

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER d: LONG-TERM CARE FACILITIES

PART 300
SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

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360 AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].
 361

362 SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 1066, effective March 1, 1980, for a
 363 maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 311, effective July 28, 1980; emergency
 364 amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at
 365 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982;
 366 amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective
 367 September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982;
 368 amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective
 369 December 22, 1982; amended at 7 Ill. Reg. 1972, effective January 28, 1983; amended at 7 Ill.
 370 Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983;
 371 amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992,
 372 effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August
 373 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999,
 374 effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186,
 375 effective November 29, 1984; amended at 8 Ill. Reg. 24668, effective December 7, 1984;
 376 amended at 8 Ill. Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective
 377 December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill.
 378 Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987;
 379 amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811,
 380 effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24,
 381 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg.
 382 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended
 383 at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective
 384 October 1, 1990; amended at 15 Ill. Reg. 554, effective January 1, 1991; amended at 16 Ill. Reg.
 385 681, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended
 386 at 16 Ill. Reg. 17089, effective November 3, 1992; emergency amendment at 17 Ill. Reg. 2420,
 387 effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993;

388 emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days;
 389 emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3,
 390 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279,
 391 effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993;
 392 amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1491,
 393 effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended
 394 at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 567,
 395 effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996;
 396 amended at 20 Ill. Reg. 10142, effective July 15, 1996; amended at 20 Ill. Reg. 12208, effective
 397 September 10, 1996; amended at 21 Ill. Reg. 15000, effective November 15, 1997; amended at
 398 22 Ill. Reg. 4094, effective February 13, 1998; amended at 22 Ill. Reg. 7218, effective April 15,
 399 1998; amended at 22 Ill. Reg. 16609, effective September 18, 1998; amended at 23 Ill. Reg.
 400 1103, effective January 15, 1999; amended at 23 Ill. Reg. 8106, effective July 15, 1999;
 401 amended at 24 Ill. Reg. 17330, effective November 1, 2000; amended at 25 Ill. Reg. 4911,
 402 effective April 1, 2001; amended at 26 Ill. Reg. 3113, effective February 15, 2002; amended at
 403 26 Ill. Reg. 4846, effective April 1, 2002; amended at 26 Ill. Reg. 10523, effective July 1, 2002;
 404 emergency amendment at 27 Ill. Reg. 2181, effective February 1, 2003, for a maximum of 150
 405 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5452, effective
 406 March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at
 407 27 Ill. Reg. 5862, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14204, effective
 408 August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at
 409 27 Ill. Reg. 15855, effective September 25, 2003; amended at 27 Ill. Reg. 18105, effective
 410 November 15, 2003; expedited correction at 28 Ill. Reg. 3528, effective November 15, 2003;
 411 amended at 28 Ill. Reg. 11180, effective July 22, 2004; amended at 28 Ill. Reg. 14623, effective
 412 October 20, 2004; amended at 29 Ill. Reg. 876, effective December 22, 2004; emergency
 413 amendment at 29 Ill. Reg. 11824, effective July 12, 2005, for a maximum of 150 days;
 414 emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15101, effective
 415 September 23, 2005, for the remainder of the maximum 150 days; emergency amendment
 416 expired December 8, 2005; amended at 29 Ill. Reg. 12852, effective August 2, 2005; amended at
 417 30 Ill. Reg. 1425, effective January 23, 2006; amended at 30 Ill. Reg. 5213, effective March 2,
 418 2006; amended at 31 Ill. Reg. 6044, effective April 3, 2007; amended at 31 Ill. Reg. 8813,
 419 effective June 6, 2007; amended at 33 Ill. Reg. 9356, effective June 17, 2009; amended at 34 Ill.
 420 Reg. 19182, effective November 23, 2010; amended at 35 Ill. Reg. 3378, effective February 14,
 421 2011; amended at 35 Ill. Reg. 11419, effective June 29, 2011; expedited correction at 35 Ill. Reg.
 422 17468, effective June 29, 2011; amended at 36 Ill. Reg. 14090, effective August 30, 2012;
 423 amended at 37 Ill. Reg. 2298, effective February 4, 2013; amended at 37 Ill. Reg. 4954, effective
 424 March 29, 2013; amended at 38 Ill. Reg. 22851, effective November 21, 2014; amended at 39 Ill.
 425 Reg. 5456, effective March 25, 2015; amended at 41 Ill. Reg. 14811, effective November 15,
 426 2017; amended at 43 Ill. Reg. 3536, effective February 28, 2019; emergency amendment at 44
 427 Ill. Reg. 8521, effective May 5, 2020, for a maximum of 150 days; emergency amendment to
 428 emergency rule at 44 Ill. Reg. 16264, effective September 15, 2020, for the remainder of the 150
 429 days; emergency rule as amended expired October 1, 2020; emergency amendment at 44 Ill.

430 Reg. 10217, effective May 28, 2020, for a maximum of 150 days; amended by emergency
 431 amendment to emergency rule at 44 Ill. Reg. 12931, effective July 14, 2020, for the remainder of
 432 the 150 days; emergency rule as amended repealed at 44 Ill. Reg. 17790, effective October 23,
 433 2020; emergency amendment at 44 Ill. Reg. 16894, effective October 2, 2020, for a maximum of
 434 150 days; emergency rule expired February 28, 2021; emergency amendment at 44 Ill. Reg.
 435 18462, effective October 23, 2020, for a maximum of 150 days; emergency rule expired March
 436 21, 2021; emergency amendment at 44 Ill. Reg. 19551, effective December 2, 2020, for a
 437 maximum of 150 days; emergency amendment to emergency rule at 45 Ill. Reg. 393, effective
 438 December 18, 2020, for the remainder of the 150 days; emergency rule as amended expired April
 439 30, 2021; amended at 45 Ill. Reg. 1134, effective January 8, 2021; emergency amendment at 45
 440 Ill. Reg. 3046, effective March 1, 2021, for a maximum of 150 days; emergency amendment
 441 repealed by emergency rulemaking at 45 Ill. Reg. 10087, effective July 25, 2021; emergency
 442 amendment at 45 Ill. Reg. 4285, effective March 22, 2021, for a maximum of 150 days;
 443 emergency expired August 18, 2021; emergency amendment at 45 Ill. Reg. 6354, effective May
 444 1, 2021, for a maximum of 150 days; emergency expired September 27, 2021; emergency
 445 amendment at 45 Ill. Reg. 9498, effective July 8, 2021, for a maximum of 150 days; emergency
 446 amendment at 45 Ill. Reg. 10847, effective August 19, 2021, for a maximum of 150 days;
 447 emergency amendment to emergency rule at 45 Ill. Reg. 12889, effective September 21, 2021,
 448 for the remainder of the 150 days; emergency amendment to emergency rule at 45 Ill. Reg.
 449 15127, effective November 9, 2021, for the remainder of the 150 days; emergency rule as
 450 amended expired January 15, 2022; amended at 45 Ill. Reg. 11096, effective August 27, 2021;
 451 emergency amendment at 45 Ill. Reg. 11941, effective September 17, 2021, for a maximum of
 452 150 days; emergency amendment to emergency rule at 45 Ill. Reg. 14550, effective November 5,
 453 2021, for the remainder of the 150 days; emergency expired February 13, 2022; emergency
 454 amendment at 45 Ill. Reg. 13108, effective September 28, 2021, for a maximum of 150 days;
 455 emergency expired February 24, 2022; emergency amendment at 45 Ill. Reg. 14003, effective
 456 October 22, 2021, for a maximum of 150 days; emergency expired March 20, 2022; amended at
 457 45 Ill. Reg. 13953, effective October 25, 2021; expedited correction at 46 Ill. Reg. 4157,
 458 effective October 25, 2021; emergency amendment at 46 Ill. Reg. 1928, effective January 16,
 459 2022, for a maximum of 150 days; emergency amendment at 46 Ill. Reg. 3243, effective
 460 February 14, 2022, for a maximum of 150 days; emergency expired July 13, 2022; emergency
 461 amendment at 46 Ill. Reg. 4136, effective February 25, 2022, for a maximum of 150 days;
 462 emergency expired July 24, 2022; emergency amendment at 46 Ill. Reg. 5554, effective March
 463 21, 2022, for a maximum of 150 days; amended at 46 Ill. Reg. 6033, effective April 1, 2022;
 464 amended at 46 Ill. Reg. 10460, effective May 31, 2022; emergency amendment at 46 Ill. Reg.
 465 13378, effective July 14, 2022, for a maximum of 150 days; emergency amendment to
 466 emergency rule at 46 Ill. Reg. 16428, effective September 19, 2022, for the remainder of the 150
 467 days; emergency amendment to emergency rule at 46 Ill. Reg. 18219, effective October 31,
 468 2022, for the remainder of the 150 days; emergency expired December 10, 2022; amended at 46
 469 Ill. Reg. 14237, effective July 27, 2022; amended at 46 Ill. Reg. 16829, effective September 26,
 470 2022; emergency amendment at 46 Ill. Reg. 20243, effective December 11, 2022, for a
 471 maximum of 150 days; emergency expired May 9, 2023; amended at 47 Ill. Reg. 7717, effective
 472 May 17, 2023; amended at 48 Ill. Reg. 3317, effective February 16, 2024; amended at 48 Ill.

