

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Authorized Electronic Monitoring in Long-Term Care Facilities Act is amended by changing Sections 5, 15, 25, 27, and 65 as follows:

(210 ILCS 32/5)

Sec. 5. Definitions. As used in this Act:

"Authorized electronic monitoring" means the placement and use of an electronic monitoring device by a resident in his or her room in accordance with this Act.

"Department" means the Department of Public Health.

"Electronic monitoring device" means a surveillance instrument with a fixed position video camera or an audio recording device, or a combination thereof, that is installed in a resident's room under the provisions of this Act and broadcasts or records activity or sounds occurring in the room.

"Facility" means an intermediate care facility for the developmentally disabled licensed under the ID/DD Community Care Act that has 30 beds or more, a facility licensed under the MC/DD Act ~~a long-term care for under age 22 facility licensed under the ID/DD Community Care Act~~, or a long-term care facility licensed under the Nursing Home Care Act.

"Resident" means a person residing in a facility.

"Resident's representative" has the meaning given to that term in (1) Section 1-123 of the Nursing Home Care Act if the resident resides in a facility licensed under the Nursing Home Care Act, ~~or~~ (2) Section 1-123 of the ID/DD Community Care Act if the resident resides in a facility licensed under the ID/DD Community Care Act, or (3) Section 1-123 of the MC/DD Act if the resident resides in a facility licensed under the MC/DD Act.

(Source: P.A. 99-430, eff. 1-1-16.)

(210 ILCS 32/15)

Sec. 15. Consent.

(a) Except as otherwise provided in this subsection, a resident, a resident's plenary guardian of the person, or the parent of a resident under the age of 18 must consent in writing on a notification and consent form prescribed by the Department to the authorized electronic monitoring in the resident's room. If the resident has not affirmatively objected to the authorized electronic monitoring and the resident's physician determines that the resident lacks the ability to understand and appreciate the nature and consequences of electronic monitoring, the following individuals may consent on behalf of the resident, in order of priority:

(1) a health care agent named under the Illinois Power of Attorney Act;

(2) a resident's representative, as defined in Section 5 of this Act;

(3) the resident's spouse;

(4) the resident's parent;

(5) the resident's adult child who has the written consent of the other adult children of the resident to act as the sole decision maker regarding authorized electronic monitoring; or

(6) the resident's adult brother or sister who has the written consent of the other adult siblings of the resident to act as the sole decision maker regarding authorized electronic monitoring.

(a-5) Prior to another person, other than a resident's plenary guardian of the person, consenting on behalf of a resident 18 years of age or older in accordance with this Section, the resident must be asked by that person, in the presence of a facility employee, if he or she wants authorized electronic monitoring to be conducted. The person must explain to the resident:

(1) the type of electronic monitoring device to be used;

(2) the standard conditions that may be placed on the electronic monitoring device's use, including those listed in paragraph (7) of subsection (b) of Section 20;

(3) with whom the recording may be shared according to Section 45; and

(4) the resident's ability to decline all recording.

For the purposes of this subsection, a resident affirmatively objects when he or she orally, visually, or through the use of auxiliary aids or services declines authorized electronic monitoring. The resident's response must be documented on the notification and consent form.

(b) A resident or roommate may consent to authorized electronic monitoring with any conditions of the resident's choosing, including, but not limited to, the list of standard conditions provided in paragraph (7) of subsection (b) of Section 20. A resident or roommate may request that the electronic monitoring device be turned off or the visual recording component of the electronic monitoring device be blocked at any time.

(c) Prior to the authorized electronic monitoring, a resident must obtain the written consent of any other resident residing in the room on the notification and consent form prescribed by the Department. Except as otherwise provided in this subsection, a roommate, a roommate's plenary guardian of the person, or the parent of a roommate under the age of 18 must consent in writing to the authorized electronic monitoring in the resident's room. If the roommate has not affirmatively objected to the authorized electronic monitoring in accordance with subsection (a-5) and the roommate's physician determines that the roommate lacks the ability to understand and appreciate the nature and consequences of electronic

monitoring, the following individuals may consent on behalf of the roommate, in order of priority:

(1) a health care agent named under the Illinois Power of Attorney Act;

(2) a roommate's resident's representative, as defined in Section 5 of this Act;

(3) the roommate's spouse;

(4) the roommate's parent;

(5) the roommate's adult child who has the written consent of the other adult children of the resident to act as the sole decision maker regarding authorized electronic monitoring; or

(6) the roommate's adult brother or sister who has the written consent of the other adult siblings of the resident to act as the sole decision maker regarding authorized electronic monitoring.

(c-5) Consent by a roommate under subsection (c) authorizes the resident's use of any recording obtained under this Act, as provided in Section 45 of this Act.

(c-7) Any resident previously conducting authorized electronic monitoring must obtain consent from any new roommate before the resident may resume authorized electronic monitoring. If a new roommate does not consent to authorized electronic monitoring and the resident conducting the authorized electronic monitoring does not remove or disable the electronic monitoring device, the facility shall ~~may~~ turn off

the device.

(d) Consent may be withdrawn by the resident or roommate at any time, and the withdrawal of consent shall be documented in the resident's clinical record. If a roommate withdraws consent and the resident conducting the authorized electronic monitoring does not remove or disable the electronic monitoring device, the facility may turn off the electronic monitoring device.

