

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

PART 350
INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE
SUBPART A: GENERAL PROVISIONS

Section	
350.110	General Requirements
350.120	Application for License
350.130	Licensee
350.140	Issuance of an Initial License for a New Facility
350.150	Issuance of an Initial License Due to a Change of Ownership
350.160	Issuance of a Renewal License
350.165	Criteria for Adverse Licensure Actions
350.170	Denial of Initial License
350.175	Denial of Renewal of License
350.180	Revocation of License
350.185	Designation of Distressed Facilities
350.190	Experimental Program Conflicting with Requirements
350.200	Inspections, Surveys, Evaluations and Consultation
350.210	Filing an Annual Attested Financial Statement
350.220	Information to Be Made Available to the Public by the Department
350.230	Information to Be Made Available to the Public by the Licensee
350.240	Municipal Licensing
350.250	Ownership Disclosure
350.260	Issuance of Conditional License
350.270	Monitor and Receivership
350.271	Presentation of Findings
350.272	Determination to Issue a Notice of Violation or Administrative Warning
350.274	Determination of the Type of a Violation
350.276	Notice of Violation
350.277	Administrative Warning
350.278	Plans of Correction
350.280	Reports of Correction
350.282	Conditions for Assessment of Penalties
350.284	Calculation of Penalties (Repealed)
350.286	Notice of Penalty Assessment: Response by Facility
350.287	Consideration of Factors for Assessing Penalties
350.288	Reduction or Waiver of Penalties
350.290	Quarterly List of Violators (Repealed)

44	350.300	Alcoholism Treatment Programs in Long-Term Care Facilities
45	350.310	Department May Survey Facilities Formerly Licensed
46	350.315	Supported Congregate Living Arrangement Demonstration (Repealed)
47	350.320	Waivers
48	350.330	Definitions
49	350.340	Incorporated and Referenced Materials

50

51 SUBPART B: ADMINISTRATION

52

53 Section

54	350.510	Administrator
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55

56 SUBPART C: POLICIES

57

58 Section

59	350.610	Management Policies
60	350.620	Resident Care Policies
61	350.625	Determination of Need Screening and Request for Resident Criminal History
62		Record Information
63	350.630	Admission, Retention and Discharge Policies
64	350.634	Criminal History Background Checks for Persons Who Were Residents on May
65		10, 2006 (Repealed)
66	350.635	Identified Offenders
67	350.636	Discharge Planning for Identified Offenders
68	350.637	Transfer of an Identified Offender
69	350.640	Contract Between Resident and Facility
70	350.650	Residents' Advisory Council
71	350.660	General Policies
72	350.670	Personnel Policies
73	350.671	Whistleblower Protection
74	350.675	Initial Health Evaluation for Employees
75	350.680	Direct Support Persons (DSP)
76	350.681	Health Care Worker Background Check
77	350.682	Resident Attendants
78	350.683	Registry of Direct Support Persons
79	350.684	Certified Nursing Assistant Interns
80	350.685	Student Interns
81	350.690	Disaster Preparedness
82	350.691	Electronic Monitoring
83	350.700	Incidents and Accidents
84	350.750	Contacting Local Law Enforcement
85	350.760	Infection Control
86	<u>350.770</u>	<u>Sex Education</u>

SUBPART D: PERSONNEL

Section

- 350.810 Personnel
- 350.820 Consultation Services
- 350.830 Personnel Policies (Repealed)
- 350.840 Employee Assistance Program

SUBPART E: RESIDENT LIVING SERVICES

Section

- 350.1010 Service Programs
- 350.1020 Psychological Services
- 350.1030 Social Services
- 350.1040 Speech Pathology and Audiology Services
- 350.1050 Recreational and Activities Services
- 350.1055 Volunteer Program
- 350.1060 Training and Habilitation Services
- 350.1070 Training and Habilitation Staff
- 350.1080 Restraints
- 350.1082 Nonemergency Use of Physical Restraints
- 350.1084 Emergency Use of Physical Restraints
- 350.1086 Unnecessary, Psychotropic, and Antipsychotic Drugs
- 350.1088 Language Assistance Services

SUBPART F: HEALTH SERVICES

Section

- 350.1210 Health Services
- 350.1220 Physician Services
- 350.1223 Communicable Disease Policies
- 350.1225 Tuberculin Skin Test Procedures
- 350.1230 Nursing Services
- 350.1235 Life-Sustaining Treatments
- 350.1236 Care and Treatment of Sexual Assault Survivors
- 350.1240 Dental Services
- 350.1250 Physical and Occupational Therapy Services
- 350.1260 Vaccinations

