AMENDMENT TO SENATE BILL 1624

AMENDMENT NO. ______. Amend Senate Bill 1624 by replacing everything after the enacting clause with the following:

"Section 5. The Assisted Living and Shared Housing Act is amended by changing Sections 10, 15, 75, 80, 90, 95, and 110 as follows:

(210 ILCS 9/10)

Sec. 10. Definitions. For purposes of this Act:
"Activities of daily living" means eating, dressing, bathing, toileting, transferring, or personal hygiene.
"Assisted living establishment" or "establishment" means a home, building, residence, or any other place where sleeping accommodations are provided for at least 3 unrelated adults, at least 80% of whom are 55 years of age or older and where the following are provided consistent with the purposes of this Act:
(1) services consistent with a social model that is based on the premise that the resident's unit in assisted living and shared housing is his or her own home;

(2) community-based residential care for persons who need assistance with activities of daily living, including personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident;

(3) mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or resident's representative; and

(4) a physical environment that is a homelike setting that includes the following and such other elements as established by the Department: individual living units each of which shall accommodate small kitchen appliances and contain private bathing, washing, and toilet facilities, or private washing and toilet facilities with a common bathing room readily accessible to each resident. Units shall be maintained for single occupancy except in cases in which 2 residents choose to share a unit. Sufficient common space shall exist to permit individual and group activities.

"Assisted living establishment" or "establishment" does not mean any of the following:

(1) A home, institution, or similar place operated by
the federal government or the State of Illinois.

(2) A long term care facility licensed under the Nursing Home Care Act, a facility licensed under the Specialized Mental Health Rehabilitation Act of 2013, a facility licensed under the ID/DD Community Care Act, or a facility licensed under the MC/DD Act. However, a facility licensed under any of those Acts may convert distinct parts of the facility to assisted living. If the facility elects to do so, the facility shall retain the Certificate of Need for its nursing and sheltered care beds that were converted.

(3) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness and that is required to be licensed under the Hospital Licensing Act.

(4) A facility for child care as defined in the Child Care Act of 1969.

(5) A community living facility as defined in the Community Living Facilities Licensing Act.

(6) A nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer in accordance with the creed or tenants of a well-recognized church or religious denomination.

(7) A facility licensed by the Department of Human Services as a community-integrated living arrangement as
defined in the Community-Integrated Living Arrangements Licensure and Certification Act.

(8) A supportive residence licensed under the Supportive Residences Licensing Act.

(9) The portion of a life care facility as defined in the Life Care Facilities Act not licensed as an assisted living establishment under this Act; a life care facility may apply under this Act to convert sections of the community to assisted living.

(10) A free-standing hospice facility licensed under the Hospice Program Licensing Act.

(11) A shared housing establishment.

(12) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

"Department" means the Department of Public Health.

"Director" means the Director of Public Health.

"Emergency situation" means imminent danger of death or serious physical harm to a resident of an establishment.

"Involuntary termination of residency" means the full release of any resident from a facility, without the informed consent of the resident, freely given and not coerced.

"Involuntary termination of residency" includes an assisted living or shared housing establishment's failure to readmit a resident following hospitalization, other medical leave, or other absence from the establishment.

"License" means any of the following types of licenses
issued to an applicant or licensee by the Department:

(1) "Probationary license" means a license issued to an applicant or licensee that has not held a license under this Act prior to its application or pursuant to a license transfer in accordance with Section 50 of this Act.

(2) "Regular license" means a license issued by the Department to an applicant or licensee that is in substantial compliance with this Act and any rules promulgated under this Act.

"Licensee" means a person, agency, association, corporation, partnership, or organization that has been issued a license to operate an assisted living or shared housing establishment.

"Licensed health care professional" means a registered professional nurse, an advanced practice nurse, a physician assistant, and a licensed practical nurse.

"Mandatory services" include the following:

(1) 3 meals per day available to the residents prepared by the establishment or an outside contractor;

(2) housekeeping services including, but not limited to, vacuuming, dusting, and cleaning the resident's unit;

(3) personal laundry and linen services available to the residents provided or arranged for by the establishment;

(4) security provided 24 hours each day including, but not limited to, locked entrances or building or contract
security personnel;

(5) an emergency communication response system, which is a procedure in place 24 hours each day by which a resident can notify building management, an emergency response vendor, or others able to respond to his or her need for assistance; and

(6) assistance with activities of daily living as required by each resident.

