

ILLINOIS

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Section 300.230 Information to Be Made Available to the Public By the Licensee

a) Every facility shall conspicuously post or display in an area of its offices accessible to residents, employees, and visitors the following:

- 1) Its current license;
- 2) A description, provided by the Department of complaint procedures established under the Act and the name, address, and telephone number of a person authorized by the Department to receive complaints;
- 3) A copy of any order pertaining to the facility issued by the Department or a court; and
- 4) A list of the material available for public inspection under subsection (b) of this Section and Section 3-210 of the Act. (Section 3-209 of the Act)

b) A facility shall retain the following for public inspection:

- 1) A complete copy of every inspection report of the facility received from the Department during the past five years;
- 2) A copy of every order pertaining to the facility issued by the Department or a court during the past five years;
- 3) A description of the services provided by the facility and the rates charged for those services and items for which a resident may be separately charged;
- 4) A copy of the Statement of Ownership required by Section 3-207 of the Act;
- 5) A record of personnel employed or retained by the facility who are licensed, certified or registered by the Department of Professional Regulation; and
- 6) A complete copy of the most recent inspection report of the facility received from the Department. (Section 3-210 of the Act)

(Source: Amended at 13 Ill. Reg. 4684, effective March 24, 1989)

Section 300.510 Administrator

... d) The administrator shall appoint in writing a member of the facility staff to coordinate the establishment of, and render assistance to, the residents' advisory council.

Section 300.630 Contract Between Resident and Facility

a) Contract Execution

1. Before a person is admitted to a facility, or at the expiration of the period of previous contract, or when the source of payment for the resident's care changes from private to public funds or from public to private funds, a written contract shall be executed between a licensee and the following in order of priority:

- A) The person, or if the person is a minor, his parent or guardian; or
- B) The person's guardian, if any, or agent, if any, as defined in Section 2-3 of the Illinois Power of Attorney Act; or
- C) A member of the person's immediate family. (Section 2-202(a) of the Act)

2. An adult person shall be presumed to have the capacity to contract for admission to a long-term care facility unless he has been adjudicated a "disabled person" within the meaning of Section 11a-2 of the Probate Act of 1975, or unless a petition for such an adjudication is pending in a circuit court of Illinois. (Section 2202(a) of the Act)

3. If there is no guardian, agent or member of the person's immediate family available, able or willing to execute the contract required by Section 2-202 of the Act and a physician determines that a person is so disabled as to be unable to consent to placement in a facility, or if a person has already been found to be a "disabled person," but no order has been entered allowing residential placement of the person, that person may be admitted to a facility before the execution of a contract required by that Section; provided that a petition for guardianship or for modification of guardianship is filed within 15 days of the person's admission to a facility, and provided further that such a contract is executed within ten days of the disposition of the petition. (Section 2-202(a) of the Act)

4. No adult shall be admitted to a facility if he objects, orally or in writing, to such admission, except as otherwise provided in Chapters III and IV of the Mental Health and Developmental Disabilities Code, or Section 11a-14.1 of the Probate Act of 1975. (Section 2-202(a) of the Act)

5. If on the effective date of this Part, a person has not executed a contract as required by Section 2-202 of the Act, then such a contract shall be executed by, or on behalf of, the person, within ten days of the effective date of this Part, unless a petition has been filed for guardianship or modification of guardianship. If a petition for guardianship or modification of guardianship has been filed, and there is no guardian, agent or a member of the person's immediate family available, able, or willing to execute the contract at that time,

then a contract shall be executed within ten days of the disposition of such petition.

b) The contract shall be clearly and unambiguously entitled, "Contract Between Resident and (name of facility)."

c) Before a licensee (any facility licensed under the Act) enters a contract under Section 2-202 of the Act, it shall provide the prospective resident and his guardian, if any, with written notice of the licensee's policy regarding discharge of a resident whose private funds for payment of care are exhausted. (Section 2-202(a) of the Act)

d) A resident shall not be discharged or transferred at the expiration of the term of a contract, except as provided in Sections 3-401 through 3-423 of the Act. (Section 2-202(b) of the Act)

e) At the time of the resident's admission to the facility, a copy of the contract shall be given to the resident, his guardian, if any, and any other person who executed the contract. (Section 2-220(c) of the Act)

f) The contract shall be signed by the licensee or his agent. The title of each person signing the contract for the facility shall be clearly indicated next to each such signature. The nursing home administrator may sign as the agent of the licensee.

g) The contract shall be signed by, or for, the resident, as described in subsection (a) of this Section. If any person other than the principal signatory is to be held individually responsible for payments due under the contract, that person shall also sign the contract on a separate signature line labelled "signature of responsible party" or "signature of guarantor."

h) The contract shall include a definition of "responsible party" or "guarantor," which describes in full the liability incurred by any such person.

i) A copy of the contract for a resident who is supported by nonpublic funds other than the resident's own funds shall be made available to the person providing the funds for the resident's support. (Section 2-202(d) of the Act)

j) The original or a copy of the contract shall be maintained in the facility and be made available upon request to representatives of the Department and the Department of Public Aid. (Section 2-202(e) of the Act)

k) The contract shall be written in clear and unambiguous language and shall be printed in not less than 12 point type. (Section 2-202(f)

of the Act)

l) The contract shall specify the term of the contract. (Section 2-202(g)(1) of the Act) The term can be until a certain date or event. If a certain date is specified in the contract, an addendum can extend the term of the contract to another date certain or on a month-to-month basis.

