Section 300.625 Identified Offenders

g) If identified offenders are residents of a facility, the facility shall comply with all of the following requirements:
   ...p) Incident reports shall be submitted to the Division of Long-Term Care Field Operations in the Department’s Office of Health Care Regulation in compliance with Section 300.690 of this Part. The facility shall review its placement determination of identified offenders based on incident reports involving the identified offender. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility shall transfer or discharge the identified offender in accordance with Section 300.3300 of this Part.

Section 300.660 Nursing Assistants

a) A facility shall not employ an individual as a nurse aide unless the facility has inquired of
the Department as to information in the Registry concerning the individual. (Section 3-206.01 of the Act) The Department shall advise the inquirer if the individual is on the Registry, if the individual has findings of abuse, neglect, or misappropriation of property in accordance with Sections 3-206.01 and 3-206.02 of the Act, and if the individual has a current background check. (See Section 300.661 of this Part.)
b) The facility shall ensure that each nursing assistant complies with one of the following conditions:
   1) Is approved on the Department’s Nurse Aide Registry. "Approved" means that the nurse aide has met the training or equivalency requirements of Section 300.663 of this Part and does not have a disqualifying criminal background check without a waiver...

Section 300.680 Restraints

a) The facility shall have written policies controlling the use of physical restraints including, but not limited to, leg restraints, arm restraints, hand mitts, soft ties or vests, wheelchair safety bars and lap trays, and all facility practices that meet the definition of a restraint, such as tucking in a sheet so tightly that a bed-bound resident cannot move; bed rails used to keep a resident from getting out of bed; chairs that prevent rising; or placing a resident who uses a wheelchair so close to a wall that the wall prevents the resident from rising. Adaptive equipment is not considered a physical restraint. Wrist bands or devices on clothing that trigger electronic alarms to warn staff that a resident is leaving a room do not, in and of themselves, restrict freedom of movement and should not be considered as physical restraints. The policies shall be followed in the operation of the facility and shall comply with the Act and this Part. These policies shall be developed by the medical advisory committee or the advisory physician with participation by nursing and administrative personnel.
b) No physical restraints with locks shall be used.
c) Physical restraints shall not be used on a resident for the purpose of discipline or convenience.
d) The use of chemical restraints is prohibited.
(Source: Amended at 20 Ill. Reg. 12208, effective September 10, 1996)

Section 300.682 Nonemergency Use of Physical Restraints

a) Physical restraints shall only be used when required to treat the resident's medical symptoms or as a therapeutic intervention, as ordered by a physician, and based on:
1) the assessment of the resident's capabilities and an evaluation and trial of less restrictive alternatives that could prove effective;
2) the assessment of a specific physical condition or medical treatment that requires the use of physical restraints, and how the use of physical restraints will assist the resident in reaching his or her highest practicable physical, mental or psychosocial well being;
3) consultation with appropriate health professionals, such as rehabilitation nurses and occupational or physical therapists, which indicates that the use of less restrictive measures or therapeutic interventions has proven ineffective; and
4) demonstration by the care planning process that using a physical restraint as a therapeutic intervention will promote the care and services necessary for the resident to attain or maintain the highest practicable physical, mental or psychosocial well being.
(Section 2-106(c) of the Act)

b) A physical restraint may be used only with the informed consent of the resident, the resident’s guardian, or other authorized representative. (Section 2-106(c) of the Act)
Informed consent includes information about potential negative outcomes of physical restraint use, including incontinence, decreased range of motion, decreased ability to ambulate, symptoms of withdrawal or depression, or reduced social contact.

c) The informed consent may authorize the use of a physical restraint only for a specified period of time. The effectiveness of the physical restraint in treating medical symptoms or as a therapeutic intervention and any negative impact on the resident shall be assessed by the facility throughout the period of time the physical restraint is used.

d) After 50 percent of the period of physical restraint use authorized by the informed consent has expired, but not less than 5 days before it has expired, information about the actual effectiveness of the physical restraint in treating the resident's medical symptoms or as a therapeutic intervention and about any actual negative impact on the resident shall be given to the resident, resident's guardian, or other authorized representative before the facility secures an informed consent for an additional period of time. Information about the effectiveness of the physical restraint program and about any negative impact on the resident shall be provided in writing.