"Negotiated risk" is the process by which a resident, or his or her representative, may formally negotiate with providers what risks each are willing and unwilling to assume in service provision and the resident's living environment. The provider assures that the resident and the resident's representative, if any, are informed of the risks of these decisions and of the potential consequences of assuming these risks.

"Owner" means the individual, partnership, corporation, association, or other person who owns an assisted living or shared housing establishment. In the event an assisted living or shared housing establishment is operated by a person who leases or manages the physical plant, which is owned by another person, "owner" means the person who operates the assisted living or shared housing establishment, except that if the person who owns the physical plant is an affiliate of the person who operates the assisted living or shared housing establishment and has significant control over the day to day
operations of the assisted living or shared housing establishment, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under this Act.

"Physician" means a person licensed under the Medical Practice Act of 1987 to practice medicine in all of its branches.

"Resident" means a person residing in an assisted living or shared housing establishment.

"Resident's representative" means a person, other than the owner, agent, or employee of an establishment or of the health care provider unless related to the resident, designated in writing by a resident or a court to be his or her representative. This designation may be accomplished through the Illinois Power of Attorney Act, pursuant to the guardianship process under the Probate Act of 1975, or pursuant to an executed designation of representative form specified by the Department.

"Self" means the individual or the individual's designated representative.

"Shared housing establishment" or "establishment" means a publicly or privately operated free-standing residence for 16 or fewer persons, at least 80% of whom are 55 years of age or older and who are unrelated to the owners and one manager of the residence, where the following are provided:

(1) services consistent with a social model that is
based on the premise that the resident's unit is his or her own home;

(2) community-based residential care for persons who need assistance with activities of daily living, including housing and personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident; and

(3) mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or the resident's representative.

"Shared housing establishment" or "establishment" does not mean any of the following:

(1) A home, institution, or similar place operated by the federal government or the State of Illinois.

(2) A long term care facility licensed under the Nursing Home Care Act, a facility licensed under the Specialized Mental Health Rehabilitation Act of 2013, a facility licensed under the ID/DD Community Care Act, or a facility licensed under the MC/DD Act. A facility licensed under any of those Acts may, however, convert sections of the facility to assisted living. If the facility elects to do so, the facility shall retain the Certificate of Need for its nursing beds that were converted.

(3) A hospital, sanitarium, or other institution, the
principal activity or business of which is the diagnosis, care, and treatment of human illness and that is required to be licensed under the Hospital Licensing Act.

(4) A facility for child care as defined in the Child Care Act of 1969.

(5) A community living facility as defined in the Community Living Facilities Licensing Act.

(6) A nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer in accordance with the creed or tenants of a well-recognized church or religious denomination.

(7) A facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act.

(8) A supportive residence licensed under the Supportive Residences Licensing Act.

(9) A life care facility as defined in the Life Care Facilities Act; a life care facility may apply under this Act to convert sections of the community to assisted living.

(10) A free-standing hospice facility licensed under the Hospice Program Licensing Act.

(11) An assisted living establishment.

(12) A supportive living facility as described in
Section 5-5.01a of the Illinois Public Aid Code.

"Total assistance" means that staff or another individual performs the entire activity of daily living without participation by the resident.

(Source: P.A. 98-104, eff. 7-22-13; 99-180, eff. 7-29-15.)

(210 ILCS 9/15)

Sec. 15. Assessment and service plan requirements. Prior to admission to any establishment covered by this Act, a comprehensive assessment that includes an evaluation of the prospective resident's physical, cognitive, and psychosocial condition shall be completed. At least annually, a comprehensive assessment shall be completed, and upon identification of a significant change in the resident's condition, including, but not limited to, a diagnosis of Alzheimer's disease or a related dementia, the resident shall be reassessed. The Department may by rule specify circumstances under which more frequent assessments of skin integrity and nutritional status shall be required. The comprehensive assessment shall be completed by a physician. Based on the assessment, the resident's interests and preferences, dislikes, and any known triggers for behavior that endangers the resident or others, a written service plan shall be developed and mutually agreed upon by the provider and the resident, and the resident's representative, if any. The service plan, which shall be reviewed annually, or more often
as the resident's condition, preferences, or service needs change, shall serve as a basis for the service delivery contract between the provider and the resident. The resident and the resident's representative, if any, shall be given a copy of the most recent assessment; supplemental assessment, if any, done by the establishment; and service plan. Based on the assessment, the service plan may provide for the disconnection or removal of any appliance.