m) The contract shall specify the services to be provided under the contract and the charges for the services. (Section 2-202(g)(2) of the Act) A paragraph shall itemize the services and products to be provided by the facility and express the costs of the itemized services and products to be provided either in terms of a daily, weekly, monthly or yearly rate, or in terms of a single fee. The contract may provide that the charges for services may be changed with thirty (30) days advance written notice to the resident or the person executing the contract on behalf of the resident. The resident or the person executing the contract on behalf of the resident may either assent to the change or choose to terminate the contract at any time within 30 days of the receipt of the written notice of the change. The written notice shall become an addendum to the contract.

n) The contract shall specify the services that may be provided to supplement the contract and the charges for the services. (Section 2-202(g)(3) of the Act)

1) A paragraph shall itemize all services and products offered by the facility or related institutions which are not covered by the rate or fee established in subsection (m) of this Section. If a separate rate or fee for any such supplemental service or product can be calculated with definiteness at the time the contract is executed, then such additional cost shall be specified in the contract.

2) If the cost of any itemized service or product to be provided to the resident by the facility or related institutions cannot be established or predicted with definiteness at the time of the resident's admission to the facility or at the time of the execution of the contract, then no cost for that service or product need be stated in the contract. But the contract shall include a statement explaining the resident's liability for such itemized service or product and explaining that the resident will be receiving a bill for such itemized service or product beyond and in addition to any rate or fee set forth in the contract.

3) The contract may provide that the charges for services and products not covered by the rate or fee established in subsection

(m) may be changed with thirty (30) days advance written notice to the resident or the person executing the contract on behalf of the resident. The resident or the person executing the contract on behalf

of the resident may either assent to the change or choose to terminate the contract at any time within 30 days of the receipt of the written notice of the change. The written notice shall become an addendum to the contract.

o) The contract shall specify the sources liable for payment due under the contract.(Section 2-202(g)(4) of the Act)

p) The contract shall specify the amount of deposit paid. (Section 2-202(g)(5) of the Act) Such amount shall be expressed in terms of a precise number of dollars and be clearly designated as a deposit. The contract shall specify when such deposit shall be paid by the resident, and the contract shall specify when such deposit shall be returned by the facility. The contract shall specify the conditions (if any) which must be satisfied by the resident before the facility shall return the deposit. Upon the satisfaction of all such conditions, the deposit shall be returned to the resident. If the deposit is nonrefundable, the contract shall provide express notice of such nonrefundability.

q) The contract shall specify the rights, duties and obligations of the resident, except that the specification of a resident's rights may be furnished on a separate document which complies with the requirements of Section 2-211 of the Act. (Section 2-202(g)(6) of the Act)

r) The contract shall designate the name of the resident's representative, if any. The resident shall provide the facility with a copy of the written agreement between the resident and the resident's representative which authorizes the resident's representative to inspect and copy the resident's records and authorizes the resident's representative to execute the contract on behalf of the resident required by Section 2-202 of the Act. (Section 2-202(h) of the Act)

s) The contract shall provide that if the resident is compelled by a change in physical or mental health to leave the facility, the contract and all obligations under it shall terminate on seven days notice. No prior notice of termination of the contract shall be required, however, in the case of a resident's death. The contract shall also provide that in all other situations, a resident may terminate the contract and all obligations under it with 30 days notice. All charges shall be prorated as of the date on which the contract terminates, and, if any payments have been made in advance, the excess shall be refunded to the resident. This provision shall not apply to life-care contracts through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life nor to continuing-care contracts through which a facility agrees to supplement all available forms of financial support in providing

maintenance and care for a resident throughout the remainder of the resident's life. (Section 2-202(i) of the Act)

t) All facilities which offer to provide a resident with nursing services, medical services or personal care services, in addition to maintenance services, conditioned upon the transfer of an entrance fee to the provider of such services in addition to or in lieu of the payment of regular periodic charges for the care and services involved, for a term in excess of one year or for life pursuant to a life care contract, shall meet all of the provisions of the Life Care Facilities Act (Ill. Rev. Stat. 1991, ch. 111½, par. 4160-1 et seq.) [210 ILCS 40], including the obtaining of a permit from the Department, before they may enter into such contracts. (Section 2(c) of the Life Care Facilities Act)

u) In addition to all other contract specifications contained in this Section, admission contracts shall also specify:

1) whether the facility accepts Medicaid clients;

2) whether the facility requires a deposit of the resident or his family prior to the establishment of Medicaid eligibility;

3) in the event that a deposit is required, a clear and concise statement of the procedure to be followed for the return of such deposit to the resident or the appropriate family member or guardian of the person;

4) that all deposits made to a facility by a resident, or on behalf of a resident, shall be returned by the facility within 30 days of the establishment of Medicaid eligibility, unless such deposits must be drawn upon or encumbered in accordance with Medicaid eligibility requirements established by the Illinois Department of Public Aid. (Section 2-202(j) of the Act)

v) It shall be a business offense for a facility to knowingly and intentionally both retain a resident's deposit and accept Medicaid payments on behalf of the resident. (Section 2-202(k) of the Act)

(Source: Amended at 18 Ill. Reg. 15868, effective October 15, 1994)