SUBPART G: MEDICATIONS

Section

- 350.1410 Medication Policies and Procedures

130 350.1420 Compliance with Licensed Prescriber's Orders
131 350.1430 Administration of Medication
132 350.1440 Labeling and Storage of Medications
133 350.1450 Control of Medications

134

135 SUBPART H: RESIDENT AND FACILITY RECORDS

136

137 Section

138 350.1610 Resident Record Requirements
139 350.1620 Content of Medical Records
140 350.1630 Confidentiality of Resident's Records
141 350.1640 Records Pertaining to Residents' Property
142 350.1650 Retention and Transfer of Resident Records
143 350.1660 Other Resident Record Requirements
144 350.1670 Staff Responsibility for Medical Records
145 350.1680 Retention of Facility Records
146 350.1690 Other Facility Record Requirements

147

148 SUBPART I: FOOD SERVICE

149

150 Section

151 350.1810 Director of Food Services
152 350.1820 Dietary Staff in Addition to Director of Food Services
153 350.1830 Hygiene of Dietary Staff
154 350.1840 Diet Orders
155 350.1850 Meal Planning
156 350.1860 Therapeutic Diets (Repealed)
157 350.1870 Scheduling Meals
158 350.1880 Menus and Food Records
159 350.1890 Food Preparation and Service
160 350.1900 Food Handling Sanitation
161 350.1910 Kitchen Equipment, Utensils, and Supplies

162

163 SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

164

165 Section

166 350.2010 Maintenance
167 350.2020 Housekeeping
168 350.2030 Laundry Services

169

170 SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

171

172 Section

173 350.2210 Furnishings
 174 350.2220 Equipment and Supplies

175

176 SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

177

178 Section

179 350.2410 Codes
 180 350.2420 Water Supply
 181 350.2430 Sewage Disposal
 182 350.2440 Plumbing

183

184 SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE
 185 FACILITIES FOR THE DEVELOPMENTALLY DISABLED

186

187 Section

188 350.2610 Applicability of These Standards
 189 350.2620 Codes and Standards
 190 350.2630 Preparation of Drawings and Specifications
 191 350.2640 Site
 192 350.2650 Administration and Public Areas
 193 350.2660 Nursing Unit
 194 350.2670 Dining, Living, Activities Rooms
 195 350.2680 Therapy and Personal Care
 196 350.2690 Service Departments
 197 350.2700 General Building Requirements
 198 350.2710 Structural
 199 350.2720 Mechanical Systems
 200 350.2730 Plumbing Systems
 201 350.2740 Electrical Systems

202

203 SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE
 204 FACILITIES FOR THE DEVELOPMENTALLY DISABLED

205

206 Section

207 350.2910 Applicability
 208 350.2920 Codes and Standards
 209 350.2930 Preparation of Drawings and Specifications
 210 350.2940 Site
 211 350.2950 Administration and Public Areas
 212 350.2960 Nursing Unit
 213 350.2970 Living, Dining, Activities Rooms
 214 350.2980 Treatment and Personal Care
 215 350.2990 Service Department

216	350.3000	General Building Requirements
217	350.3010	Structural
218	350.3020	Mechanical Systems
219	350.3030	Plumbing Systems
220	350.3040	Electrical Requirements

221

222 SUBPART O: RESIDENT'S RIGHTS

223

224 Section

225	350.3210	General
226	350.3220	Medical and Personal Care Program
227	350.3230	Restraints (Repealed)
228	350.3240	Abuse and Neglect
229	350.3250	Communication and Visitation
230	350.3260	Resident's Funds
231	350.3270	Residents' Advisory Council
232	350.3280	Contract With Facility
233	350.3290	Private Right of Action
234	350.3300	Transfer or Discharge
235	350.3310	Complaint Procedures
236	350.3320	Confidentiality
237	350.3330	Facility Implementation

238

239 SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES FOR 240 THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS

241

242 Section

243	350.3710	Applicability of Other Provisions of this Part
244	350.3720	Administration
245	350.3730	Admission and Discharge Policies
246	350.3740	Personnel
247	350.3750	Consultation Services and Nursing Services
248	350.3760	Medication Policies
249	350.3770	Food Services
250	350.3780	Codes and Standards
251	350.3790	Administration and Public Areas
252	350.3800	Bedrooms
253	350.3810	Nurses Station
254	350.3820	Bath and Toilet Rooms
255	350.3830	Utility Rooms
256	350.3840	Living, Dining, Activity Rooms
257	350.3850	Therapy and Personal Care
258	350.3860	Kitchen