(Source: P.A. 91-656, eff. 1-1-01.)

(210 ILCS 9/75)
Sec. 75. Residency Requirements.

(a) No individual shall be accepted for residency or remain in residence if the establishment cannot provide or secure appropriate services, if the individual requires a level of service or type of service for which the establishment is not licensed or which the establishment does not provide, or if the establishment does not have the staff appropriate in numbers and with appropriate skill to provide such services.

(b) Only adults may be accepted for residency.

(c) A person shall not be accepted for residency if:

(1) the person poses a serious threat to himself or herself or to others;

(2) the person is not able to communicate his or her needs and no resident representative residing in the establishment, and with a prior relationship to the person,
has been appointed to direct the provision of services;

(3) the person requires total assistance with 2 or more activities of daily living;

(4) the person requires the assistance of more than one paid caregiver at any given time with an activity of daily living;

(5) the person requires more than minimal assistance in moving to a safe area in an emergency;

(6) the person has a severe mental illness, which for the purposes of this Section means a condition that is characterized by the presence of a major mental disorder as classified in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV) (American Psychiatric Association, 1994), where the individual is a person with a substantial disability due to mental illness in the areas of self-maintenance, social functioning, activities of community living and work skills, and the disability specified is expected to be present for a period of not less than one year, but does not mean Alzheimer's disease and other forms of dementia based on organic or physical disorders;

(7) the person requires intravenous therapy or intravenous feedings unless self-administered or administered by a qualified, licensed health care professional;

(8) the person requires gastrostomy feedings unless
self-administered or administered by a licensed health care professional;

(9) the person requires insertion, sterile irrigation, and replacement of catheter, except for routine maintenance of urinary catheters, unless the catheter care is self-administered or administered by a licensed health care professional;

(10) the person requires sterile wound care unless care is self-administered or administered by a licensed health care professional;

(11) the person requires sliding scale insulin administration unless self-performed or administered by a licensed health care professional;

(12) the person is a diabetic requiring routine insulin injections unless the injections are self-administered or administered by a licensed health care professional;

(13) the person requires treatment of stage 3 or stage 4 decubitus ulcers or exfoliative dermatitis;

(14) the person requires 5 or more skilled nursing visits per week for conditions other than those listed in items (13) and (15) of this subsection for a period of 3 consecutive weeks or more except when the course of treatment is expected to extend beyond a 3 week period for rehabilitative purposes and is certified as temporary by a physician; or

(15) other reasons prescribed by the Department by
rule.

(d) A resident with a condition listed in items (1) through (15) of subsection (c) shall have his or her residency terminated.

(e) Residency shall be terminated when services available to the resident in the establishment are no longer adequate to meet the needs of the resident. The establishment shall notify the resident and the resident's representative, if any, when there is a significant change in the resident's condition that affects the establishment's ability to meet the resident's needs. The requirements of subsection (c) of Section 80 shall then apply. This provision shall not be interpreted as limiting the authority of the Department to require the residency termination of individuals.

(f) Subsection (d) of this Section shall not apply to terminally ill residents who receive or would qualify for hospice care and such care is coordinated by a hospice program licensed under the Hospice Program Licensing Act or other licensed health care professional employed by a licensed home health agency and the establishment and all parties agree to the continued residency.

(g) Items (3), (4), (5), and (9) of subsection (c) shall not apply to a quadriplegic, paraplegic, or individual with neuro-muscular diseases, such as muscular dystrophy and multiple sclerosis, or other chronic diseases and conditions as defined by rule if the individual is able to communicate his or
her needs and does not require assistance with complex medical
problems, and the establishment is able to accommodate the
individual's needs. The Department shall prescribe rules
pursuant to this Section that address special safety and
service needs of these individuals.