Section 300.640 Residents' Advisory Council

a) Each facility shall establish a residents' advisory council consisting of at least five resident members. If there are not five residents capable of functioning on the residents' advisory council, as determined by the Interdisciplinary Team, residents' representatives shall take the place of the required number of residents. The

administrator shall designate another member of the facility staff other than the administrator to coordinate the establishment of, and render assistance to, the council. (Section 2-203 of the Act)

b) Each facility shall develop and implement a plan for assuring a liaison with concerned individuals and groups in the local community. Ways in which this requirement can be met include, but are not limited to, the following:

1) the inclusion of community members such as volunteers, family members, residents' friends, residents' advocates, or community representatives, etc. on the council;

2) the establishment of a separate community advisory group with persons of the residents' choosing; or

3) finding a church or civic group to "adopt" the facility.

c) The resident members shall be elected to the council by vote of their fellow residents and the nonresident members shall be elected to the council by vote of the resident members of the council.

d) In facilities of 50 or fewer beds, the council may consist of all of the residents of the facility, if the residents choose to operate this way.

e) All residents' advisory councils shall elect at least a Chairperson or President and a Vice Chairperson or Vice President from among the members of the council. These persons shall preside at the meetings of the council, assisted by the facility staff person designated by the administrator to provide such assistance.

f) Some facilities may wish to establish mini-residents' advisory councils for various smaller units within the facility. If this is done, each such unit shall be represented on an overall facility residents' advisory council with the composition described in subsection (a) of this Section.

g) All residents' advisory council meetings shall be open to participation by all residents and by their representatives.

h) No employee or affiliate of any facility shall be a member of any council. Such persons may attend to discuss interests or functions of the nonmembers when invited by a majority of the officers of the council. (Section 2-203(a) of the Act)

i) The council shall meet at least once each month with the staff coordinator who shall provide assistance to the council in preparing and disseminating a report of each meeting to all residents, the

administrator, and the staff. (Section 2-203(b) of the Act)

j) Records of the council meetings shall be maintained in the office of the administrator. (Section 2-203(c) of the Act)

k) The residents' advisory council may communicate to the administrator the opinions and concerns of the residents. The council shall review procedures for implementing resident rights and facility responsibilities and make recommendations for changes or additions which will strengthen the facility's policies and procedures as they affect residents' rights and facility responsibilities. (Section 2-203(d) of the Act)

l) The council shall be a forum for:

1) Obtaining and disseminating information;

2) Soliciting and adopting recommendations for facility programming and improvements;

3) Early identification of problems;

4) Recommending orderly resolution of problems. (Section 2-203(e) of the Act)

m) The council may present complaints on behalf of a resident to the Department, or to any other person it considers appropriate. (Section 2203(f) of the Act)

n) Families and friends of residents who live in the community retain the right to form family councils.

1) If there is a family council in the facility, or if one is formed at the request of family members or the ombudsman, a facility shall make information about the family council available to all current and prospective residents, their families and their representatives. The information shall be provided by the family council, prospective members or the ombudsman.

2) If a family council is formed, facilities shall provide a place for the family council to meet.

(Source: Amended at 31 Ill. Reg. 8813, effective June 6, 2007)

Section 300.1035 Life-Sustaining Treatments

a) Every facility shall respect the residents' right to make decisions relating to their own medical treatment, including the right to accept, reject, or limit life-sustaining treatment.

Every facility shall establish a policy concerning the implementation of such rights. Included within this policy shall be:

1) implementation of Living Wills or Powers of Attorney for Health Care in accordance with the Living Will Act (Ill. Rev. Stat. 1991, ch. 110½, pars. 701 et seq.) [755 ILCS 35] and the Powers of Attorney for Health Care Law (Ill. Rev. Stat. 1991, ch. 110½, pars. 804-1 et seq.) [755 ILCS 45];

2) the implementation of physician orders limiting resuscitation such as those commonly referred to as "do-not-resuscitate" orders. This policy may only prescribe the format, method of documentation and duration of any physician orders limiting resuscitation. Any orders under this policy shall be honored by the facility. (Section 2-104.2 of the Act);

3) procedures for providing life-sustaining treatments available to residents at the facility;

4) procedures detailing staff's responsibility with respect to the provision of life-sustaining treatment when a resident has chosen to accept, reject or limit life-sustaining treatment, or when a resident has failed or has not yet been given the opportunity to make these choices;

5) procedures for educating both direct and indirect care staff in the application of those specific provisions of the policy for which they are responsible.

b) For the purposes of this Section:

1) "Agent" means a person acting under a Health Care Power of Attorney in accordance with the Powers of Attorney for Health Care Law.

2) "Life-sustaining treatment" means any medical treatment, procedure, or intervention that, in the judgment of the attending physician, when applied to a resident, would serve only to prolong the dying process. Those procedures can include, but are not limited to, cardiopulmonary resuscitation (CPR), assisted ventilation, renal dialysis, surgical procedures, blood transfusions, and the administration of drugs, antibiotics, and artificial nutrition and hydration. Those procedures do not include performing the Heimlich maneuver or clearing the airway, as indicated.

