representation shall be considered a failure
6 to comply with a Department order pursuant to subsection (h)
7 and shall result in the imposition of a fine as provided in
8 subsection (j) of this Section.

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

10 (210 ILCS 9/90)

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

18 (1) the name, street address, and mailing address of
19 the establishment;

20 (2) the name and mailing address of the owner or
21 owners of the establishment and, if the owner or owners
22 are not natural persons, the type of business entity of
23 the owner or owners;

24 (3) the name and mailing address of the managing agent
25 of the establishment, whether hired under a management

1 agreement or lease agreement, if the managing agent is
2 different from the owner or owners;

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

6 (5) a statement describing the license status of the
7 establishment and the license status of all providers of
8 health-related or supportive services to a resident under
9 arrangement with the establishment;

10 (6) the duration of the contract;

11 (7) the base rate to be paid by the resident and a
12 description of the services to be provided as part of this
13 rate;

14 (8) a description of any additional services to be
15 provided for an additional fee by the establishment
16 directly or by a third party provider under arrangement
17 with the establishment;

18 (9) the fee schedules outlining the cost of any
19 additional services;

20 (10) a description of the process through which the
21 contract may be modified, amended, or terminated;

22 (11) a description of the establishment's complaint
23 resolution process available to residents and notice of
24 the availability of the Department on Aging's Senior
25 Helpline for complaints;

26 (12) the name of the resident's designated

1 representative, if any;

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

5 (14) the billing and payment procedures and
6 requirements;

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

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

19 (17) a statement detailing the admission, risk
20 management, and residency termination criteria and
21 procedures;

22 (18) a written explanation, prepared by the Office of
23 State Long Term Care Ombudsman, ~~statement~~ listing the
24 rights specified in Sections 80 and Section 95, including
25 an acknowledgment by the establishment and ~~acknowledging~~
26 that, by contracting with the assisted living or shared

1 housing establishment, the resident does not forfeit those
2 rights;

3 (19) a statement detailing the Department's annual
4 on-site review process including what documents contained
5 in a resident's personal file shall be reviewed by the
6 on-site reviewer as defined by rule; and

7 (20) a statement outlining whether the establishment
8 charges a community fee and, if so, the amount of the fee
9 and whether it is refundable; if the fee is refundable,
10 the contract must describe the conditions under which it
11 is refundable and how the amount of the refund is
12 determined.

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

14 (210 ILCS 9/95)

15 Sec. 95. Resident rights. No resident shall be deprived of
16 any rights, benefits, or privileges guaranteed by law, the
17 Constitution of the State of Illinois, or the Constitution of
18 the United States solely on account of his or her status as a
19 resident of an establishment, nor shall a resident forfeit any
20 of the following rights:

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

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

25 (3) the right to respect for bodily privacy and

1 dignity at all times, especially during care and
2 treatment;

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

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

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

8 (7) the right to be free of retaliation for
9 criticizing the establishment or making complaints to
10 appropriate agencies;

11 (8) the right to be free of chemical and physical
12 restraints;

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

15 (10) the right to confidentiality of the resident's
16 medical records;

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

19 (12) the right to 24 hours access to the
20 establishment;

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

23 (14) the right to a minimum of 30 days' ~~30-days~~ notice
24 of an involuntary residency termination, except where the
25 resident poses a threat to himself or others, or in other
26 emergency situations, and the right to appeal such

1 termination; if an establishment withdraws a notice of
2 involuntary termination of residency, then the resident
3 has the right to maintain residency at the establishment;
4 ~~and~~

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

7 (16) the right to not be unlawfully transferred or
8 discharged.

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

10 Section 10. The Nursing Home Care Act is amended by
11 changing Sections 1-114.005, 2-111, 3-401, 3-402, 3-404,
12 3-405, 3-411, and 3-413 and by adding Sections 3-305.6,
13 3-305.7, and 3-413.1 as follows:

14 (210 ILCS 45/1-114.005)

15 Sec. 1-114.005. High risk designation. "High risk
16 designation" means a violation of a provision of the Illinois
17 Administrative Code or statute that has been identified by the
18 Department through rulemaking or designated in statute to be
19 inherently necessary to protect the health, safety, and
20 welfare of a resident.