e) A physical restraint may be applied only by staff trained in the application of the particular type of restraint. (Section 2-106(d) Act)

f) Whenever a period of use of a physical restraint is initiated, the resident shall be advised of his or her right to have a person or organization of his or her choosing, including the Guardianship and Advocacy Commission, notified of the use of the physical restraint. A
period of use is initiated when a physical restraint is applied to a resident for the first time under a new or renewed informed consent for the use of physical restraints. A recipient who is under guardianship may request that a person or organization of his or her choosing be notified of the physical restraint, whether or not the guardian approves the notice. If the resident so chooses, the facility shall make the notification within 24 hours, including any information about the period of time that the physical restraint is to be used. Whenever the Guardianship and Advocacy Commission is notified that a resident has been restrained, it shall contact the resident to determine the circumstances of the restraint and whether further action is warranted. (Section 2-106(e) of the Act) If the resident requests that the Guardianship and Advocacy Commission be contacted, the facility shall provide the following information in writing to the Guardianship and Advocacy Commission:
1) the reason the physical restraint was needed;
2) the type of physical restraint that was used;
3) the interventions utilized or considered prior to physical restraint and the impact of these interventions;
4) the length of time the physical restraint was to be applied; and
5) the name and title of the facility person who should be contacted for further information.

g) Whenever a physical restraint is used on a resident whose primary mode of communication is sign language, the resident shall be permitted to have his or her hands free from restraint for brief periods each hour, except when this freedom may result in physical harm to the resident or others. (Section 2-106(f) of the Act)
h) The plan of care shall contain a schedule or plan of rehabilitative/habilitative training to enable the most feasible progressive removal of physical restraints or the most practicable progressive use of less restrictive means to enable the resident to attain or maintain the highest practicable physical, mental or psychosocial well being.
i) A resident wearing a physical restraint shall have it released for a few minutes at least once every two hours, or more often if necessary. During these times, residents shall be assisted with ambulation, as their condition permits, and provided a change in position, skin care and nursing care, as appropriate.
j) No form of seclusion shall be permitted.

(Source: Added at 20 Ill. Reg. 12208, effective September 10, 1996)

Section 300.684 Emergency Use of Physical Restraints

a) If a resident needs emergency care, physical restraints may be used for brief periods to permit treatment to proceed unless the facility has notice that the resident has previously made a valid refusal of the treatment in question. (Section 2-106(c) of the Act)
b) For this Section only, "emergency care" means the unforeseen need for immediate treatment inside or outside the facility that is necessary to:
1) save the resident’s life;
2) prevent the resident from doing serious mental or physical harm to himself/herself; or
3) prevent the resident from injuring another individual.
c) If a resident needs emergency care and other less restrictive interventions have proved ineffective, a physical restraint may be used briefly to permit treatment to proceed. The attending physician shall be contacted immediately for orders. If the attending physician is not available, the facility's advisory physician or Medical Director shall be contacted. If a physician is not immediately available, a nurse with supervisory responsibility may approve, in writing, the use of physical restraints. A confirming order, which may be obtained by telephone, shall be obtained from the physician as soon as possible, but no later than within eight hours. The effectiveness of the physical restraint in treating medical symptoms or as a therapeutic intervention and any negative impact on the resident shall be assessed by the facility throughout the period of time the physical restraint is used. The resident must be in view of a staff person at all times until either the resident has been examined by a physician or the physical restraint is removed. The resident's needs for toileting, ambulation, hydration, nutrition, repositioning, and skin care must be met while the physical restraint is being used.

d) The emergency use of a physical restraint must be documented in the resident's record, including:
1) the behavior incident that prompted the use of the physical restraint;
2) the date and times the physical restraint was applied and released;
3) the name and title of the person responsible for the application and supervision of the physical restraint;
4) the action by the resident's physician upon notification of the physical restraint use;
5) the new or revised orders issued by the physician;
6) the effectiveness of the physical restraint in treating medical symptoms or as a therapeutic intervention and any negative impact on the resident; and
7) the date of the scheduled care planning conference or the reason a care planning conference is not needed, in light of the resident's emergency need for physical restraints.

e) The facility's emergency use of physical restraints shall comply with Sections 300.682(e), (f), (g), and (j).

(Source: Added at 20 Ill. Reg. 12208, effective September 10, 1996)

Section 300.686 Unnecessary, Psychotropic, and Antipsychotic Drugs

a) A resident shall not be given unnecessary drugs in accordance with Section 300.Appendix F. In addition, an unnecessary drug is any drug used:
1) in an excessive dose, including in duplicative therapy;
2) for excessive duration;
3) without adequate monitoring;
4) without adequate indications for its use; or
5) in the presence of adverse consequences that indicate the drugs should be reduced or discontinued. (Section 2-106.1(a) of the Act)

b) Psychotropic medication shall not be prescribed or administered without the informed consent of the resident, the resident's guardian, or other authorized representative. (Section 2-106.1(b) of the Act) Additional informed consent is not required for reductions in dosage level or deletion of a specific medication. The informed consent may provide for a medication administration program of sequentially increased doses or a combination of
medications to establish the lowest effective dose that will achieve the desired therapeutic outcome. Side effects of the medications shall be described.