3) "Surrogate" means a surrogate decision maker acting in accordance with the Health Care Surrogate Act (Ill. Rev. Stat. 1991, ch. 110½, par. 851-1 et seq.) [755 ILCS 40].

c) Within 30 days of admission for new residents, and within one year of the effective date of this Section for all residents who were admitted prior to the effective date of this Section, residents, agents, or surrogates shall be given written information describing the facility's policies required by this Section and shall be given the opportunity to:

1) execute a Living Will or Power of Attorney for Health Care in accordance with State law, if they have not already done so; and/or

2) decline consent to any or all of the life-sustaining treatment available at the facility.

d) Any decision made by a resident, an agent, or a surrogate pursuant to subsection (c) of this Section must be recorded in the resident's medical record. Any subsequent changes or modifications must also be recorded in the medical record.

e) The facility shall honor all decisions made by a resident, an agent, or a surrogate pursuant to subsection (c) of this Section and may not discriminate in the provision of health care on the basis of such decision or will transfer care in accordance with the Living Will Act, the Powers of Attorney for Health Care Law, the Health Care Surrogate Act or the Right of Conscience Act (Ill. Rev. Stat. 1991, ch. 111½, pars. 5301 et seq.) [745 ILCS 70]

f) The resident, agent, or surrogate may change his or her decision regarding life-sustaining treatment by notifying the treating facility of this decision change orally or in writing in accordance with State law.

g) The physician shall confirm the resident's choice by writing appropriate orders in the patient record or will transfer care in accordance with the Living Will Act, the Powers of Attorney for Health Care Law, the Health Care Surrogate Act or the Right of Conscience Act.

h) If no choice is made pursuant to subsection (c) of this Section, and in the absence of any physician's order to the contrary, then the facility's policy with respect to the provision of life-sustaining treatment shall control until and if such a decision is made by the resident, agent, or surrogate in accordance with the requirements of the Health Care Surrogate Act.

(Source: Added at 17 Ill. Reg. 16194, effective January 1, 1994)

Section 300.1010 Medical Care Policies

...d) All residents, or their guardians, shall be permitted their choice of a physician.

Section 300.1430 Work Programs

a) Work programs for individual residents in facilities shall be allowed only if they are oriented toward resident adjustment and therapeutic benefits and if they are approved in writing by the Department. Such programs should be a rarity in skilled nursing facilities.

b) Permission for each such program shall be secured from the Department. Each program shall be presented in writing indicating such things as objectives, possible work assignment, duties, policies governing the program, agency involvement (where appropriate), and supervision.

c) Residents involved in such programs shall meet all requirements of the Department for persons functioning in these positions.

d) Residents shall not be used to replace employed staff. (B)

e) Appropriate records shall be maintained for each resident functioning in these programs. These shall show appropriateness of the program for the individual, resident's response to the program and any other pertinent observations and shall become a part of the resident's record. (See Section 300.1810(c).)

f) All such programs shall be in full compliance with all applicable regulations of both the State and Federal Departments of Labor. Any program found by the Department not to be in compliance with State and Federal Departments of Labor regulations shall be terminated immediately.

(Source: Amended at 13 Ill. Reg. 4684, effective March 24, 1989)

Section 340.1450 Language Assistance Services

A facility shall provide language assistance services in accordance with the Language Assistance Services Act [210 ILCS 87] and the Language Assistance Services Code (77 Ill. Adm. Code 940).

(Source: Added at 29 Ill. Reg. 12852, effective August 2, 2005)

Section 300.1630 Administration of Medication

...3) Self-administration of medication shall be permitted only upon the written order of the licensed prescriber.

Section 300.1830 Records Pertaining to Residents' Property

a) The facility shall maintain a record of any resident's belongings, including money, valuables and personal property, accepted by the facility for safekeeping. This record shall be initiated at the time of admission and shall be updated on an ongoing basis and made part of the resident's record.

b) When purchases are made for a resident from the resident's personal monies, receipts shall be obtained and retained that verify the date, amount, and items purchased.

c) A separate bookkeeping system shall be maintained by the facility which accounts for all transactions affecting each resident's account. Each individual resident, or the individual resident's representative, shall have access to the record of that individual resident's account.

(Source: Amended at 13 Ill. Reg. 4684, effective March 24, 1989)

Section 300.3210 General

a) No resident shall be deprived of any rights, benefits, or privileges guaranteed by law based on their status as a resident of a facility. (Section 2-101 of the Act) (A, B)

b) A resident shall be permitted to retain and use or wear his personal property in his immediate living quarters, unless deemed medically inappropriate by a physician and so documented in the resident's clinical record. (Section 2-103 of the Act)

c) If clothing is provided to the resident by the facility it shall be of a proper fit. (Section 2-103 of the Act)

d) The facility shall provide adequate and convenient storage space for the personal property of the resident. (Section 2-103 of the Act)

e) The facility shall provide a means of safeguarding small items of value for its residents in their rooms or in any other part of the facility so long as the residents have daily access to such valuables. (Section 2-103 of the Act)

f) The facility shall make reasonable efforts to prevent loss and theft of residents' property. Those efforts shall be appropriate to the particular facility and may, for example, include, but are not limited to, staff training and monitoring, labeling property, and frequent property inventories. (Section 2-103 of the Act)

g) The facility shall develop procedures for investigating complaints concerning theft of residents' property and shall promptly investigate all such complaints. (Section 2-103 of the Act)

h) The facility administrator shall ensure that married residents residing in the same facility be allowed to reside in the same room within the facility unless there is no room available in the facility or it is deemed medically inadvisable by the residents' attending physician and so documented in the residents' medical records. (Section 2-108(e) of the Act)

i) There shall be no traffic through a resident's room to reach any other area of the building. (B)

j) Children under 16 years of age who are related to employees or owners of a facility, and who are not themselves employees of the facility, shall be restricted to quarters reserved for family or employee use except during times when such children are part of a group visiting the facility as part of a planned program, or similar activity.