473 Reg. 9947, effective June 21, 2024; amended at 48 Ill. Reg. 13796, effective August 28, 2024;
474 amended at 49 Ill. Reg. 760, effective December 31, 2024; Subchapter c recodified at 49 Ill. Reg.
475 2245; amended at 49 Ill. Reg. 4670, effective March 25, 2025; amended at 49 Ill. Reg. 6468,
476 effective April 22, 2025; amended at 49 Ill. Reg. 11527, effective August 26, 2025; amended at
477 50 Ill. Reg. _____, effective _____.

478
479 **SUBPART A: GENERAL PROVISIONS**

480
481 **Section 300.330 Definitions**

482
483 *Abuse – any physical or mental injury or sexual assault inflicted on a resident*
484 *other than by accidental means in a facility. (Section 1-103 of the Act)*

485
486 Abuse means:

487
488 Physical abuse refers to the infliction of injury on a resident that
489 occurs other than by accidental means and that requires (whether
490 or not actually given) medical attention.

491
492 Mental injury arises from the following types of conduct:

493
494 Verbal abuse refers to the use by a licensee, employee or
495 agent of oral, written or gestured language that includes
496 disparaging and derogatory terms to residents or within
497 their hearing or seeing distance, regardless of their age,
498 ability to comprehend or disability.

499
500 Mental abuse includes, but is not limited to, humiliation,
501 harassment, threats of punishment or deprivation, or
502 offensive physical contact by a licensee, employee or agent.

503
504 Sexual harassment or sexual coercion perpetrated by a
505 licensee, employee or agent.

506
507 Sexual assault.

508
509 *Access – the right to:*

510
511 *Enter any facility;*

512
513 *Communicate privately and without restriction with any resident who*
514 *consents to the communication;*
515

516 *Seek consent to communicate privately and without restriction with any*
517 *resident;*

518
519 *Inspect the clinical and other records of a resident with the express*
520 *written consent of the resident;*

521
522 *Observe all areas of the facility except the living area of any resident who*
523 *protests the observation. (Section 1-104 of the Act)*

524
525 Act – as used in this Part, the Nursing Home Care Act.

526
527 Activity Program – a specific planned program of varied group and individual
528 activities geared to the individual resident's needs and available for a reasonable
529 number of hours each day.

530
531 Adaptive Behavior – the effectiveness or degree with which the individual meets
532 the standards of personal independence and social responsibility expected of the
533 individual's age and cultural group.

534
535 Adaptive Equipment – a physical or mechanical device, material or equipment
536 attached or adjacent to the resident's body that may restrict freedom of movement
537 or normal access to one's body, the purpose of which is to permit or encourage
538 movement, or to provide opportunities for increased functioning, or to prevent
539 contractures or deformities. Adaptive equipment is not a physical restraint. No
540 matter the purpose, adaptive equipment does not include any device, material or
541 method described in Section 300.680 of this Part as a physical restraint.

542
543 Addition – any construction attached to the original building that increases the
544 area or cubic content of the building.

545
546 Adequate or Satisfactory or Sufficient – enough in either quantity or quality, as
547 determined by a reasonable person familiar with the professional standards of the
548 subject under review, to meet the needs of the residents of a facility under the
549 particular set of circumstances in existence at the time of review.

550
551 Administrative Warning – a notice to a facility issued by the Department under
552 Section 300.277 of this Part and Section 3-303.2 of the Act that indicates that a
553 situation, condition, or practice in the facility violates the Act or the Department's
554 rules, but is not a Type AA, Type A, Type B, or Type C violation.

555
556 Administrator – *a person who is charged with the general administration and*
557 *supervision of a facility and licensed, if required, under the Nursing Home*
558 *Administrators Licensing and Disciplinary Act. (Section 1-105 of the Act)*

559
560 Advocate – a person who represents the rights and interests of an individual as
561 though they were the person's own, in order to realize the rights to which the
562 individual is entitled, obtain needed services, and remove barriers to meeting the
563 individual's needs.

564
565 *Affiliate – means:*

566
567 *With respect to a partnership, each partner thereof.*

568
569 *With respect to a corporation, each officer, director and stockholder*
570 *thereof.*

571
572 *With respect to a natural person: any person related in the first degree of*
573 *kinship to that person; each partnership and each partner thereof of which*
574 *that person or any affiliate of that person is a partner; and each*
575 *corporation in which that person or any affiliate of that person is an*
576 *officer, director or stockholder. (Section 1-106 of the Act)*

577
578 Aide or Orderly – any person providing direct personal care, training or
579 habilitation services to residents.

580
581 Alteration – any construction change or modification of an existing building that
582 does not increase the area or cubic content of the building.

583
584 Ambulatory Resident – a person who is physically and mentally capable of
585 walking without assistance, or is physically able with guidance to do so, including
586 the ascent and descent of stairs.

587
588 *Applicant – any person making application for a license. (Section 1-107 of the*
589 *Act)*

590
591 Appropriate – term used to indicate that a requirement is to be applied according
592 to the needs of a particular individual or situation.

593
594 Assessment – the use of an objective system with which to evaluate the physical,
595 social, developmental, behavioral, and psychosocial aspects of an individual.

596
597 Audiologist – a person who is licensed as an audiologist under the Illinois
598 Speech-Language Pathology and Audiology Practice Act.

599
600 Autism – a syndrome described as consisting of withdrawal, very inadequate
601 social relationships, exceptional object relationships, language disturbances and

602 monotonously repetitive motor behavior.

603

604 Autoclave – an apparatus for sterilizing by superheated steam under pressure.

605

606 Basement – when used in this Part, any story or floor level below the main or
607 street floor. Where, due to grade difference, there are two levels that qualify as a
608 street floor, a basement is any floor below the level of the two street floors.

609 Basements shall not be counted in determining the height of a building in stories.

610

611 Behavior Modification – treatment to be used to establish or change behavior
612 patterns.

613

614 Cerebral Palsy – a disorder dating from birth or early infancy, nonprogressive,
615 characterized by examples of aberrations of motor function (paralysis, weakness,
616 incoordination) and often other manifestations of organic brain damage such as
617 sensory disorders, seizures, learning difficulty and behavior disorders.

618

619 Certification for Title XVIII and XIX – the issuance of a document by the
620 Department to the U.S. Department of Health and Human Services or the
621 Department of Healthcare and Family Services verifying compliance with
622 applicable statutory or regulatory requirements for the purposes of participation as
623 a provider of care and service in a specific federal or State health program.

624

625 Certified Nursing Assistant – any person who meets the requirements of 77 Ill.
626 Adm. Code 395 and who provides nursing care or personal care to residents of
627 facilities, regardless of title, and who is not otherwise licensed, certified or
628 registered by the Department of Financial and Professional Regulation to render
629 medical care. Certified nursing assistants shall function under the supervision of
630 a licensed nurse.

631

632 Charge Nurse – a registered professional nurse or a licensed practical nurse in
633 charge of the nursing activities for a specific unit or floor during a shift.

634

635 *Chemical Restraint* – any drug that is used for discipline or convenience and is
636 not required to treat medical symptoms or behavior manifestations of mental
637 illness. (Section 2-106 of the Act)

638

639 Colbert Consent Decree – Colbert et al. v. Pritzker et al., Case No. 07 C 4737,
640 United States District Court, N.D. Illinois, Eastern Division.

641

642 Colbert Consent Decree Class Members or Colbert Class Members – all
643 Medicaid-eligible adults with disabilities in Cook County, Illinois, who are being,
644 or may in the future be, unnecessarily confined to nursing facilities and who, with

645 appropriate supports and services, may be able to live in a community setting.