(e) If a resident who is residing in a shared room wants to conduct authorized electronic monitoring and another resident living in or moving into the same shared room refuses to consent to the use of an electronic monitoring device, the facility shall make a reasonable attempt to accommodate the resident who wants to conduct authorized electronic monitoring. A facility has met the requirement to make a reasonable attempt to accommodate a resident who wants to conduct authorized electronic monitoring when upon notification that a roommate has not consented to the use of an electronic monitoring device in his or her room, the facility offers to move either resident to another shared room that is available at the time of the request. If a resident chooses to reside in a private room in order to accommodate the use of an electronic monitoring device, the resident must pay the private room rate. If a facility is unable to accommodate a resident due to lack of space, the facility must reevaluate the request every 2 weeks until the request is fulfilled.

(Source: P.A. 99-430, eff. 1-1-16.)

(210 ILCS 32/25)

Sec. 25. Cost and installation.

(a) A resident choosing to conduct authorized electronic monitoring must do so at his or her own expense, including paying purchase, installation, maintenance, and removal costs.

(b) If a resident chooses to install an electronic monitoring device that uses Internet technology for visual or audio monitoring, that resident is responsible for contracting with an Internet service provider.

(c) The facility shall make a reasonable attempt to accommodate the resident's installation needs, including, but not limited to, allowing access to the facility's telecommunications or equipment room. A facility has the burden of proving that a requested accommodation is not reasonable.

(d) The electronic monitoring device must be placed in a conspicuously visible location in the room.

(e) A facility may not charge the resident a fee for the cost of electricity used by an electronic monitoring device.

(f) All electronic monitoring device installations and supporting services shall comply with the requirements of the edition of the National Fire Protection Association (NFPA) 101 Life Safety Code in force at the time of installation and shall remain in compliance with that or any subsequent edition of NFPA 101 enforced pursuant to Part 483 of Title 42 of the Code

~~of Federal Regulations - National Fire Protection Association (NFPA) 101 Life Safety Code (2000 edition).~~

(Source: P.A. 99-430, eff. 1-1-16.)

(210 ILCS 32/27)

Sec. 27. Assistance program.

(a) Subject to appropriation, the Department shall establish a program to assist residents receiving medical assistance under Article V of the Illinois Public Aid Code in accessing authorized electronic monitoring.

(b) Subject to appropriation, the ~~The~~ Department shall distribute up to \$50,000 in funds on an annual basis to residents receiving medical assistance under Article V of the Illinois Public Aid Code for the purchase and installation of authorized electronic monitoring devices.

(c) Applications for funds and disbursement of funds must be made in a manner prescribed by the Department.

(Source: P.A. 99-430, eff. 1-1-16.)

Section 10. The MC/DD Act is amended by adding Section 2-116 and by changing Section 3-318 as follows:

(210 ILCS 46/2-116 new)

Sec. 2-116. Authorized electronic monitoring of a resident's room. A resident shall be permitted to conduct authorized electronic monitoring of the resident's room

through the use of electronic monitoring devices placed in the room pursuant to the Authorized Electronic Monitoring in Long-Term Care Facilities Act.

(210 ILCS 46/3-318)

Sec. 3-318. Business offenses.

(a) No person shall:

(1) Intentionally fail to correct or interfere with the correction of a Type "AA", Type "A", or Type "B" violation within the time specified on the notice or approved plan of correction under this Act as the maximum period given for correction, unless an extension is granted and the corrections are made before expiration of extension;

(2) Intentionally prevent, interfere with, or attempt to impede in any way any duly authorized investigation and enforcement of this Act;

(3) Intentionally prevent or attempt to prevent any examination of any relevant books or records pertinent to investigations and enforcement of this Act;

(4) Intentionally prevent or interfere with the preservation of evidence pertaining to any violation of this Act or the rules promulgated under this Act;

(5) Intentionally retaliate or discriminate against any resident or employee for contacting or providing information to any state official, or for initiating, participating in, or testifying in an action for any remedy

authorized under this Act;

(6) Willfully file any false, incomplete or intentionally misleading information required to be filed under this Act, or willfully fail or refuse to file any required information; ~~or~~

(7) Open or operate a facility without a license; or ~~-~~

(8) Intentionally retaliate or discriminate against any resident for consenting to authorized electronic monitoring under the Authorized Electronic Monitoring in Long-Term Care Facilities Act.

(9) Prevent the installation or use of an electronic monitoring device by a resident who has provided the facility with notice and consent as required in Section 20 of the Authorized Electronic Monitoring in Long-Term Care Facilities Act.

(b) A violation of this Section is a business offense, punishable by a fine not to exceed \$10,000, except as otherwise provided in subsection (2) of Section 3-103 as to submission of false or misleading information in a license application.

(c) The State's Attorney of the county in which the facility is located, or the Attorney General, shall be notified by the Director of any violations of this Section.

(Source: P.A. 99-180, eff. 7-29-15.)

(210 ILCS 32/65)

Sec. 65. Rules. The Department shall adopt rules necessary

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to administer and enforce any Section of this Act. Rulemaking shall not delay the full implementation of ~~implement~~ this Act.

(Source: P.A. 99-430, eff. 1-1-16.)

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