k) A resident may refuse to perform labor for a facility. (Section 2-113 of the Act)

l) A resident shall be permitted the free exercise of religion. Upon a resident's request, and if necessary at his expense, the facility administrator shall make arrangements for a resident's attendance at religious services of the resident's choice. However, no religious beliefs or practices, or attendance at religious services, may be imposed upon any resident. (Section 2-109 of the Act)

m) All facilities shall comply with the "Election Code" (Ill. Rev. Stat. 1991, ch. 46, par. 1-1 et seq.) [10 ILCS 5] as it pertains to absentee voting for residents of licensed long-term care facilities.

n) The facility shall immediately notify the resident's next of kin, representative and physician of the resident's death or when the resident's death appears to be imminent. (Section 2-208 of the Act)

o) The facility shall also immediately notify the resident's family, guardian, representative, conservator and any private or public agency financially responsible for the resident's care whenever unusual circumstances such as accidents, sudden illness, disease, unexplained absences, extraordinary resident charges, billings, or related administrative matters arise. (B)

p) Where a resident, a resident's representative or a resident's next of kin believes that an emergency exists each of them, collectively or separately, may file a verified petition to the circuit court for the county in which the facility is located for an order placing the facility under the control of a receiver. (Section 3-503 of the Act) As used in Section 3-

503 of the Act, "emergency" means a threat to the health, safety or welfare of a resident that the facility is unwilling or unable to correct. (Section 3-501 of the Act)

(Source: Amended at 17 Ill. Reg. 19279, effective October 26, 1993)

Section 300.3220 Medical and Personal Care Program

a) A resident shall be permitted to retain the services of his own personal physician at his own expense under an individual or group plan of health insurance, or under any public or private assistance program providing such coverage. (B) (Section 2-104(a) of the Act)

b) The Department shall not prescribe the course of medical treatment provided to an individual resident by the resident's physician in a facility. (Section 2-104(a) of the Act)

c) All resident shall be permitted to obtain from their own physician or the physician attached to the facility complete and current information concerning his medical diagnosis, treatment and prognosis in terms and language the resident can reasonably be expected to understand. (Section 2-104 of the Act)

d) All resident shall be permitted to participate in the planning of their total care and medical treatment to the extent that his condition permits. (Section 2-104(a) of the Act)

e) No resident shall be subjected to experimental research or treatment without first obtaining his informed, written consent. The conduct of any experimental research or treatment shall be authorized and monitored by an institutional review committee appointed by the administrator of the facility where such research and treatment is conducted. (A, B) (Section 2-104(a) of the Act)

f) All medical treatment and procedures shall be administered as ordered by a physician. All new physician orders shall be reviewed by the facility's Director of nursing or charge nurse designee within 24 hours after such orders have been issued to assure facility compliance with such orders. (Section 2-104(b) of the Act)

...h) Every resident shall be permitted to refuse medical treatment and to know the consequences of such action, unless such refusal would be harmful to the health and safety of others and such harm is documented by a physician in the resident's clinical record. (B) (Section 2-104(c) of the Act)

i) Inspection and Copying of Records

1) Every resident, resident's guardian, or parent (if the resident is a minor) shall be permitted to inspect and copy all of the resident's clinical and other records concerning the resident's care and maintenance kept by the facility or by the resident's physician. (Section 2-104(c) of the Act)

2) Every resident's representative shall be permitted to inspect and copy the resident's records. A "resident's representative" is a person, other than the owner or agent or employee of a facility who is not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Sections 1-123 and 2-202(h) of the Act) (B)

j) All residents shall be permitted respect and privacy in their medical and personal care program. Every resident's case discussion, consultation, examination and treatment shall be confidential and shall be conducted discreetly, and those persons not directly involved in the resident's care must have the resident's permission to be present. (B) (Section 2-105 of the Act)

(Source: Amended at 15 Ill. Reg. 554, effective January 1, 1991)

Section 300.3250 Communication and Visitation

a) Every resident shall be permitted unimpeded, private and uncensored communication of his choice by mail, public telephone or visitation. (Section 2-108(a) of the Act)

b) The facility administrator shall ensure that correspondence is conveniently received and mailed, and that telephones are reasonably accessible. (Section 2-108(a) of the Act)

c) The facility administrator shall ensure that residents may have private visits at any reasonable hour unless such visits are not medically advisable for the resident as documented in the resident's clinical record by the resident's physician. (Section 2-108(a) of the Act)

d) The facility shall allow daily visiting between 10:00 A.M. and 8:00 P.M. These visiting hours shall be posted in plain view of visitors.

e) The facility administrator shall ensure that space for visits is available and that facility personnel knock, except in an emergency, before entering any resident's room. (Section 2-108(c) of the Act)

f) Unimpeded, private and uncensored communication by mail, public telephone, and visitation may be reasonably restricted by a physician only in order to protect the resident or others from harm, harassment or intimidation provided that the reason for any such restriction is placed in the resident's clinical record by the physician and that notice of such restriction shall be given to all residents upon admission. (Section 2-108(d) of the Act)

g) Notwithstanding subsection (f) of this Section, all letters addressed by a resident to the Governor, members of the General Assembly, Attorney General, judges, state's attorneys, officers of the Department, or licensed attorneys at law shall be forwarded at once to the persons to whom they are addressed without examination by facility personnel. Letters in reply from the officials and attorneys mentioned above shall be delivered to the recipient without examination by facility personnel. (Section 2-108(d) of the Act)

h) Any employee or agent of a public agency, any representative of a community legal services program or any member of a community organization shall be permitted access at reasonable hours to any individual resident of any facility, if the purpose of such agency, program or organization includes rendering assistance to residents without charge, but only if there is neither a commercial purpose nor affect to such access and if the purpose is to do any other the following:

