



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2971

Introduced 2/4/2020, by Sen. Jennifer Bertino-Tarrant

SYNOPSIS AS INTRODUCED:

210 ILCS 9/90

210 ILCS 9/93 new

210 ILCS 45/2-201

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

Amends the Assisted Living and Shared Housing Act and the Nursing Home Care Act. Directs assisted living establishments and facilities licensed under the Nursing Home Care Act to institute written policies and procedures regarding the acceptance of personal gifts from a resident or the family member of a resident. Requires assisted living establishments and facilities to include in all employment contracts a provision that prohibits acceptance of a monetary gift from a resident or the family member of a resident, which shall also notify the employee of the need to enter into a repayment agreement to recoup the value of any gift accepted by staff from a resident or the family member of a resident that is not returned promptly. Provides that if the employee agrees to and signs the repayment agreement, the assisted living establishment or facility shall be permitted to withhold up to 15% of the employee's wages per paycheck, or a higher amount from the employee's final compensation, until the employee has paid back the full value of the monetary gift.

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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 Assisted Living and Shared Housing Act is
5 amended by changing Section 90 and by adding Section 93 as
6 follows:

7 (210 ILCS 9/90)

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

15 (1) the name, street address, and mailing address of
16 the establishment;

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

21 (3) the name and mailing address of the managing agent
22 of the establishment, whether hired under a management
23 agreement or lease agreement, if the managing agent is

1 different from the owner or owners;

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

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

9 (6) the duration of the contract;

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

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

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

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

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

25 (12) the name of the resident's designated
26 representative, if any;

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

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

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

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

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

21 (18) a statement listing the rights specified in
22 Section 95 and acknowledging that, by contracting with the
23 assisted living or shared housing establishment, the
24 resident does not forfeit those rights;

25 (19) a statement detailing the Department's annual
26 on-site review process including what documents contained

1 in a resident's personal file shall be reviewed by the
2 on-site reviewer as defined by rule; ~~and~~

3 (20) a statement outlining whether the establishment
4 charges a community fee and, if so, the amount of the fee
5 and whether it is refundable; if the fee is refundable, the
6 contract must describe the conditions under which it is
7 refundable and how the amount of the refund is determined;
8 and-

9 (21) a statement outlining the policies and procedures
10 of the establishment regarding the acceptance of personal
11 gifts from a resident or the family member of a resident,
12 consistent with Section 93.

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

14 (210 ILCS 9/93 new)

15 Sec. 93. Personal gifts. An assisted living establishment
16 shall institute written policies and procedures regarding the
17 acceptance of personal gifts from a resident or the family
18 member of a resident. The assisted living establishment shall
19 also prohibit the receipt of a monetary gift, including, but
20 not limited to, cash, a cash equivalent, a gift card, or
21 merchandise from a resident or the family member of a resident.
22 The assisted living establishment shall require that all
23 employment contracts include a provision prohibiting staff
24 from receiving monetary gifts from a resident or the family
25 member of a resident. The provision shall also provide for a

1 repayment agreement to recoup the value of any monetary gift
2 received by staff from a resident that was not returned to the
3 resident. The repayment agreement shall allow the assisted
4 living establishment to withhold up to 15% of an employee's
5 wages per paycheck, or a higher amount from the employee's
6 final compensation, to repay the resident the full value of the
7 monetary gift. If there is an event that triggers the need for
8 a repayment agreement, and the employer and employee agree to a
9 repayment agreement, the employee must sign that agreement
10 before the employer begins to withhold wages.

11 Section 10. The Nursing Home Care Act is amended by
12 changing Section 2-201 as follows:

13 (210 ILCS 45/2-201) (from Ch. 111 1/2, par. 4152-201)

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

15 (1) Shall at the time of admission provide, in order of
16 priority, each resident, or the resident's guardian, if any, or
17 the resident's representative, if any, or the resident's
18 immediate family member, if any, with a written statement
19 explaining to the resident and to the resident's spouse (a)
20 their spousal impoverishment rights, as defined at Section 5-4
21 of the Illinois Public Aid Code, and at Section 303 of Title
22 III of the Medicare Catastrophic Coverage Act of 1988 (P.L.
23 100-360), (b) their obligation to comply with the asset and
24 income disclosure requirements of Title XIX of the federal

1 Social Security Act and the regulations duly promulgated
2 thereunder, except that this item (b) does not apply to
3 facilities operated by the Illinois Department of Veterans'
4 Affairs that do not participate in Medicaid, and (c) the
5 resident's rights regarding personal funds and listing the
6 services for which the resident will be charged. The facility
7 shall obtain a signed acknowledgment from each resident or the
8 resident's guardian, if any, or the resident's representative,
9 if any, or the resident's immediate family member, if any, that
10 such person has received the statement and understands that
11 failure to comply with asset and income disclosure requirements
12 may result in the denial of Medicaid eligibility.