c) Residents shall not be given antipsychotic drugs unless antipsychotic drug therapy is necessary, as documented in the resident’s comprehensive assessment, to treat a specific or suspected condition as diagnosed and documented in the clinical record or to rule out the possibility of one of the conditions in accordance with Section 300.Appendix F.

d) Residents who use antipsychotic drugs shall receive gradual dose reductions and behavior interventions, unless clinically contraindicated, in an effort to discontinue these drugs in accordance with Section 300.Appendix F.

e) For the purposes of this Section:
1) "Duplicative drug therapy" means any drug therapy that duplicates a particular drug effect on the resident without any demonstrative therapeutic benefit. For example, any two or more drugs, whether from the same drug category or not, that have a sedative effect.
3) "Antipsychotic drug" means a neuroleptic drug that is helpful in the treatment of psychosis and has a capacity to ameliorate thought disorders.

(Source: Added at 20 Ill. Reg. 12208, effective September 10, 1996)

Section 300.690 Incidents and Accidents
a) The facility shall maintain a file of all written reports of each incident and accident affecting a resident that is not the expected outcome of a resident’s condition or disease process. A descriptive summary of each incident or accident affecting a resident shall also be recorded in the progress notes or nurse’s notes of that resident.

b) The facility shall notify the Department of any serious incident or accident. For purposes of this Section, "serious" means any incident or accident that causes physical harm or injury to a resident.

c) The facility shall, by fax or phone, notify the Regional Office within 24 hours after each reportable incident or accident. If the facility is unable to contact the Regional Office, it shall notify the Department’s toll-free complaint registry hotline. The facility shall send a narrative summary of each reportable accident or incident to the Department within seven days after the occurrence.

(Source: Amended at 33 Ill. Reg. 9356, effective June 17, 2009)

Section 300.695 Contacting Local Law Enforcement
a) For the purpose of this Section, the following definitions shall apply:
1) "911" – an emergency answer and response system in which the caller need only dial 9-1-1 on a telephone to obtain emergency services, including police, fire, medical ambulance and rescue.
2) Physical abuse – see Section 300.30.
3) Sexual abuse – sexual penetration, intentional sexual touching or fondling, or sexual exploitation (i.e., use of an individual for another person’s sexual gratification, arousal, advantage, or profit).

b) The facility shall immediately contact local law enforcement authorities (e.g., telephoning 911 where available) in the following situations:
1) Physical abuse involving physical injury inflicted on a resident by a staff member or visitor;
2) Physical abuse involving physical injury inflicted on a resident by another resident, except in situations where the behavior is associated with dementia or developmental disability;
3) Sexual abuse of a resident by a staff member, another resident, or a visitor;
4) When a crime has been committed in a facility by a person other than a resident; or
5) When a resident death has occurred other than by disease processes.

c) The facility shall develop and implement a policy concerning local law enforcement notification, including:
1) Ensuring the safety of residents in situations requiring local law enforcement notification;
2) Contacting local law enforcement in situations involving physical abuse of a resident by another resident;
3) Contacting police, fire, ambulance and rescue services in accordance with recommended procedure;
4) Seeking advice concerning preservation of a potential crime scene;
5) Facility investigation of the situation.

d) Facility staff shall be trained in implementing the policy developed pursuant to subsection (c).

e) The facility shall also comply with other reporting requirements of this Part.

(Source: Added at 26 Ill. Reg. 4846, effective April 1, 2002)

Section 300.3240 Abuse and Neglect
a) An owner, licensee, administrator, employee or agent of a facility shall not abuse or neglect a resident. (A, B) (Section 2-107 of the Act)
b) A facility employee or agent who becomes aware of abuse or neglect of a resident shall immediately report the matter to the facility administrator. (Section 3-610 of the Act)
c) A facility administrator who becomes aware of abuse or neglect of a resident shall immediately report the matter by telephone and in writing to the resident’s representative. (Section 3-610 of the Act)
d) A facility administrator, employee, or agent who becomes aware of abuse or neglect of a resident shall also report the matter to the Department. (Section 3-610 of the Act)
e) Employee as perpetrator of abuse. When an investigation of a report of suspected abuse
of a resident indicates, based upon credible evidence, that an employee of a long-term care facility is the perpetrator of the abuse, that employee shall immediately be barred from any further contact with residents of the facility, pending the outcome of any further investigation, prosecution or disciplinary action against the employee. (Section 3-611 of the Act)
f) Resident as perpetrator of abuse. When an investigation of a report of suspected abuse of a resident indicates, based upon credible evidence, that another resident of the long-term care facility is the perpetrator of the abuse, that resident’s condition shall be immediately evaluated to determine the most suitable therapy and placement for the resident, considering the safety of that resident as well as the safety of other residents and employees of the facility. (Section 3-612 of the Act)
(Source: Amended at 15 Ill. Reg. 554, effective January 1, 1991)