1) Visit, talk with and make personal, social, and legal services available to all residents;

2) Inform residents of their rights and entitlements and their corresponding obligations, under federal and State laws, by means of educational materials and discussions in groups and with individual residents;

3) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and social security benefits, as well as in all other matters in which residents are aggrieved. Assistance may include counseling and litigation; or

4) Engage in other methods of asserting, advising and representing residents so as to extend to them full enjoyment of their rights. (Section 2-110(a) of the Act)

i) No visitor shall enter the immediate living area of any resident without first identifying himself and then receiving permission from the resident to enter. The rights of other residents present in the room shall be respected. (B) (Section 2-110(b) of the Act)

j) A resident may terminate at any time a visit by a person having access to the resident's living area. (Section 2-110(b) of the Act)

(Source: Amended at 13 Ill. Reg. 4684, effective March 24, 1989)

Section 300.3260 Resident's Funds

a) A resident shall be permitted to manage his own financial affairs unless he or his guardian or if the resident is a minor, his parent, authorizes the administrator of the facility in writing to manage such resident's financial affairs under subsections (b) through (o) of this Section. (Section 2-102 of the Act)

b) The facility shall at the time of admission, provide in order of priority, each resident, or the resident's guardian, if any, or the residents representative, if any, or the resident's immediate family member, if any, with a written statement explaining to the resident and the resident's spouse their spousal impoverishment rights as defined at Section 5-4 of the Illinois Public Aid Code, and at Section 303 of Title III of the Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360), and the resident's rights regarding personal funds and listing the services for which the resident will be charged. The facility shall obtain a signed acknowledgement from each resident or the resident's representative, if any, or the resident's immediate family member, if any, that such person has received the statement. (Section 2-201(1) of the Act)

c) The facility may accept funds from a resident for safekeeping and managing, if it receives written authorization from, in order of priority, the resident or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any; such authorization shall be attested to by a witness who has no pecuniary interest in the facility or its operations, and who is not connected in any way to facility personnel or the administrator in any manner whatsoever. (Section 2-101(2) of the Act)

d) The facility shall maintain and allow, in order of priority, each resident or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, access to a written record of all financial arrangements and transactions involving the individual resident's funds. (Section 2-201(3) of the Act)

e) The facility shall provide, in order of priority, each resident, or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, with a written itemized statement at least quarterly, of all financial transactions involving the resident's funds. (Section 2-201(4) of the Act)

f) The facility shall purchase a surety bond, or otherwise provide assurance satisfactory to the Departments of Public Health and Insurance that all residents' personal funds deposited with the facility are secure against loss, theft, and insolvency. (Section 2-201(5) of the Act)

1) If a surety bond is secured, it must be issued by a company licensed to do business in Illinois, the amount of bond must be equal to or greater than all resident funds managed by the facility, and the obligee named in the bond must be the Illinois Department of Public Health or its assignees.

2) If an alternative to a surety bond is secured, the alternative must provide a protection equivalent to that afforded by a surety bond. To be acceptable, the alternative must have a person(s) or entity(ies) designated who can collect in case of loss (e.g., residents, the Department). The alternative must also provide a guarantee that lost funds will be repaid. The guarantee may be made either by an independent entity (e.g., a bank) or the facility. If the facility provides the guarantee, it must be backed by facility money at least equal to resident funds. This money must be reserved solely for the purpose of assuring the security of resident funds. Two examples of acceptable alternatives to surety bonds are letters of credit and self-insurance. Both surety bonds and alternatives must protect the full amount of residents' funds deposited with the facility.

3) Any alternative to a surety bond shall be submitted to the Department for review and approval. Alternatives that meet the requirements of this Section and were in place prior to October 1, 1994, must be submitted to the Department for review and approval within 120 days after October 1, 1994.

g) The facility shall keep any funds received from a resident for safekeeping in an account separate from the facility's funds, and shall at no time withdraw any part or all of such funds for any purpose other than to return the funds to the resident upon the request of the resident or any other person entitled to make such request, to pay the resident his allowance, or to make any other payment authorized by the resident or any other person entitled to make such authorization. (Section 2-201(6) of the Act)

h) The facility shall deposit any funds received from a resident in excess of \$100 in an interest bearing account insured by agencies of, or corporations chartered by, the State or federal government. The account shall be in a form which clearly indicates that the facility has only a fiduciary interest in the funds and any interest from the account shall accrue to the resident. (Section 2-201(7) of the Act)

i) The facility may keep up to \$100 of a resident's money in a non-interest bearing account or petty cash fund, to be readily available for the resident's current expenditures. (Section 2-201(7) of the Act)

j) The facility shall return to the resident, or the person who executed the written authorization required in subsection (c) of this Section, upon written request, all or any part

of the resident's funds given the facility for safekeeping, including the interest accrued from deposits. (Section 2-201(8) of the Act)

k) The facility shall place any monthly allowance to which a resident is entitled in that resident's personal account, or give it to the resident, unless the facility has written authorization from the resident or the resident's guardian, or if the resident is a minor, his parent, to handle it differently. (Section 2-2-1(9) of the Act)

l) Unless otherwise provided by State law, the facility shall upon the death of a resident provide the executor or administrator of the resident's estate with a complete accounting of all the resident's personal property, including any funds of the resident being held by the facility. (Section 2-201(10) of the Act)

m) If an adult resident is incapable of managing his funds and does not have a resident's representative, guardian, or an immediate family member the facility shall notify the