13 (2) May accept funds from a resident for safekeeping and
14 managing, if it receives written authorization from, in order
15 of priority, the resident or the resident's guardian, if any,
16 or the resident's representative, if any, or the resident's
17 immediate family member, if any; such authorization shall be
18 attested to by a witness who has no pecuniary interest in the
19 facility or its operations, and who is not connected in any way
20 to facility personnel or the administrator in any manner
21 whatsoever.

22 (3) Shall maintain and allow, in order of priority, each
23 resident or the resident's guardian, if any, or the resident's
24 representative, if any, or the resident's immediate family
25 member, if any, access to a written record of all financial
26 arrangements and transactions involving the individual

1 resident's funds.

2 (4) Shall provide, in order of priority, each resident, or
3 the resident's guardian, if any, or the resident's
4 representative, if any, or the resident's immediate family
5 member, if any, with a written itemized statement at least
6 quarterly, of all financial transactions involving the
7 resident's funds.

8 (5) Shall purchase a surety bond, or otherwise provide
9 assurance satisfactory to the Departments of Public Health and
10 Insurance that all residents' personal funds deposited with the
11 facility are secure against loss, theft, and insolvency.

12 (6) Shall keep any funds received from a resident for
13 safekeeping in an account separate from the facility's funds,
14 and shall at no time withdraw any part or all of such funds for
15 any purpose other than to return the funds to the resident upon
16 the request of the resident or any other person entitled to
17 make such request, to pay the resident his allowance, or to
18 make any other payment authorized by the resident or any other
19 person entitled to make such authorization.

20 (7) Shall deposit any funds received from a resident in
21 excess of \$100 in an interest bearing account insured by
22 agencies of, or corporations chartered by, the State or federal
23 government. The account shall be in a form which clearly
24 indicates that the facility has only a fiduciary interest in
25 the funds and any interest from the account shall accrue to the
26 resident. The facility may keep up to \$100 of a resident's

1 money in a non-interest bearing account or petty cash fund, to
2 be readily available for the resident's current expenditures.

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

8 (9) Shall (a) place any monthly allowance to which a
9 resident is entitled in that resident's personal account, or
10 give it to the resident, unless the facility has written
11 authorization from the resident or the resident's guardian or
12 if the resident is a minor, his parent, to handle it
13 differently, (b) take all steps necessary to ensure that a
14 personal needs allowance that is placed in a resident's
15 personal account is used exclusively by the resident or for the
16 benefit of the resident, and (c) where such funds are withdrawn
17 from the resident's personal account by any person other than
18 the resident, require such person to whom funds constituting
19 any part of a resident's personal needs allowance are released,
20 to execute an affidavit that such funds shall be used
21 exclusively for the benefit of the resident.

22 (10) Unless otherwise provided by State law, upon the death
23 of a resident, shall provide the executor or administrator of
24 the resident's estate with a complete accounting of all the
25 resident's personal property, including any funds of the
26 resident being held by the facility.

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

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

9 (13) Shall establish written policies and procedures
10 regarding the acceptance of personal gifts from a resident or
11 the family member of a resident consistent with this paragraph.
12 The facility shall include in all employment contracts a
13 provision that prohibits acceptance of a monetary gift,
14 including, but not limited to, cash, a cash equivalent, a gift
15 card, or merchandise, from a resident or the family member of a
16 resident. The provision shall also notify the employee of the
17 need to enter into a repayment agreement to recoup the value of
18 any gift accepted by an employee from a resident or the family
19 member of a resident that is not returned promptly. If the
20 employee agrees to and signs the repayment agreement, the
21 facility shall be permitted to withhold up to 15% of the
22 employee's wages per paycheck, or a higher amount from the
23 employee's final compensation, until the employee has paid back
24 the full value of the monetary gift. The facility shall forward
25 all recovered funds to the resident or the resident's estate as
26 soon as is feasible.

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1 (Source: P.A. 98-523, eff. 8-23-13.)