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

22 (210 ILCS 45/2-111) (from Ch. 111 1/2, par. 4152-111)

23 Sec. 2-111. A resident shall not be transferred or

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

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

13 (210 ILCS 45/3-305.6 new)

14 Sec. 3-305.6. Failure to readmit a resident. A facility
15 that fails to comply with an order of the Department to readmit
16 a resident, pursuant to Section 3-703, who wishes to return to
17 the facility and is appropriate for that level of care and
18 services provided, shall be assessed a \$2,500 fine.

19 As used in this Section, "comply with an order" means that
20 a resident is living in a facility or that a facility and a
21 resident have agreed on a schedule for readmission.

22 (210 ILCS 45/3-305.7 new)

23 Sec. 3-305.7. Ordered readmission of a resident.

24 (a) A facility that complies with an order of the

1 Department to readmit a resident that has been deemed to have
2 been unlawfully discharged shall notify the Department within
3 10 business days that the resident has been readmitted to the
4 facility. The notice provided to the Department shall include,
5 but not be limited to, the following information:

6 (1) the executed order to readmit the resident that
7 was issued by the Department;

8 (2) the Administrative Law Judge's Report and
9 Recommendations submitted by the administrative law judge;

10 (3) the reason or reasons for which the resident was
11 involuntarily discharged and an explanation of why the
12 facility determined it should discharge the resident prior
13 to the order to readmit;

14 (4) the interventions the facility had taken to
15 attempt to mitigate or correct the behavior or condition
16 of the resident who was involuntarily discharged and
17 ordered to be readmitted;

18 (5) any concerns that the facility maintains about
19 risks to safety associated with readmission of the
20 resident; and

21 (6) a copy of the resident's current face sheet that
22 indicates the readmission date.

23 (b) Upon readmission of a resident following an executed
24 order by the Department, the facility shall conduct a
25 reassessment of the resident to determine any necessary
26 changes to the resident's care plan. The assessment shall

1 include identification of any steps the facility could take to
2 attempt to mitigate or correct the behavior or condition of
3 the resident that resulted in the resident being involuntarily
4 discharged.

5 (c) If a resident whose readmission was ordered by the
6 Department commits the same action for which the facility
7 noted concerns about pursuant to subsection (a), the
8 Department shall take into account the notice provided by the
9 facility under this Section in considering whether to impose a
10 fine. If the Department finds that the action was consistent
11 with the concerns the facility stated in the notice required
12 under this Section, the Department may not impose the
13 associated violation or fine on the facility.

14 (210 ILCS 45/3-401) (from Ch. 111 1/2, par. 4153-401)

15 Sec. 3-401. A facility may involuntarily transfer or
16 discharge a resident only for one or more of the following
17 reasons:

18 (a) the facility is unable to meet the medical needs
19 of the resident, as documented in the resident's clinical
20 record by the resident's physician for medical reasons ~~for~~
21 ~~medical reasons;~~

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

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

25 (d) for either late payment or nonpayment for the

1 resident's stay, except as prohibited by Titles XVIII and
2 XIX of the federal Social Security Act. For purposes of
3 this Section, "late payment" means non-receipt of payment
4 after submission of a bill. If payment is not received
5 within 45 days after submission of a bill, a facility may
6 send a notice to the resident and responsible party
7 requesting payment within 30 days. If payment is not
8 received within such 30 days, the facility may thereupon
9 institute transfer or discharge proceedings by sending a
10 notice of transfer or discharge to the resident and
11 responsible party by registered or certified mail. The
12 notice shall state, in addition to the requirements of
13 Section 3-403 of this Act, that the responsible party has
14 the right to pay the amount of the bill in full up to the
15 date the transfer or discharge is to be made and then the
16 resident shall have the right to remain in the facility.
17 Such payment shall terminate the transfer or discharge
18 proceedings. This subsection does not apply to those
19 residents whose care is provided for under the Illinois
20 Public Aid Code. The Department shall adopt rules setting
21 forth the criteria and procedures to be applied in cases
22 of involuntary transfer or discharge permitted under this
23 Section.