Office of the State Guardian of the Guardianship and Advocacy Commission. (Section 2-201(11) of the Act)

n) If the facility is sold, the seller shall provide the buyer with a written verification by a public accountant of all residents' monies and properties being transferred, and obtain a signed receipt from the new owner. (Section 2-201(12) of the Act)

o) The facility shall take all steps necessary to ensure that a personal needs allowance that is placed in a resident's personal account is used exclusively by the resident or for the benefit of the resident. Where such funds are withdrawn from the resident's personal account by any person other than the resident, the facility shall require such person to whom funds constituting any part of a resident's personal needs allowance are released to execute an affidavit that such funds shall be used exclusively for the benefit of the resident. (Section 2-201(9)(b) of the Act) "Personal needs allowance," for the purposes of this subsection, refers to the monthly allowance allotted by the Illinois Department of Public Aid to public aid recipients.

(Source: Amended at 18 Ill. Reg. 15868, effective October 15, 1994)

Section 300.3270 Residents' Advisory Council

Each resident shall have the right to participate in a residents' advisory council as indicated in Section 300.640.

(Source: Amended at 13 Ill. Reg. 4684, effective March 24, 1989)

Section 300.3280 Contract With Facility

Each resident shall have the right to contract with the facility as indicated in Section 300.630.

(Source: Amended at 13 Ill. Reg. 4684, effective March 24, 1989)

Section 300.3290 Private Right of Action

a) Each resident shall have the right to maintain a private right of action against a facility as described in subsections (b) through (i) of this Section.

b) The owner and licensee of a facility are liable to a resident for any intentional or negligent act or omission of their agents or employees which injures the resident. (Section 3-601 of the Act)

c) The licensee shall pay three times the actual damages, or \$500, whichever is greater, and costs and attorney's fees to a facility resident whose rights as specified in Part I of Article II of the Act are violated. (Section 3-602 of the Act)

d) A resident may maintain an action under the Act and this Part for any other type of relief, including injunctive and declaratory relief, permitted by law. (Section 3-603 of the Act)

e) Any damages recoverable under subsection (b) through (i) of this Section, including minimum damages as provided by this Part, may be recovered in any action which a court may authorize to be brought as a class action pursuant to the Civil Practice law (Ill. Rev. Stat. 1987, ch. 110, par. 2-801 et seq.). The remedies provided in subsections (b) through (i) of this Section are in addition to and cumulative with any other legal remedies available to a resident. Exhaustion of any available administrative remedies shall not be required prior to commencement of a suit hereunder. (Section 3-604 of the Act)

f) The amount of damages recovered by a resident in an action brought under subsection (b) through (i) of this Section shall be exempt for purposes of determining initial or continuing eligibility for medical assistance under "The Illinois Public Aid Code," (Ill. Rev. Stat. 1987, ch. 23, par. 1-1 et seq.) as now or hereafter amended, and shall neither be taken into consideration nor required to be applied toward the payment or partial payment of the cost of medical care or services available under "The Illinois Public Aid Code." (Section 3-605 of the Act)

g) Any waiver by a resident or his legal representative of the right to commence an action under subsection (b) through (i) of this Section, whether oral or in writing, shall be null and void, and without legal force or effect. (Section 3-606 of the Act)

h) Any party to an action brought under subsection (b) through (i) of this Section shall be entitled to a trial by jury and any waiver of the right to a trial by jury, whether oral or in writing, prior to the commencement of an action, shall be null and void, and without legal force or effect. (Section 3-607 of the Act)

i) A licensee or its agents or employees shall not transfer, discharge, evict, harass, dismiss, or retaliate against a resident, a resident's representative, or an employee or agent who makes a report of resident abuse or neglect, brings or testifies in a private right of action, or files a complaint, because of the such action or testimony. (B) (Section 3-608 of the Act)

(Source: Amended at 13 Ill. Reg. 4684, effective March 24, 1989)

Section 300.3310 Complaint Procedures

a) A resident shall be permitted to present grievances on behalf of himself and others to the administrator, the Long-Term Care Facility Advisory Board, the residents' advisory council,

State governmental agencies or other persons without threat of discharge or reprisal in any form or manner whatsoever. (Section 2-112 of the Act)

b) The facility administrator shall provide all residents or their representatives with the name, address, and telephone number of the appropriate State governmental office where complaints may be lodged. (Section 2-112 of the Act)

c) A person who believes that the Act or a rule promulgated under the Act may have been violated may request an investigation. The request may be submitted to the Department in writing, by telephone, or by personal visit. An oral complaint shall be reduced to writing by the Department. (Section 3-702(a) of the Act)

d) The substance of the complaint shall be provided to the licensee, owner or administrator no earlier than at the commencement of the on-site inspection of the facility which takes place pursuant to the complaint. (Section 3-702(b) of the Act)

e) The Department shall not disclose the name of the complainant unless the complainant consents in writing to the disclosure or the investigation results in a judicial proceeding, or unless disclosure is essential to the investigation. The complainant shall be given the opportunity to withdraw the complaint before disclosure. Upon the request of the complainant, the Department may permit the complainant or a representative of the complainant to accompany the person making the on-site inspection of the facility. (Section 3-702(c) of the Act)