646

647 Colbert Consent Decree Defendant Agencies – the Illinois Department of Human
648 Services, the Illinois Department of Public Health, the Illinois Department on
649 Aging, and the Illinois Department of Healthcare and Family Services, including
650 any successor to these departments.

651

652 Community Alternatives – service programs in the community provided as an
653 alternative to institutionalization.

654

655 Continuing Care Contract – a contract through which a facility agrees to
656 supplement all forms of financial support for a resident throughout the remainder
657 of the resident's life.

658

659 Contract – a binding agreement between a resident or the resident's guardian (or,
660 if the resident is a minor, the resident's parent) and the facility or its agent.

661

662 Dentist – any person licensed to practice dentistry, including persons holding a
663 Temporary Certificate of Registration, as provided in the Illinois Dental Practice
664 Act.

665

666 Department – *the Department of Public Health.* (Section 1-109 of the Act)

667

668 *Developmental Disability – means a severe, chronic disability of a person which:*

669

670 *is attributable to a mental or physical impairment or combination of*
671 *mental and physical impairments, such as intellectual disability, cerebral*
672 *palsy, epilepsy, autism;*

673

674 *is manifested before the person attains age 22;*

675

676 *is likely to continue indefinitely;*

677

678 *results in substantial functional limitations in 3 or more of the following*
679 *areas of major life activity:*

680

681 *self-care,*

682

683 *receptive and expressive language,*

684

685 *learning,*

686

687 *mobility,*

688
689 *self-direction,*
690
691 *capacity for independent living, and*
692
693 *economic self-sufficiency; and*
694
695 *reflects the person's need for combination and sequence of special,*
696 *interdisciplinary or generic care, treatment or other services which are of*
697 *lifelong or extended duration and are individually planned and*
698 *coordinated. (Section 3-801.1 of the Act)*
699

700 Dietetic Service Supervisor – a person who:

701
702 is a dietitian;

703
704 is a graduate of a dietetic and nutrition school or program authorized by
705 the Accreditation Council for Education in Nutrition and Dietetics, the
706 Academy of Nutrition and Dietetics, or the American Clinical Board of
707 Nutrition;

708
709 is a graduate, prior to July 1, 1990, of a Department-approved course that
710 provided 90 or more hours of classroom instruction in food service
711 supervision and has had experience as a supervisor in a health care
712 institution which included consultation from a dietitian;

713
714 has successfully completed an Association of Nutrition & Foodservice
715 Professionals approved Certified Dietary Manager or Certified Food
716 Protection Professional course;

717
718 is certified as a Certified Dietary Manager or Certified Food Protection
719 Professional by the Association of Nutrition & Foodservice Professionals;
720 or

721
722 has training and experience in food service supervision and management
723 in a military service equivalent in content to the programs in the second,
724 third or fourth paragraph of this definition.
725

726 Dietitian – a person who is a licensed dietitian nutritionist as defined in the
727 Dietitian Nutritionist Practice Act.

728
729 Direct Supervision – under the guidance and direction of a supervisor who is
730 responsible for the work, who plans work and methods, who is available on short

731 notice to answer questions and deal with problems that are not strictly routine,
732 who regularly reviews the work performed, and who is accountable for the results.

733
734 *Director – the Director of Public Health or the Director's designee.* (Section 1-
735 110 of the Act)

736
737 Director of Nursing Service – the full-time registered professional nurse who is
738 directly responsible for the immediate supervision of the nursing services.

739
740 *Discharge – the full release of any resident from a facility.* (Section 1-111 of the
741 Act)

742
743 Discipline – any action taken by the facility for the purpose of punishing or
744 penalizing residents.

745
746 Distinct Part – an entire, physically identifiable unit consisting of all of the beds
747 within that unit and having facilities meeting the standards applicable to the levels
748 of service to be provided. Staff and services for a distinct part are established as
749 set forth in the respective regulations governing the levels of services approved
750 for the distinct part.

751
752 *Emergency – a situation, physical condition or one or more practices, methods or*
753 *operations which present imminent danger of death or serious physical or mental*
754 *harm to residents of a facility.* (Section 1-112 of the Act)

755
756 Epilepsy – a chronic symptom of cerebral dysfunction, characterized by recurrent
757 attacks, involving changes in the state of consciousness, sudden in onset, and of
758 brief duration. Many attacks are accompanied by a seizure in which the person
759 falls involuntarily.

760
761 Existing Facility – any facility initially licensed as a health care facility or
762 approved for construction by the Department, or any facility initially licensed or
763 operated by any other agency of the State of Illinois, prior to March 1, 1980.
764 Existing facilities shall meet the design and construction standards for existing
765 facilities for the level of long-term care for which the license (new or renewal) is
766 to be granted.

767
768 Exploitation – taking advantage of a resident for personal gain through the use of
769 manipulation, intimidation, threats or coercion.

770
771 Facility, Intermediate Care – a facility that provides basic nursing care and other
772 restorative services under periodic medical direction. Many of these services may
773 require skill in administration. These facilities are for residents who have long-

774 term illnesses or disabilities that may have reached a relatively stable plateau.

775
776 *Facility or Long-Term Care Facility – a private home, institution, building,*
777 *residence, or any other place, whether operated for profit or not, or a county*
778 *home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22*
779 *of the Counties Code, or any similar institution operated by a political*
780 *subdivision of the State of Illinois, which provides, through its ownership or*
781 *management, personal care, sheltered care or nursing for three or more persons,*
782 *not related to the applicant or owner by blood or marriage. It includes skilled*
783 *nursing facilities and intermediate care facilities as those terms are defined in*
784 *Title XVIII and Title XIX of the Federal Social Security Act (42 U.S.C. 1395 et*
785 *seq. and 1936 et seq.). It also includes homes, institutions, or other places*
786 *operated by or under the authority of the Illinois Department of Veterans' Affairs.*
787 *A "facility" may consist of more than one building as long as the buildings are on*
788 *the same tract, or adjacent tracts of land. However, there shall be no more than*
789 *one "facility" in any one building. "Facility" does not include the following:*

790
791 *A home, institution, or other place operated by the federal government or*
792 *agency thereof, or by the State of Illinois other than homes, institutions, or*
793 *other places operated by or under the authority of the Illinois Department*
794 *of Veterans' Affairs;*

795
796 *A hospital, sanitarium, or other institution whose principal activity or*
797 *business is the diagnosis, care, and treatment of human illness through the*
798 *maintenance and operation as organized facilities therefor, which is*
799 *required to be licensed under the Hospital Licensing Act;*

800
801 *Any "facility for child care" as defined in the Child Care Act of 1969;*

802
803 *Any "community living facility" as defined in the Community Living*
804 *Facilities Licensing Act;*

805
806 *Any nursing home or sanatorium operated solely by and for persons who*
807 *rely exclusively upon treatment by spiritual means through prayer, in*
808 *accordance with the creed or tenets of any well-recognized church or*
809 *religious denomination. However, the nursing home or sanatorium shall*
810 *comply with all local laws and rules relating to sanitation and safety;*

811
812 *Any facility licensed by the Department of Human Services as a*
813 *community-integrated living arrangement as defined in the Community-*
814 *Integrated Living Arrangements Licensure and Certification Act;*

815
816 *Any supportive residence licensed under the Supportive Residences*

817 *Licensing Act;*

818

819 *Any supportive living facility in good standing with the program*
820 *established under Section 5-5.01a of the Illinois Public Aid Code, except*
821 *only for purposes of the employment of persons in accordance with*
822 *Section 3-206.01 of the Act;*

823

824 *Any assisted living or shared housing establishment licensed under the*
825 *Assisted Living and Shared Housing Act, except only for purposes of the*
826 *employment of persons in accordance with Section 3-206.01 of the Act;*

827

828 *An Alzheimer's disease management center alternative health care model*
829 *licensed under the Alternative Health Care Delivery Act;*

830

831 *A facility licensed under the ID/DD Community Care Act;*

832

833 *A facility licensed under the Specialized Mental Health Rehabilitation Act*
834 *of 2013;*

835

836 *A facility licensed under the MC/DD Act; or*

837

838 *A medical foster home, as defined in 38 CFR 17.73, that is under the*
839 *oversight of the U.S. Department of Veterans Affairs. (Section 1-113 of*
840 *the Act)*

841

842 Facility, Skilled Nursing – when used in this Part is synonymous with a skilled
843 nursing facility. A skilled nursing facility provides skilled nursing care,
844 continuous skilled nursing observations, restorative nursing, and other services
845 under professional direction with frequent medical supervision. These facilities
846 are provided for patients who need the type of care and treatment required during
847 the post-acute phase of illness or during recurrences of symptoms in long-term
848 illness.