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

1 refuse to readmit a resident following a medical leave of
2 absence if the resident's need for care does not exceed the
3 provisions of the facility's license or current services
4 offered.

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

6 (210 ILCS 45/3-402) (from Ch. 111 1/2, par. 4153-402)

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

11 (a) When an emergency transfer or discharge is ordered by
12 the resident's attending physician because of the resident's
13 health care needs. The State Long Term Care Ombudsman shall be
14 notified at the time of the emergency transfer or discharge.

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

1 (c) When an identified offender is within the provisional
2 admission period defined in Section 1-120.3. If the Identified
3 Offender Report and Recommendation prepared under Section
4 2-201.6 shows that the identified offender poses a serious
5 threat or danger to the physical safety of other residents,
6 the facility staff, or facility visitors in the admitting
7 facility and the facility determines that it is unable to
8 provide a safe environment for the other residents, the
9 facility staff, or facility visitors, the facility shall
10 transfer or discharge the identified offender within 3 days
11 after its receipt of the Identified Offender Report and
12 Recommendation.

13 (Source: P.A. 103-320, eff. 1-1-24.)

14 (210 ILCS 45/3-404) (from Ch. 111 1/2, par. 4153-404)

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

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

22 (210 ILCS 45/3-405) (from Ch. 111 1/2, par. 4153-405)

23 Sec. 3-405. A copy of the notice required by Section 3-402
24 shall be placed in the resident's clinical record and a copy

1 shall be transmitted to the Department, the State Long Term
2 Care Ombudsman, the resident, ~~and~~ the resident's
3 representative, if any, the resident's managed care
4 organization.

5 (Source: P.A. 103-320, eff. 1-1-24.)

6 (210 ILCS 45/3-411) (from Ch. 111 1/2, par. 4153-411)

7 Sec. 3-411. The Department of Public Health, when the
8 basis for involuntary transfer or discharge is other than
9 action by the Department of Healthcare and Family Services
10 (formerly Department of Public Aid) with respect to the Title
11 XIX Medicaid recipient, shall hold a hearing at the resident's
12 facility not later than 10 days after a hearing request is
13 filed, and render a decision within 14 days after the filing of
14 the hearing request. The Department has continuing
15 jurisdiction over the transfer or discharge irrespective of
16 the timing of the hearing and decision. Once a request for a
17 hearing is filed, the Department shall hold a hearing unless
18 the request is withdrawn by the resident. If the request for a
19 hearing is withdrawn based upon a representation made by the
20 facility to the resident and the Department, including the
21 hearing officer, that a resident who has been denied
22 readmission will be readmitted, and the resident or resident
23 representative notifies the Department that the facility is
24 still denying readmission, failure to readmit is considered
25 failure to comply with a Department order to readmit pursuant

1 to Section 3-305.6, including the imposition of a \$2,500 fine
2 under Section 3-305.6.

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

4 (210 ILCS 45/3-413) (from Ch. 111 1/2, par. 4153-413)

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

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

17 (210 ILCS 45/3-413.1 new)

18 Sec. 3-413.1. Denial of transfer or discharge. If the
19 Department determines that a transfer or discharge is not
20 authorized under Section 3-401, then the Department shall
21 issue a written decision stating that the transfer or
22 discharge is denied. If the action of the facility giving rise
23 to the request for hearings is the facility's failure to
24 readmit the resident following hospitalization, other medical

1 leave of absence, or other absence, then the Department shall
2 order the immediate readmission of the resident to the
3 facility. The facility shall comply with the order
4 immediately. A copy of the Department's written decision shall
5 be placed in the resident's medical chart. A surveyor shall
6 make an on-site inspection of the facility's compliance with
7 the order unless the resident or resident representative
8 notifies the Department in writing that there is compliance
9 with the order."