f) Upon receipt of a complaint, the Department shall determine whether the Act or a rule promulgated under the Act has been or is being violated. The Department shall investigate all complaints alleging abuse or neglect within seven days after the receipt of the complaint except that complaints of abuse or neglect which indicate that a resident's life or safety is in imminent danger shall be investigated with 24 hours after receipt of the complaint. All other complaints shall be investigated within 30 days after the receipt of the complaint. All complaints shall be classified as "an invalid report," "a valid report," or "an undetermined report." For any complaint classified as "a valid report," the Department must determine within 30 working days if any rule or provision of the Act has been or is being violated. (Section 3-702(d) of the Act)

g) Upon the request of a resident or complainant, the Department may permit the resident or complainant or a representative of the complainant to accompany the person making the on-site inspection of the facility pursuant to the complaint. (Section 3-702(c) of the Act)

h) In all cases, the Department shall inform the complainant of its findings within ten days of its determination unless otherwise indicated by the complainant, and the complainant may direct the Department to send a copy of such findings to another person. The Department's findings may include contents or documentation provided by either the complainant or the licensee pertaining to the complaint. The Department shall also notify the facility of such findings within ten days of the determination, but the name of the complainant or residents shall not be disclosed in this notice to the facility. The notice of such findings shall include a copy of the written determination; the correction order, if any; the inspection report; the warning notice, if any; and the State licensure form on which the violation is listed. (Section 3-702(e) of the Act)

i) A written determination, correction order, or warning notice concerning a complaint shall be available for public inspection, but the name of the complainant or resident shall not be disclosed without the consent of the complainant or resident. (Section 3-702(f) of the Act)

j) A complainant who is dissatisfied with the determination or investigation by the Department may request a hearing under subsection (k) of this Section. The facility shall be given notice of any such hearing and may participate in the hearing as a party. If a facility requests a hearing under subsection (k) of this Section which concerns a matter covered by a complaint, the complainant shall be given written notice and may participate in the hearing as a party. A request for a hearing by either a complainant or a facility shall be submitted in writing to the Department within 30 days after the mailing of the Department's findings as described in subsection (h) of this Section. Upon receipt of the request the Department shall conduct a hearing as provided under subsection (k) of this Section. (Section 3-702(g) of the Act)

k) Any person aggrieved by a decision of the Department rendered in a particular case which affects the legal rights, duties or privileges created under the Act may have such decision reviewed in accordance with Sections 3-703 through 3-712 of the Act.

l) When the Department finds that a provision of Article II of the Act regarding residents' rights has been violated with regard to a particular resident, the Department shall issue an order requiring the facility to reimburse the resident for injuries incurred, or \$100, whichever is greater.

(Source: Amended at 16 Ill. Reg. 17089, effective November 3, 1992)

Section 300.3320 Confidentiality

a) The Department, the facility and all other public or private agencies shall respect the confidentiality of a resident's record and shall not divulge or disclose the contents of a record in a manner which identifies a resident, except upon a resident's death to a relative or guardian, or under judicial proceedings. This Section shall not be construed to limit the right of a resident or a resident's representative to inspect or copy the resident's records. (Section 2-206(a) of the Act)

b) Confidential medical, social, personal, or financial information identifying a resident shall not be available for public inspection in a manner which identifies a resident. (B) (Section 2-206(b) of the Act)

(Source: Amended at 13 Ill. Reg. 4684, effective March 24, 1989)

Section 300.3330 Facility Implementation

a) The facility shall establish written policies and procedures to implement the responsibilities and rights provided in Article II of the Act. The policies shall include the procedure for the investigation and resolution of resident complaints under the Act. The policies shall be clear and unambiguous and shall be available for inspection by any person. A summary of the policies and procedures, printed in not less than 12 point type, shall be distributed to each resident and representative. (Section 2-210 of the Act)

b) The facility shall provide copies of these policies and procedures upon request to next of kin, sponsoring agencies, representative payees and the public.

c) Each resident and resident's guardian or other person acting for the resident shall be given a written explanation prepared by the Office of the State Long-term Care Ombudsman of all the rights enumerated in Part 1 of Article II of the Act and in Part 4 of Article III. For residents of facilities participating in Title 18 or 19 of the Social Security Act, the explanation shall include an explanation of residents' rights enumerated in the Act. The explanation shall be given at the time of admission to a facility or as soon thereafter as the condition of this resident permits, but in no event later than 48 hours after admission, and again at least annually thereafter. At the time of implementation of the Act each resident shall be given a written summary of all the rights enumerated in Part I of Article II of the Act. If a resident is unable to read such written explanation, it shall be read to the resident in a language the resident understands. In the case of a minor or a person having a guardian or other person acting for him, both the resident and the parent, guardian or other person acting for the resident shall be fully informed of these rights. (Section 2-211 of the Act)

d) The resident, resident's representative, guardian, or parent of a minor resident shall acknowledge in writing the receipt from the facility of a copy of all resident rights set forth in Article II of the Act and a copy of all facility policies implementing such rights.

e) The facility shall ensure that its staff is familiar with and observes the rights and responsibilities enumerated in the Act and this Part. (Section 2-212 of the Act) (B)
(Source: Amended at 17 Ill. Reg. 19279, effective October 26, 1993)