849

850 Financial Responsibility – having sufficient assets to provide adequate services
851 such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month
852 period of time.

853

854 Full-time – means on duty a minimum of 36 hours, four days per week.

855

856 Goal – an expected result or condition that involves a relatively long period of
857 time to achieve, that is specified in behavioral terms in a statement of relatively
858 broad scope, and that provides guidance in establishing specific, short-term
859 objectives directed toward its attainment.

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Governing Body – the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian – a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975. (Section 1-114 of the Act)

Habilitation – an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Information Management Consultant – a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Health Services Supervisor (Director of Nursing Service) – the full-time Registered Nurse who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

High Risk Designation – a violation, as described in Section 300.282(i), of a provision listed in Section 300.282(j) or in statute that has been identified by the Department in Section 300.282(j) or designated in statute to be inherently necessary to protect the health, safety, and welfare of a resident. (Section 1-114.005 of the Act)

Hospitalization – the care and treatment of a person in a hospital as an inpatient.

Identified Offender – a person who:

Has been convicted of, found guilty of, adjudicated delinquent for, found not guilty by reason of insanity for, or found unfit to stand trial for, any felony offense listed in Section 25 of the Health Care Worker Background Check Act, except for the following: a felony offense described in Section 10-5 of the Nurse Practice Act; a felony offense described in Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card and Debit Card Act; a felony

903 *offense described in Section 5, 5.1, 5.2, 7, or 9 of the Cannabis Control*
904 *Act; a felony offense described in Section 401, 401.1, 404, 405, 405.1,*
905 *407, or 407.1 of the Illinois Controlled Substances Act; and a felony*
906 *offense described in the Methamphetamine Control and Community*
907 *Protection Act; or*

908
909 *Has been convicted of, adjudicated delinquent for, found not guilty by*
910 *reason of insanity for, or found unfit to stand trial for, any sex offense as*
911 *defined in subsection (c) of Section 10 of the Sex Offender Management*
912 *Board Act; or*

913
914 *Any other resident as determined by the Department of State Police.*
915 *(Section 1-114.01 of the Act)*

916
917 Intellectual Disability – subaverage general intellectual functioning originating
918 during the developmental period and associated with maladaptive behavior.

919
920 Interdisciplinary Team – a group of persons that represents those professions,
921 disciplines, or service areas that are relevant to identifying an individual's
922 strengths and needs, and designs a program to meet those needs. This team shall
923 include at least a physician, a social worker and other professionals. The
924 Interdisciplinary Team includes the resident, the resident's guardian, the resident's
925 primary service providers, including staff most familiar with the resident; and
926 other appropriate professionals and caregivers as determined by the resident's
927 needs. The resident or his or her guardian may also invite other individuals to
928 meet with the Interdisciplinary Team and participate in the process of identifying
929 the resident's strengths and needs.

930
931 Lead Defendant Agency – State of Illinois Agency named in each fiscal year's
932 Implementation Plan as the lead agency for the Williams and Colbert Consent
933 Decrees on behalf of the Defendants. For the purposes of this definition,
934 "Implementation Plan" refers to the plan set forth in the Consent Decree, created
935 and implemented by the Defendants, with the input of the Monitor and Plaintiffs,
936 to accomplish the obligations and objectives set forth in the Decree.

937
938 Licensed Nursing Home Administrator – see "Administrator".

939
940 Licensed Practical Nurse – a person with a valid Illinois license to practice as a
941 practical nurse.

942
943 *Licensee – the individual or entity licensed by the Department to operate the*
944 *facility. (Section 1-115 of the Act)*

945

946 Life Care Contract – a contract through which a facility agrees to provide
947 maintenance and care for a resident throughout the remainder of the resident's life.

948
949 *Maintenance – food, shelter, and laundry services.* (Section 1-116 of the Act)

950
951 Maladaptive Behavior – impairment in adaptive behavior as determined by a
952 clinical psychologist or by a physician. Impaired adaptive behavior may be
953 reflected in delayed maturation, reduced learning ability or inadequate social
954 adjustment.

955
956 Medical Ventilator (or assisted ventilation) – a mechanized device that enables
957 the delivery or movement of air and oxygen into the lungs of a patient whose
958 breathing has ceased, is failing, or is inadequate.

959
960 Misappropriation of a Resident's Property – *the deliberate misplacement,*
961 *exploitation, or wrongful temporary or permanent use of a resident's belongings*
962 *or money without the resident's consent.* (Section 1-116.5 of the Act)

963 Misappropriation of a resident's property includes failure to return valuables after
964 a resident's discharge; or failure to refund money after death or discharge when
965 there is an unused balance in the resident's personal account.

966
967 Monitor – a qualified person placed in a facility by the Department to observe
968 operations of the facility, assist the facility by advising it on how to comply with
969 the State regulations, and who reports periodically to the Department on the
970 operations of the facility.

971
972 *Neglect – a facility's failure to provide, or willful withholding of, adequate*
973 *medical care, mental health treatment, psychiatric rehabilitation, personal care,*
974 *or assistance with activities of daily living that is necessary to avoid physical*
975 *harm, mental anguish, or mental illness of a resident.* (Section 1-117 of the Act)

976 This shall include any allegation in which:

977
978 the alleged failure causing injury or deterioration is ongoing or repetitious;
979 or

980
981 a resident required medical treatment as a result of the alleged failure; or

982
983 the failure is alleged to have caused a noticeable negative impact on a
984 resident's health, behavior or activities for more than 24 hours.

985
986 New Facility – any facility initially licensed as a health care facility by the
987 Department, or any facility initially licensed or operated by any other agency of
988 the State of Illinois, on or after March 1, 1980. New facilities shall meet the

989 design and construction standards for new facilities for the level of long-term care
990 for which the license (new or renewal) is to be granted.

991
992 *Nurse – a registered professional nurse or a licensed practical nurse as defined*
993 *in the Nurse Practice Act. (Section 1-118 of the Act)*

994
995 Nursing Care – a complex of activities that carries out the diagnostic, therapeutic,
996 and rehabilitative plan as prescribed by the physician; care for the resident's
997 environment; observing symptoms and reactions and taking necessary measures
998 to carry out nursing procedures involving understanding of cause and effect to
999 safeguard life and health.

1000
1001 Nursing Unit – a physically identifiable designated area of a facility consisting of
1002 all the beds within the designated area, but having no more than 75 beds, none of
1003 which are more than 120 feet from the nurse's station.

1004
1005 Objective – an expected result or condition that involves a relatively short period
1006 of time to achieve, that is specified in behavioral terms, and that is related to the
1007 achievement of a goal.

1008
1009 Occupational Therapist, Registered or OTR – a person who is registered as an
1010 occupational therapist under the Illinois Occupational Therapy Practice Act.

1011
1012 Occupational Therapy Assistant – a person who is registered as a certified
1013 occupational therapy assistant under the Illinois Occupational Therapy Practice
1014 Act.

1015
1016 Operator – the person responsible for the control, maintenance and governance of
1017 the facility, its personnel and physical plant.

1018
1019 Oversight – general watchfulness and appropriate reaction to meet the total needs
1020 of the residents, exclusive of nursing or personal care. Oversight shall include,
1021 but is not limited to, social, recreational and employment opportunities for
1022 residents who, by reason of mental disability, or in the opinion of a licensed
1023 physician, are in need of residential care.

1024
1025 *Owner – the individual, partnership, corporation, association or other person*
1026 *who owns a facility. In the event a facility is operated by a person who leases the*
1027 *physical plant, which is owned by another person, "owner" means the person who*
1028 *operates the facility, except that if the person who owns the physical plant is an*
1029 *affiliate of the person who operates the facility and has significant control over*
1030 *the day-to-day operations of the facility, the person who owns the physical plant*
1031 *shall incur jointly and severally with the owner all liabilities imposed on an*

1032 *owner under the Act.* (Section 1-119 of the Act)

1033

1034 Person – any individual, partnership, corporation, association, municipality,
1035 political subdivision, trust, estate or other legal entity whatsoever.

1036

1037 *Personal Care – assistance with meals, dressing, movement, bathing or other*
1038 *personal needs or maintenance, or general supervision and oversight of the*
1039 *physical and mental well-being of an individual who is incapable of maintaining a*
1040 *private, independent residence or who is incapable of managing his person,*
1041 *whether or not a guardian has been appointed for this individual.* (Section 1-120
1042 of the Act)

1043

1044 Pharmacist, Licensed – a person who holds a license as a pharmacist under the
1045 Pharmacy Practice Act.

1046

1047 *Physical Restraint – any manual method or physical or mechanical device,*
1048 *material, or equipment attached or adjacent to a resident's body that the resident*
1049 *cannot remove easily and which restricts freedom of movement or normal access*
1050 *to one's body.* (Section 2-106 of the Act)

1051

1052 Physical Therapist – a person who is registered as a physical therapist under the
1053 Illinois Physical Therapy Act.