259	350.3870	Laundry Room
260	350.3880	General Building Requirements
261	350.3890	Corridors
262	350.3900	Special Care Room
263	350.3910	Exit Facilities and Subdivision of Floor Areas
264	350.3920	Stairways, Vertical Openings and Doorways
265	350.3930	Hazardous Areas and Combustible Storage
266	350.3940	Mechanical Systems
267	350.3950	Heating, Cooling, and Ventilating Systems
268	350.3960	Plumbing Systems
269	350.3970	Electrical Systems
270	350.3980	Fire Alarm and Detection System
271	350.3990	Emergency Electrical System
272	350.4000	Fire Protection
273	350.4010	Construction Types
274	350.4020	Equivalencies
275	350.4030	New Construction Requirements

SUBPART Q: DAY CARE PROGRAMS

279	Section	
280	350.4210	Day Care in Long-Term Care Facilities
281		
282	350.APPENDIX A	Classification of Distinct Part of a Facility for Different Levels of Service
283		(Repealed)
284	350.APPENDIX B	Federal Requirements Regarding Residents' Rights (Repealed)
285	350.APPENDIX C	Seismic Zone Map (Repealed)
286	350.APPENDIX D	Forms For Day Care in Long-Term Care Facilities
287	350.APPENDIX E	Guidelines for the Use of Various Drugs
288	350.TABLE A	Sound Transmission Limitations in New Intermediate Care Facilities for
289		the Developmentally Disabled
290	350.TABLE B	Pressure Relationships and Ventilation Rate of Certain Areas for the New
291		Intermediate Care Facilities for the Developmentally Disabled
292	350.TABLE C	Construction Types and Sprinkler Requirements for Existing Intermediate
293		Care Facilities for the Developmentally Disabled
294	350.TABLE D	Food Service Sanitation Rules, 77 Illinois Admin. Code 750, 1983
295		Applicable for New Intermediate Care Facilities for the Developmentally
296		Disabled of 16 Beds or Less
297	350.TABLE E	Construction Types and Sprinkler Requirements for New Intermediate
298		Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or
299		Less
300	350.TABLE F	Heat Index Table/Apparent Temperature
301		

AUTHORITY: Implementing and authorized by the ID/DD Community Care Act [210 ILCS 47].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17 Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16153, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19517, effective November 4, 1993; amended at 17 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 18 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 512, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10065, effective July 15, 1996; amended at 20 Ill. Reg. 12049, effective September 10, 1996; amended at 21 Ill. Reg. 14990, effective November 15, 1997; amended at 22 Ill. Reg. 4040, effective February 13, 1998; amended at 22 Ill. Reg. 7172, effective April 15, 1998; amended at 22 Ill. Reg. 16557, effective September 18, 1998; amended at 23 Ill. Reg. 1052, effective January 15, 1999; amended at 23 Ill. Reg. 7970, effective July 15, 1999; amended at 24 Ill. Reg. 17254, effective November 1, 2000;

