



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB1197

Introduced 1/30/2013, by Sen. John M. Sullivan

#### SYNOPSIS AS INTRODUCED:

210 ILCS 45/2-201

from Ch. 111 1/2, par. 4152-201

Amends the Nursing Home Care Act. Provides that to protect the residents' funds, a facility shall at the time of admission provide each resident, resident's guardian, resident's representative, or resident's immediate family member with a written statement explaining to the resident and to the resident's spouse their obligation to comply with the asset and income disclosure requirements of the federal Social Security Act and the regulations duly promulgated thereunder. Provides that the signed acknowledgment that the facility is to obtain from each resident, resident's guardian, resident's representative, or resident's immediate family member shall acknowledge that such person understands that failure to comply with asset and income disclosure requirements may result in the denial of Medicaid eligibility. Effective immediately.

LRB098 04005 RPM 34025 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 changing  
5 Section 2-201 as follows:

6 (210 ILCS 45/2-201) (from Ch. 111 1/2, par. 4152-201)

7 Sec. 2-201. To protect the residents' funds, the facility:

8 (1) Shall at the time of admission provide, in order of  
9 priority, each resident, or the resident's guardian, if any, or  
10 the resident's representative, if any, or the resident's  
11 immediate family member, if any, with a written statement  
12 explaining to the resident and to the resident's spouse (a)  
13 their spousal impoverishment rights, as defined at Section 5-4  
14 of the Illinois Public Aid Code, and at Section 303 of Title  
15 III of the Medicare Catastrophic Coverage Act of 1988 (P.L.  
16 100-360), ~~and~~ (b) their obligation to comply with the asset and  
17 income disclosure requirements of Title XIX of the federal  
18 Social Security Act and the regulations duly promulgated  
19 thereunder, and (c) the resident's rights regarding personal  
20 funds and listing the services for which the resident will be  
21 charged. The facility shall obtain a signed acknowledgment from  
22 each resident or the resident's guardian, if any, or the  
23 resident's representative, if any, or the resident's immediate

1 family member, if any, that such person has received the  
2 statement and understands that failure to comply with asset and  
3 income disclosure requirements may result in the denial of  
4 Medicaid eligibility.

5 (2) May accept funds from a resident for safekeeping and  
6 managing, if it receives written authorization from, in order  
7 of priority, the resident or the resident's guardian, if any,  
8 or the resident's representative, if any, or the resident's  
9 immediate family member, if any; such authorization shall be  
10 attested to by a witness who has no pecuniary interest in the  
11 facility or its operations, and who is not connected in any way  
12 to facility personnel or the administrator in any manner  
13 whatsoever.

14 (3) Shall maintain and allow, in order of priority, each  
15 resident or the resident's guardian, if any, or the resident's  
16 representative, if any, or the resident's immediate family  
17 member, if any, access to a written record of all financial  
18 arrangements and transactions involving the individual  
19 resident's funds.

20 (4) Shall provide, in order of priority, each resident, or  
21 the resident's guardian, if any, or the resident's  
22 representative, if any, or the resident's immediate family  
23 member, if any, with a written itemized statement at least  
24 quarterly, of all financial transactions involving the  
25 resident's funds.

26 (5) Shall purchase a surety bond, or otherwise provide

1 assurance satisfactory to the Departments of Public Health and  
2 Insurance that all residents' personal funds deposited with the  
3 facility are secure against loss, theft, and insolvency.

4 (6) Shall keep any funds received from a resident for  
5 safekeeping in an account separate from the facility's funds,  
6 and shall at no time withdraw any part or all of such funds for  
7 any purpose other than to return the funds to the resident upon  
8 the request of the resident or any other person entitled to  
9 make such request, to pay the resident his allowance, or to  
10 make any other payment authorized by the resident or any other  
11 person entitled to make such authorization.

12 (7) Shall deposit any funds received from a resident in  
13 excess of \$100 in an interest bearing account insured by  
14 agencies of, or corporations chartered by, the State or federal  
15 government. The account shall be in a form which clearly  
16 indicates that the facility has only a fiduciary interest in  
17 the funds and any interest from the account shall accrue to the  
18 resident. The facility may keep up to \$100 of a resident's  
19 money in a non-interest bearing account or petty cash fund, to  
20 be readily available for the resident's current expenditures.

21 (8) Shall return to the resident, or the person who  
22 executed the written authorization required in subsection (2)  
23 of this Section, upon written request, all or any part of the  
24 resident's funds given the facility for safekeeping, including  
25 the interest accrued from deposits.

26 (9) Shall (a) place any monthly allowance to which a

1 resident is entitled in that resident's personal account, or  
2 give it to the resident, unless the facility has written  
3 authorization from the resident or the resident's guardian or  
4 if the resident is a minor, his parent, to handle it  
5 differently, (b) take all steps necessary to ensure that a  
6 personal needs allowance that is placed in a resident's  
7 personal account is used exclusively by the resident or for the  
8 benefit of the resident, and (c) where such funds are withdrawn  
9 from the resident's personal account by any person other than  
10 the resident, require such person to whom funds constituting  
11 any part of a resident's personal needs allowance are released,  
12 to execute an affidavit that such funds shall be used  
13 exclusively for the benefit of the resident.

14 (10) Unless otherwise provided by State law, upon the death  
15 of a resident, shall provide the executor or administrator of  
16 the resident's estate with a complete accounting of all the  
17 resident's personal property, including any funds of the  
18 resident being held by the facility.

19 (11) If an adult resident is incapable of managing his  
20 funds and does not have a resident's representative, guardian,  
21 or an immediate family member, shall notify the Office of the  
22 State Guardian of the Guardianship and Advocacy Commission.

23 (12) If the facility is sold, shall provide the buyer with  
24 a written verification by a public accountant of all residents'  
25 monies and properties being transferred, and obtain a signed  
26 receipt from the new owner.

1 (Source: P.A. 86-410; 86-486; 86-1028; 87-551; 87-1122.)

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.