1054

1055 Physical Therapist Assistant – a person who has graduated from a two-year
1056 college level program approved by the American Physical Therapy Association.

1057

1058 Physician – any person licensed to practice medicine in all its branches as
1059 provided in the Medical Practice Act of 1987.

1060

1061 Probationary License – an initial license issued for a period of 120 days during
1062 which time the Department will determine the qualifications of the applicant.

1063

1064 *Provisional Admission Period – the time between the admission of an identified*
1065 *offender as defined in Section 1-114.01 of the Act and this Section, and 3 days*
1066 *following the admitting facility's receipt of an Identified Offender Report and*
1067 *Recommendation in accordance with Section 2-201.6 of the Act.* (Section 1-120.3
1068 of the Act)

1069

1070 *Psychiatric Services Rehabilitation Aide – an individual employed by a long-term*
1071 *care facility to provide, for mentally ill residents, at a minimum, crisis*
1072 *intervention, rehabilitation, and assistance with activities of daily living.* (Section
1073 1-120.7 of the Act)

1074

1075 Psychiatrist – a physician who has had at least three years of formal training or
1076 primary experience in the diagnosis and treatment of mental illness.
1077

1078 Psychologist – a person who is licensed to practice clinical psychology under the
1079 Clinical Psychologist Licensing Act.
1080

1081 Qualified Professional – a person who meets the educational, technical and ethical
1082 criteria of a health care profession, as evidenced by eligibility for membership in
1083 an organization established by the profession for the purpose of recognizing those
1084 persons who meet this criteria; and who is licensed, registered, or certified by the
1085 State of Illinois, if required.
1086

1087 *Reasonable Hour or Visiting Hours – any time between the hours of 10 a.m. and*
1088 *8 p.m. daily. (Section 1-121 of the Act)*
1089

1090 Registered Professional Nurse – a person with a valid license to practice as a
1091 registered professional nurse under the Nurse Practice Act.
1092

1093 *Repeat Violation – for purposes of assessing fines under Section 3-305 of the*
1094 *Act, a violation that has been cited during one inspection of the facility for which*
1095 *a subsequent inspection indicates that an accepted plan of correction was not*
1096 *complied with, within a period of not more than 12 months from the issuance of*
1097 *the initial violation. A repeat violation shall not be a new citation of the same*
1098 *rule, unless the licensee is not substantially addressing the issue routinely*
1099 *throughout the facility. (Section 3-305(7) of the Act)*
1100

1101 Reputable Moral Character – having no history of a conviction of the applicant, or
1102 if the applicant is a firm, partnership, or association, of any of its members, or of a
1103 corporation, of any of its officers, or directors, or of the person designated to
1104 manage or supervise the facility, of a felony, or of two or more misdemeanors
1105 involving moral turpitude, as shown by a certified copy of the record of the court
1106 of conviction, or in the case of the conviction of a misdemeanor by a court not of
1107 record, as shown by other evidence; or other satisfactory evidence that the moral
1108 character of the applicant, or manager, or supervisor of the facility is not
1109 reputable.
1110

1111 *Resident – person receiving personal or medical care, including but not limited*
1112 *to mental health treatment, psychiatric rehabilitation, physical rehabilitation, and*
1113 *assistance with activities of daily living, from a facility. (Section 1-122 of the Act)*
1114

1115 Resident Services Director – the full-time administrator, or an individual on the
1116 professional staff in the facility, who is directly responsible for the coordination
1117 and monitoring of the residents' overall plans of care in an intermediate care

- 1118 facility.
- 1119
- 1120 *Resident's Representative – a person other than the owner, or an agent or*
- 1121 *employee of a facility not related to the resident, designated in writing by a*
- 1122 *resident to be his or her representative, or the resident's guardian, or the parent*
- 1123 *of a minor resident for whom no guardian has been appointed. (Section 1-123 of*
- 1124 *the Act)*
- 1125
- 1126 Restorative Services or Restorative Measures – services or measures designed to
- 1127 assist residents to attain and maintain the highest degree of function of which they
- 1128 are capable (physical, mental, and social).
- 1129
- 1130 Room – a part of the inside of a facility that is partitioned continuously from floor
- 1131 to ceiling with openings closed with glass or hinged doors.
- 1132
- 1133 Sanitization – the reduction of pathogenic organisms on a utensil surface to a safe
- 1134 level, which is accomplished through the use of steam, hot water, or chemicals.
- 1135
- 1136 Seclusion – the retention of a resident alone in a room with a door that the
- 1137 resident cannot open.
- 1138
- 1139 Self Preservation – the ability to follow directions and recognize impending
- 1140 danger or emergency situations and react by avoiding or leaving the unsafe area.
- 1141
- 1142 Social Worker – a person who is a licensed social worker or a licensed clinical
- 1143 social worker under the Clinical Social Work and Social Work Practice Act.
- 1144
- 1145 State Authorized Personnel – individuals who have a legal duty to provide
- 1146 specified services to residents of long-term care facilities, including, but not
- 1147 limited to, representatives of the Office of the State Long-Term Care Ombudsman
- 1148 Program, the Office of State Guardian, and community-service providers or third
- 1149 parties serving as agents of the State for purposes of providing telemedicine,
- 1150 transitional services to community-based living, in-person assessments and
- 1151 evaluations, legal services, and other supports related to existing consent decrees
- 1152 court-mandated actions.
- 1153
- 1154 State Fire Marshal – the Fire Marshal of the Office of the State Fire Marshal,
- 1155 Division of Fire Prevention.
- 1156
- 1157 Sterilization – the act or process of destroying completely all forms of microbial
- 1158 life, including viruses.
- 1159
- 1160 *Stockholder of a Corporation – any person who, directly or indirectly,*

1161 *beneficially owns, holds or has the power to vote, at least 5% of any class of*
1162 *securities issued by the corporation. (Section 1-125 of the Act)*
1163

1164 Story – when used in this Part, means that portion of a building between the upper
1165 surface of any floor and the upper surface of the floor above except that the
1166 topmost story shall be the portion of a building between the upper surface of the
1167 topmost floor and the upper surface of the roof above.
1168

1169 *Student Intern – any person whose total term of employment in any facility during*
1170 *any 12-month period is equal to or less than 90 continuous days, and whose term*
1171 *of employment:*
1172

1173 *is an academic credit requirement in a high school or undergraduate or*
1174 *graduate institution; or*
1175

1176 *immediately succeeds a full quarter, semester or trimester of academic*
1177 *enrollment in either a high school or undergraduate or graduate*
1178 *institution, provided that this person is registered for another full quarter,*
1179 *semester or trimester of academic enrollment in either a high school or*
1180 *undergraduate institution which quarter, semester or trimester will*
1181 *commence immediately following the term of employment; or*
1182

1183 *immediately succeeds graduation from the high school or undergraduate*
1184 *or graduate institution. (Section 1-125.1 of the Act)*
1185

1186 Substantial Compliance – meeting requirements except for variance from the
1187 strict and literal performance that results in unimportant omissions or defects
1188 given the particular circumstances involved. This definition is limited to the term
1189 as used in Sections 300.140(a)(3) and 300.150(a)(3).
1190

1191 Substantial Failure – the failure to meet requirements other than a variance from
1192 the strict and literal performance that results in unimportant omissions or defects
1193 given the particular circumstances involved. This definition is limited to the term
1194 as used in Section 300.165(b)(1).
1195

1196 Supervision – authoritative guidance by a qualified person for the
1197 accomplishment of a function or activity within his or her sphere of competence.
1198

1199 Therapeutic Recreation Specialist – a person who is certified by the National
1200 Council for Therapeutic Recreation Certification and who meets the minimum
1201 standards it has established for classification as a Therapeutic Recreation
1202 Specialist.
1203

1204 Time Out – removing an individual from a situation that results in undesirable
1205 behavior. It is a behavior modification procedure that is developed and
1206 implemented under the supervision of a qualified professional.
1207

1208 *Title XVIII – Title XVIII of the federal Social Security Act as now or hereafter*
1209 *amended.* (Section 1-126 of the Act)
1210