amended at 25 Ill. Reg. 4879, effective April 1, 2001; amended at 25 Ill. Reg. 6499, effective May 15, 2001; amended at 26 Ill. Reg. 4878, effective April 1, 2002; amended at 26 Ill. Reg. 10611, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2238, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5489, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5924, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14237, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15924, effective September 25, 2003; amended at 27 Ill. Reg. 18160, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3552, effective November 15, 2003; amended at 28 Ill. Reg. 7653, effective May 24, 2004; amended at 28 Ill. Reg. 11217, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11971, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15247, effective September 23, 2005, for the remainder of the maximum 150 days; emergency expired December 8, 2005; amended at 29 Ill. Reg. 12954, effective August 2, 2005; amended at 30 Ill. Reg. 1460, effective January 23, 2006; amended at 30 Ill. Reg. 5338, effective March 2, 2006; amended at 30 Ill. Reg. 13876, effective August 7, 2006; amended at 31 Ill. Reg. 6119, effective April 3, 2007; amended at 31 Ill. Reg. 8850, effective June 6, 2007; amended at 33 Ill. Reg. 9393, effective June 17, 2009; amended at 34 Ill. Reg. 19224, effective November 23, 2010; amended at 35 Ill. Reg. 3461, effective February 14, 2011; amended at 39 Ill. Reg. 5490, effective March 25, 2015; amended at 42 Ill. Reg. 7950, effective April 30, 2018; emergency amendment at 44 Ill. Reg. 8555, effective May 5, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 44 Ill. Reg. 16298, effective September 15, 2020, for the remainder of the 150 days; emergency rule as amended expired October 1, 2020; emergency amendment at 44 Ill. Reg. 16908, effective October 2, 2020, for a maximum of 150 days; emergency expired February 28, 2021; emergency amendment at 44 Ill. Reg. 19012, effective November 19, 2020, for a maximum of 150 days; emergency expired April 17, 2021; emergency amendment at 45 Ill. Reg. 435, effective December 18, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 45 Ill. Reg. 2108, effective January 27, 2021, for the remainder of the 150 days; emergency rule as amended expired May 16, 2021; emergency amendment at 45 Ill. Reg. 3060, effective March 1, 2021, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 45 Ill. Reg. 10102, effective July 25, 2021; emergency amendment at 45 Ill. Reg. 5594, effective April 18, 2021, for a maximum of 150 days; emergency rule expired September 14, 2021; emergency amendment at 45 Ill. Reg. 6729, effective May 17, 2021, for a maximum of 150 days; emergency expired October 13, 2021; emergency amendment at 45 Ill. Reg. 12012, effective September 15, 2021, for a maximum of 150 days; emergency amendment to emergency rule at 45 Ill. Reg. 14616, effective November 5, 2021, for the remainder of the 150 days; emergency expired February 11, 2022; emergency amendment at 45 Ill. Reg. 13735, effective October 14, 2021, for a maximum of 150 days; emergency expired March 12, 2022; emergency amendment at 46 Ill. Reg. 3315, effective February 12, 2022, for a maximum of 150 days; emergency expired July 11, 2022; emergency amendment at 46 Ill. Reg. 5367, effective March 13, 2022, for a maximum of 150 days; emergency expired August 9, 2022; amended at 46 Ill. Reg. 10519, effective June 2, 2022; emergency amendment at 46 Ill. Reg. 13451, effective July 15, 2022, for a maximum of 150

days; emergency expired December 11, 2022; emergency amendment to emergency rule at 46 Ill. Reg. 16467, effective September 19, 2022, for the remainder of the 150 days; emergency expired December 11, 2022; emergency amendment to emergency rule at 46 Ill. Reg. 18279, effective October 31, 2022, for the remainder of the 150 days; emergency expired December 11, 2022; emergency amendment at 46 Ill. Reg. 20313, effective December 12, 2022, for a maximum of 150 days; emergency expired May 10, 2023; amended at 47 Ill. Reg. 14492, effective September 26, 2023; amended at 48 Ill. Reg. 2546, effective January 30, 2024; amended at 48 Ill. Reg. 14720, effective September 25, 2024; Subchapter c recodified at 49 Ill. Reg. 2552; amended at 49 Ill. Reg. 7038, effective April 30, 2025; amended at 50 Ill. Reg. _____, effective _____.

SUBPART C: POLICIES

Section 350.770 Sex Education

A person who is a resident admitted to a facility and receiving habilitation shall have access to sex education, related resources, and treatment planning that supports their right to sexual health and healthy sexual practices and to be free from sexual exploitation and abuse. (Section 4-211 of the Mental Health and Developmental Disabilities Code)

a) For the purposes of this Section,

1) "developmentally appropriate sex education materials" means sex education materials and resources that have been approved by the Department of Human Services as required by Section 4-211 of the Mental Health and Developmental Disabilities Code. (Section 4-211 of the Mental Health and Developmental Disabilities Code)

2) "healthy sexual practices" means a state of physical, emotional, mental, and social well-being in relation to sexuality.

b) The facility shall assess the person or resident receiving habilitation to determine

1) whether they have decision-making capacity to give consent to sexual activity, and

2) developmentally appropriate sex education materials and resources.

As part of the assessments, consideration shall be given to medical, psychological, and psycho-social evaluations.

c) The assessments required in subsection (b) shall be determined by the treatment team. For the purposes of this subsection, "treatment team" shall include the

individual or resident, professionals who have knowledge of the individual, and the individual's guardian, if one is appointed. Guardian decision making shall be made in accordance with the court order of appointment and the standards of decision making established by Section 11-a-17 of the Probate Act of 1975. (Section 4-211 of the Mental Health and Developmental Disabilities Code)

- d) The facility shall provide the resident with access to appropriate sex education materials and resources as determined by the assessments conducted pursuant to subsection (b).

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