

HB0665



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB0665

Introduced 01/31/11, by Rep. Michael J. Madigan

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.

LRB097 03493 RPM 43530 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 (b) All medical treatment and procedures shall be
7 administered as ordered by a physician. All new physician
8 orders shall be reviewed by the facility's director of nursing
9 or charge nurse designee within 24 hours after such orders have
10 been issued to assure facility compliance with such orders.

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

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

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

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