1211 *Title XIX – Title XIX of the federal Social Security Act as now or hereafter*
1212 *amended.* (Section 1-127 of the Act)
1213

1214 *Transfer – a change in status of a resident's living arrangements from one facility*
1215 *to another facility.* (Section 1-128 of the Act)
1216

1217 *Type AA Violation – a violation of the Act or this Part which creates a condition*
1218 *or occurrence relating to the operation and maintenance of a facility that*
1219 *proximately caused a resident's death.* (Section 1-128.5 of the Act)
1220

1221 *Type A Violation – a violation of the Act or this Part that creates a condition or*
1222 *occurrence relating to the operation and maintenance of a facility that creates a*
1223 *substantial probability that the risk of death or serious mental or physical harm to*
1224 *a resident will result therefrom or has resulted in actual physical or mental harm*
1225 *to a resident.* (Section 1-129 of the Act)
1226

1227 *Type B Violation – a violation of the Act or this Part that creates a condition or*
1228 *occurrence relating to the operation and maintenance of a facility that is more*
1229 *likely than not to cause more than minimal physical or mental harm to a resident.*
1230 (Section 1-130 of the Act)
1231

1232 *Type C Violation – a violation of the Act or this Part that creates a condition or*
1233 *occurrence relating to the operation and maintenance of a facility that creates a*
1234 *substantial probability that less than minimal physical or mental harm to a*
1235 *resident will result therefrom.* (Section 1-132 of the Act)
1236

1237 Unit – an entire physically identifiable residence area having facilities meeting
1238 the standards applicable to the levels of service to be provided. Staff and services
1239 for each distinct resident area are established as set forth in the respective rules
1240 governing the approved levels of service.
1241

1242 Universal Progress Notes – a common record with periodic narrative
1243 documentation by all persons involved in resident care.
1244

1245 Valid License – a license that is unsuspended, unrevoked and unexpired.
1246

(Source: Amended at 50 Ill. Reg. _____, effective _____)

SUBPART P: RESIDENT'S RIGHTS

Section 300.3300 Transfer or Discharge

- a) *A resident shall not be transferred or discharged in violation of the Act. A resident may be discharged from a facility after the resident gives the administrator, a physician, or a nurse of the facility written notice of their desire to be discharged. If a guardian has been appointed for a resident or if the resident is a minor, the resident shall be discharged upon written consent of their guardian or if the resident is a minor, their parent unless there is a court order to the contrary. In such cases, upon the resident's discharge, the facility is relieved from any responsibility for the resident's care, safety or well-being. A resident has the right to not be unlawfully transferred or discharged.* (Section 2-111 of the Act)
- b) Each resident's rights regarding involuntary transfer or discharge from a facility shall be as described in subsections (c) through (y) of this Section.
- c) Reasons for Transfer or Discharge
 - 1) *A facility may involuntarily transfer or discharge a resident only for one or more of the following reasons:*
 - A) *The facility is unable to meet the medical needs of the resident, as documented in the resident's clinical record by the resident's physicians~~for medical reasons~~;*
 - B) *For~~for~~ the resident's physical safety;*
 - C) *For~~for~~ the physical safety of other residents, the facility staff or facility visitors; or*
 - D) *For~~for~~ either late payment or nonpayment for the resident's stay, except as prohibited by Titles XVIII and XIX of the federal Social Security Act. For purposes of this Section, "late payment" means non-receipt of payment after submission of a bill. If payment is not received within 45 days after submission of a bill, a facility may send a notice to the resident and responsible party requesting payment within 30 days. If payment is not received within such 30 days, the facility may thereupon institute transfer or discharge proceedings by sending a notice of transfer or discharge to the*

1290 *resident and responsible party by registered or certified mail. The*
1291 *notice shall state, in addition to the requirements of Section 3-403*
1292 *of the Act and subsection (e) of this Section, that the responsible*
1293 *party has the right to pay the amount of the bill in full up to the*
1294 *date the transfer or discharge is to be made and then the resident*
1295 *shall have the right to remain in the facility. Such payment shall*
1296 *terminate the transfer or discharge proceedings. This subsection*
1297 *(c) does not apply to those residents whose care is provided under*
1298 *the Illinois Public Aid Code.* ~~(Section 3-401 of the Act)~~
1299

1300 2) *In the absence of other bases for transfer or discharge in subsection*
1301 *(c)(1), unless the facility has complied with the prior notice and other*
1302 *procedural requirements of the Act, a facility may not refuse to readmit a*
1303 *resident following a medical leave of absence if the resident's need for*
1304 *care does not exceed the provisions of the facility's license or current*
1305 *services offered. (Section 3-401 of the Act)*
1306

1307 32) **Prohibition of Discrimination**
1308

1309 A) *A facility participating in the Medical Assistance Program is*
1310 *prohibited from failing or refusing to retain as a resident any*
1311 *person because the resident is a recipient of or an applicant for the*
1312 *Medical Assistance Program. (Section 3-401.1(a) of the Act) For*
1313 *the purposes of Section 3-401.1 of the Act, a recipient or applicant*
1314 *shall be considered a resident in the facility during any hospital*
1315 *stay totaling 10 days or less following a hospital admission.*
1316 *(Section 3-401.1(a-10) of the Act) The day on which a resident is*
1317 *discharged from the facility and admitted to the hospital shall be*
1318 *considered the first day of the 10-day period.*
1319

1320 B) *A facility of which only a distinct part is certified to participate in*
1321 *the Medical Assistance Program may refuse to retain as a resident*
1322 *any person who resides in a part of the facility that does not*
1323 *participate in the Medical Assistance Program and who is unable*
1324 *to pay for the person's own care in the facility without Medical*
1325 *Assistance only if:*
1326

1327 i) *The facility, no later than at the time of admission and at*
1328 *the time of the resident's contract renewal, explains to the*
1329 *resident (unless the resident is incompetent), and to the*
1330 *resident's representative, and to the person making*
1331 *payment on behalf of the resident for the resident's stay, in*
1332 *writing, that the facility may discharge the resident if the*

1376 assistance to residents transferred or discharged under this subsection
1377 (d)(2), and the Department may place relocation teams as provided in
1378 Section 3-419 of the Act; or (Section 3-402(b) of the Act)
1379

1380 3) When an identified offender is within the provisional admission period
1381 defined in Section 1-120.3 of the Act and Section 300.330 of this Part. If
1382 the Identified Offender Report and Recommendation prepared under
1383 Section 2-201.6 of the Act shows that the identified offender poses a
1384 serious threat or danger to the physical safety of other residents, the
1385 facility staff, or facility visitors in the admitting facility, and the facility
1386 determines that it is unable to provide a safe environment for the other
1387 residents, the facility staff, or facility visitors, the facility shall transfer or
1388 discharge the identified offender within 3 days after its receipt of the
1389 Identified Offender Report and Recommendation. (Section 3-402(c) of the
1390 Act)
1391

1392 e) For transfer or discharge made under subsection (d), the notice of transfer or
1393 discharge shall be made as soon as practicable before the transfer or discharge.
1394 The notice required by subsection (d) shall be on a form prescribed by the
1395 Department and shall contain all of the following:
1396

1397 1) The stated reason for the proposed transfer or discharge; (Section 3-
1398 403(a) of the Act)
1399

1400 2) The effective date of the proposed transfer or discharge; (Section 3-403(b)
1401 of the Act)
1402

1403 3) A statement in not less than 12-point type, which reads:
1404

1405 *"You have a right to appeal the facility's decision to transfer or discharge*
1406 *you. If you think you should not have to leave this facility, you may file a*
1407 *request for a hearing with the Department of Public Health within 10 days*
1408 *after receiving this notice. If you request a hearing, it will be held not*
1409 *later than 10 days after your request, and you generally will not be*
1410 *transferred or discharged during that time. If the decision following the*
1411 *hearing is not in your favor, you generally will not be transferred or*
1412 *discharged prior to the expiration of 30 days following receipt of the*
1413 *original notice of the transfer or discharge. A form to appeal the facility's*
1414 *decision and to request a hearing is attached. If you have any questions,*
1415 *call the Department of Public Health or the State Long Term Care*
1416 *Ombudsman at the telephone numbers listed below.";* (Section 3-403(c) of
1417 the Act)
1418

- 1419 4) *A hearing request form, together with a postage paid, preaddressed*
 1420 *envelope to the Department; and (Section 3-403(d) of the Act)*
 1421
- 1422 5) *The name, address, and telephone number of the person charged with the*
 1423 *responsibility of supervising the transfer or discharge. (Section 3-403(e)*
 1424 *of the Act)*
 1425
- 1426 f) *A request for a hearing made under subsection (e) of this Section and Section 3-*
 1427 *403 of the Act shall stay a transfer or discharge pending a hearing or appeal of*
 1428 *the decision, unless a condition which would have allowed transfer or discharge*
 1429 *in less than ~~3021~~ days as described under subsections (d)(1) and (2) of this*
 1430 *Section develops in the interim. (Section 3-404 of the Act)*
 1431
- 1432 g) *A copy of the notice required by subsection (d)(1) of this Section and Section 3-*
 1433 *402 of the Act shall be placed in the resident's clinical record and a copy shall be*
 1434 *transmitted to the Department, the State Long-Term Care Ombudsman, the*
 1435 *resident, ~~and~~ the resident's representative, if any, and the resident's managed care*
 1436 *organization. (Section 3-405 of the Act)*
 1437
- 1438 h) *When the basis for an involuntary transfer or discharge is the result of an action*
 1439 *by the Department of Healthcare and Family Services with respect to a recipient*
 1440 *of Title XIX and a hearing request is filed with the Department of Healthcare and*
 1441 *Family Services, the 21-day written notice period shall not begin until a final*
 1442 *decision in the matter is rendered by the Department of Healthcare and Family*
 1443 *Services or a court of competent jurisdiction and notice of that final decision is*
 1444 *received by the resident and the facility. (Section 3-406 of the Act)*
 1445
- 1446 i) *When nonpayment is the basis for involuntary transfer or discharge, the resident*
 1447 *shall have the right to redeem up to the date that the discharge or transfer is to be*
 1448 *made and then shall have the right to remain in the facility. (Section 3-407 of the*
 1449 *Act)*
 1450
- 1451 j) *The planned involuntary transfer or discharge shall be discussed with the*
 1452 *resident, the resident's representative and person or agency responsible for the*
 1453 *resident's placement, maintenance, and care in the facility. The explanation and*
 1454 *discussion of the reasons for involuntary transfer or discharge shall include the*
 1455 *facility administrator or other appropriate facility representative as the*
 1456 *administrator's designee. The content of the discussion and explanation shall be*
 1457 *summarized in writing and shall include the names of the individuals involved in*
 1458 *the discussions and made a part of the resident's clinical record. (Section 3-408*
 1459 *of the Act)*
 1460
- 1461 k) *The facility shall offer the resident counseling services before the transfer or*

- 1462 discharge of the resident. (Section 3-409 of the Act)
1463
1464 l) A resident subject to involuntary transfer or discharge from a facility, the
1465 resident's guardian or if the resident is a minor, the resident's, shall have the
1466 opportunity to file a request for a hearing with the Department within 10 days
1467 following receipt of the written notice of the involuntary transfer or discharge by
1468 the facility. (Section 3-410 of the Act)
1469
1470 m) The Department of Public Health, when the basis for involuntary transfer or
1471 discharge is other than action by the Department of Healthcare and Family
1472 Services with respect to the Title XIX Medicaid recipient, shall hold a hearing at
1473 the resident's facility not later than 10 days after a hearing request is filed, and
1474 render a decision within 14 days after the filing of the hearing request. ~~(Section~~
1475 ~~3-411 of the Act)~~
1476
1477 1) The Department has continuing jurisdiction over the transfer or discharge
1478 irrespective of the timing of the hearing and decision. Once a request for
1479 a hearing is filed, the Department shall hold a hearing unless the request
1480 is withdrawn by the resident.
1481
1482 2) If the request for hearing is withdrawn based upon a representation made
1483 by the facility to the resident and the Department, including the hearing
1484 officer, that a resident who has been denied readmission will be
1485 readmitted, and the resident or resident representative notifies the
1486 Department that the facility is still denying readmission, that facility's
1487 failure to readmit the resident is considered a failure to comply with a
1488 Department order to readmit pursuant to Section 3-305.6 of the Act, and
1489 as a result, that facility shall be subject to applicable Department
1490 enforcement action, permitted under the Act and Code including the
1491 imposition of a \$2,500 fine under Section 3-305.6 of the Act. (Section 3-
1492 411 of the Act)
1493
1494 n) The hearing before the Department provided under subsection (m) of this Section
1495 shall be conducted as prescribed under Section 3-703 of the Act. In determining
1496 whether a transfer or discharge is authorized, the burden of proof in this hearing
1497 rests on the person requesting the transfer or discharge. (Section 3-412 of the
1498 Act)
1499
1500 o) If the Department determines that a transfer or discharge is authorized under
1501 subsection (c) of this Section, the resident shall not be required to leave the
1502 facility before the 34th day following receipt of the notice required under
1503 subsection (d) of this Section, or the 10th day following receipt of the
1504 Department's decision, whichever is later, unless a condition which would have

1505 *allowed transfer or discharge in less than ~~3021~~ days as described under*
1506 *subsections (d)(1) and (2) of this Section *develops in the interim. The Department**
1507 *maintains jurisdiction over the transfer or discharge irrespective of the timing of*
1508 *the notice and discharge. (Section 3-413 of the Act)*

1509
1510 p) *If the Department determines that a transfer or discharge is not authorized under*
1511 *Section 3-401 of the Act, then the Department will issue a written decision stating*
1512 *that the transfer or discharge is denied. If the action of the facility giving rise to*
1513 *the request for hearings is a facility's failure to readmit the resident following*
1514 *hospitalization, other medical leave of absence, or other absence, then the*
1515 *Department will order the immediate readmission of the resident to the facility.*

1516
1517 1) *The facility shall comply with the order immediately;*

1518
1519 2) *A copy of the Department's written decision shall be placed in the*
1520 *resident's medical chart;*

1521
1522 3) *A surveyor will make an on-site inspection of the facility's compliance*
1523 *with the order unless the resident or resident representative notifies the*
1524 *Department in writing that there is compliance with the order. (Section 3-*
1525 *413.1 of the Act)*

1526
1527 qp) *The Department of Healthcare and Family Services shall continue Title XIX*
1528 *Medicaid funding during the appeal, transfer, or discharge period for those*
1529 *residents who are Title XIX recipients affected by subsection (c) of this Section.*
1530 *(Section 3-414 of the Act)*

1531
1532 r) *The Department will transfer or discharge any resident from any facility required*
1533 *to be licensed under the Act and this Part when any of the following conditions*
1534 *exist:*

1535
1536 1) *The facility is operating without a license; (Section 3-415(a) of the Act)*

1537
1538 2) *The Department has suspended, revoked or refused to renew the license of*
1539 *the facility as provided under Section 3-119 of the Act. (Section 3-415(b)*
1540 *of the Act)*

1541
1542 3) *The facility has requested the aid of the Department in the transfer or*
1543 *discharge of the resident and the Department finds that the resident*
1544 *consents to transfer or discharge; (Section 3-415(c) of the Act)*

1545
1546 4) *The facility is closing or intends to close and adequate arrangement for*
1547 *relocation of the resident has not been made at least 30 days prior to*

1548 closure; or (Section 3-415(d) of the Act)

1549

1550 5) *The Department determines that an emergency exists which requires*
1551 *immediate transfer or discharge of the resident. (Section 3-415(e) of the*
1552 *Act)*

1553

1554 s) *In deciding to transfer or discharge a resident from a facility under subsection (q)*
1555 *of this Section, the Department will consider the likelihood of serious harm which*
1556 *may result if the resident remains in the facility. (Section 3-416 of the Act)*

1557

1558 t) *The Department will offer transfer or discharge and relocation assistance to*
1559 *residents transferred or discharged under subsections (c) through (q) of this*
1560 *Section, including information on available alternative placements. Residents*
1561 *shall be involved in planning the transfer or discharge and shall choose among*
1562 *the available alternative placements, except that where an emergency makes prior*
1563 *resident involvement impossible, the Department will make a temporary*
1564 *placement until a final placement can be arranged. Residents may choose their*
1565 *final alternative placement and shall be given assistance in transferring to such*
1566 *place. No resident shall be forced to remain in a temporary or permanent*
1567 *placement. When the Department makes or participates in making the relocation*
1568 *decision, consideration shall be given to proximity to the resident's relatives and*
1569 *friends. The resident shall be allowed 3 visits to potential alternative placements*
1570 *prior to removal, except where medically contraindicated or where the need for*
1571 *immediate transfer or discharge requires reduction in the number of visits. When*
1572 *the Department provides information on available alternative placements in*
1573 *community-based settings for individuals being discharged or transferred from*
1574 *facilities licensed under the Act, the information must include a comprehensive*
1575 *list of a range of appropriate, client-oriented services and the name of and*
1576 *contact information for the ADA coordinator in the relocation locale. The*
1577 *comprehensive list must include the name and contact information for each*
1578 *agency or organization providing those services and a summary of the services*
1579 *provided by each agency or organization. A hotline or similar crisis telephone*
1580 *number must also be provided to individuals relocating into the community.*
1581 *(Section 3-417 of the Act)*

1582

1583 u) *The Department will prepare resident transfer or discharge plans to assure safe*
1584 *and orderly removals and protect residents' health, safety, welfare and rights. In*
1585 *nonemergencies and where possible in emergencies, the Department will design*
1586 *and implement such plans in advance of transfer or discharge. (Section 3-418 of*
1587 *the Act)*

1588

1589 v) *The Department will place relocation teams in any facility from which residents*
1590 *are being discharged or transferred for any reason, for the purpose of*

1591 *implementing transfer or discharge plans. (Section 3-419 of the Act)*

1592

1593 w) *In any transfer or discharge conducted under subsections (q) through (t) of this*
1594 *Section the Department will:*

1595

1596 1) *Provide written notice to the facility prior to the transfer or discharge.*

1597 *The notice will state the basis for the order of transfer or discharge and*

1598 *will inform the facility of its right to an informal conference prior to*

1599 *transfer or discharge under this Section, and its right to a subsequent*

1600 *hearing under subsection (x) of this Section. If a facility desires to contest*

1601 *a nonemergency transfer or discharge, prior to transfer or discharge it*

1602 *shall, within four working days after receipt of the notice, send a written*

1603 *request for an informal conference to the Department. The Department*

1604 *will, within four working days from the receipt of the request, hold an*

1605 *informal conference in the county in which the facility is located.*

1606 *Following this conference, the Department will affirm, modify or overrule*

1607 *its previous decision. Except in an emergency, transfer or discharge shall*

1608 *not begin until the period for requesting a conference has passed or, if a*

1609 *conference is requested, until after a conference has been held; and*

1610 *(Section 3-420(a) of the Act)*

1611

1612 2) *Provide written notice to any resident to be removed, to the resident's*

1613 *representative, if any, and to a member of the resident's family, where*

1614 *practicable, prior to the removal. The notice will state the reason for*

1615 *which transfer or discharge is ordered and will inform the resident of the*

1616 *resident's right to challenge the transfer or discharge under subsection (x)*

1617 *of this Section. The Department will hold an informal conference with the*

1618 *resident or the resident's representative prior to transfer or discharge at*

1619 *which the resident or the representative may present any objections to the*

1620 *proposed transfer or discharge plan or alternative placement. (Section 3-*

1621 *420(b) of the Act)*

1622

1623 xw) *In any transfer or discharge conducted under subsection (q)(5) of this Section, the*

1624 *Department will notify the facility and any resident to be removed that an*

1625 *emergency has been found to exist and removal has been ordered, and will*

1626 *involve the residents in removal planning if possible. With the consent of the*

1627 *resident or the resident's representative, the facility must inform the resident's*

1628 *designated care coordination unit, as defined in 89 Ill. Adm. Code 240.260, of the*

1629 *resident's pending discharge and must provide the resident or the resident's*

1630 *representative with the care coordination unit's telephone number and other*

1631 *contact information. Following emergency removal, the Department will provide*

1632 *written notice to the facility, to the resident, to the resident's representative, if*

1633 *any, and to a member of the resident's family, where practicable, of the basis for*

1634 *the finding that an emergency existed and of the right to challenge removal under*
1635 *subsection (x) of this Section. (Section 3-421 of the Act)*
1636

1637 *y*) Within ten days following transfer or discharge, the facility or any resident*
1638 *transferred or discharged may send a written request to the Department for a*
1639 *hearing under Section 3-703 of the Act to challenge the transfer or discharge.*
1640 *The Department will hold the hearing within 30 days after receipt of the request.*
1641 *The hearing will be held at the facility from which the resident is being*
1642 *transferred or discharged, unless the resident or resident's representative*
1643 *requests an alternative hearing site. If the facility prevails, it may file a claim*
1644 *against the State under the Court of Claims Act for payments lost less expenses*
1645 *saved as a result of the transfer or discharge. No resident transferred or*
1646 *discharged may be held liable for the charge for care which would have been*
1647 *made had the resident remained in the facility. If a resident prevails, the resident*
1648 *may file a claim against the State under the Court of Claims Act for any excess*
1649 *expenses directly caused by the order to transfer or discharge. The Department*
1650 *will assist the resident in returning to the facility if assistance is requested.*
1651 *(Section 3-422 of the Act)*
1652

1653 *zy) The administrator of a facility licensed under the Act shall give 60 days notice*
1654 *prior to voluntarily closing a facility or closing any part of a facility, or prior to*
1655 *closing any part of a facility if closing such part will require the transfer or*
1656 *discharge of more than 10% of the residents. Such notice shall be given to the*
1657 *Department, to the Office of State Long Term Care Ombudsman, to any resident*
1658 *who must be transferred or discharged, to the resident's representative, and to a*
1659 *member of the resident's family, where practicable. If the Department suspends,*
1660 *revokes, or denies renewal of the facility's license, then notice shall be given no*
1661 *later than the date specified by the Department. Notice shall state the proposed*
1662 *date of closing and the reason for closing. The facility shall submit a closure plan*
1663 *to the Department for approval which shall address the process for the safe and*
1664 *orderly transfer of residents. The approved plan shall be included in the notice.*
1665 *The facility shall offer to assist the resident in securing an alternative placement*
1666 *and shall advise the resident on available alternatives. When the resident is*
1667 *unable to choose an alternate placement and is not under guardianship, the*
1668 *Department shall be notified of the need for relocation assistance. A facility*
1669 *closing in its entirety shall not admit any new residents on or after the date*
1670 *written notice is submitted to the Department under the Act and this Part. The*
1671 *facility shall comply with all applicable laws and regulations until the date of*
1672 *closing, including those related to transfer or discharge of residents. The*
1673 *Department will place a relocation team in the facility as provided under*
1674 *subsection (u) of this Section. (Section 3-423 of the Act)*
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1676 (Source: Amended at 50 Ill. Reg. _____, effective _____)

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Section 300.3305 Department Ordered Readmission of a Resident

- a) A facility that complies with an order of the Department to readmit a resident that has been deemed to have been unlawfully discharged shall notify the Department within 10 business days after the resident has been readmitted to the facility. The notice provided to the Department shall include, but not be limited to, the following information:
 - 1) The executed order to readmit the resident that was issued by the Department;
 - 2) The Administrative Law Judge's Report and Recommendations submitted by the administrative law judge;
 - 3) The reason or reasons for which the resident was involuntarily discharged and an explanation of why the facility determined it should discharge the resident prior to the order to readmit;
 - 4) The interventions the facility had taken to attempt to mitigate or correct the behavior or condition of the resident who was involuntarily discharged and ordered to be readmitted;
 - 5) Any concerns that the facility maintains about risks to safety associated with readmission of the resident; and
 - 6) A copy of the resident's current face sheet that indicates the readmission date. Unique identifiers, such as the resident's social security number and Medicare, Medicaid, or insurance number shall be redacted.

- b) Upon readmission of a resident following an executed order by the Department, the facility shall conduct a reassessment of the resident to determine any necessary changes to the resident's care plan. The assessment shall include identification of any steps the facility could take to attempt to mitigate or correct the behavior or condition of the resident that resulted in the resident being involuntarily discharged.

- c) If a resident whose readmission was ordered by the Department engages in conduct similar to that which led to the resident's involuntary discharge and for which the facility documented concerns pursuant to subsection (a), the Department shall take into account the notice provided by the facility under this Section in considering whether to impose a fine. (Section 3-305.7 of the Act)

1720 d) Facility Noncompliance with a Department Transfer or Discharge Order to
1721 Readmit. A facility that fails to comply with an order of the Department to
1722 readmit a resident, issued pursuant to Section 3-703 and 3-707 of the Act, who
1723 wishes to return to the facility and is appropriate for the level of care and services
1724 provided by the facility, shall be assessed a \$2,500 fine by the Department. As
1725 used in this subsection (d), "comply with an order" means that a resident is living
1726 in a facility or that a facility and a resident have agreed on a schedule for
1727 readmission. (Section 3-305.6 of the Act)

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1729 (Source: Added at 50 Ill. Reg. _____, effective _____)