(h) For the purposes of items (7) through (10) of
subsection (c), a licensed health care professional may not be
employed by the owner or operator of the establishment, its
parent entity, or any other entity with ownership common to
either the owner or operator of the establishment or parent
entity, including but not limited to an affiliate of the owner
or operator of the establishment. Nothing in this Section is
meant to limit a resident's right to choose his or her health
care provider.

(i) Subsection (h) is not applicable to residents admitted
to an assisted living establishment under a life care contract
as defined in the Life Care Facilities Act if the life care
facility has both an assisted living establishment and a
skilled nursing facility. A licensed health care professional
providing health-related or supportive services at a life care
assisted living or shared housing establishment must be
employed by an entity licensed by the Department under the
Nursing Home Care Act or the Home Health, Home Services, and
Home Nursing Agency Licensing Act.

(Source: P.A. 99-143, eff. 7-27-15.)
(210 ILCS 9/80)

Sec. 80. Involuntary termination of residency.

(a) Residency shall be involuntarily terminated only for the following reasons:

(1) as provided in Section 75 of this Act;

(2) nonpayment of contracted charges after the resident and the resident's representative have received a minimum of 30 days' written notice of the delinquency and the resident or the resident's representative has had at least 15 days to cure the delinquency; or

(3) failure to execute a service delivery contract or to substantially comply with its terms and conditions, failure to comply with the assessment requirements contained in Section 15, or failure to substantially comply with the terms and conditions of the lease agreement.

(b) A 30-day written notice of residency termination shall be provided to the resident, the resident's representative, or both, the Department, and the long term care ombudsman, which shall include the reason for the pending action, the date of the proposed move, and a notice, the content and form to be set forth by rule, of the resident's right to appeal, the steps that the resident or the resident's representative must take to initiate an appeal, and a statement of the resident's right to continue to reside in the establishment until a decision is rendered. The notice shall
include a toll free telephone number to initiate an appeal and a written hearing request form, together with a postage paid, pre-addressed envelope to the Department. If the resident or the resident's representative, if any, cannot read English, the notice must be provided in a language the individual receiving the notice can read or the establishment must provide a translator who has been trained to assist the resident or the resident's representative in the appeal process. In emergency situations as defined in Section 10 of this Act, the 30-day provision of the written notice may be waived.

(b-5) If an establishment initiates a termination of residency due to an emergency situation, then the resident and resident's representative, if any, the Department, and the Office of State Long Term Care Ombudsman, shall be provided with a written notice of residency termination, in a form to be specified by the Department, containing all of the information specified in subsection (b) prior to the establishment initiating a termination of residency.

(c) The establishment shall attempt to resolve with the resident or the resident's representative, if any, circumstances that if not remedied have the potential of resulting in an involuntary termination of residency and shall document those efforts in the resident's file. This action may occur prior to or during the 30 day notice period, but must occur prior to the termination of the residency. In emergency situations as defined in Section 10 of this Act, the
requirements of this subsection may be waived.

(d) A request for a hearing shall stay an involuntary termination of residency until a decision has been rendered by the Department, according to a process adopted by rule. During this time period, the establishment may not terminate or reduce any service without the consent of the resident or the resident's representative, if any, for the purpose of making it more difficult or impossible for the resident to remain in the establishment.

(e) The establishment shall offer the resident and the resident's representative, if any, residency termination and relocation assistance including information on available alternative placement. Residents, and the residents' representatives, if any, shall be involved in planning the move and shall choose among the available alternative placements except when an emergency situation makes prior resident involvement impossible. Emergency placements are deemed temporary until the resident's input can be sought in the final placement decision. No resident shall be forced to remain in a temporary or permanent placement.

(f) The Department shall offer assistance to the establishment and the resident in the preparation of residency termination and relocation plans to assure safe and orderly transition and to protect the resident's health, safety, welfare, and rights. In nonemergencies, and where possible in emergencies, the transition plan shall be designed and
implemented in advance of transfer or residency termination.

(g) An establishment may not initiate a termination of residency due to an emergency situation if (1) a resident has been hospitalized and the resident's physician states that returning to the establishment would not create an imminent danger of death or serious physical harm to a resident; or (2) the emergency can be negated by changes in staffing, activities, health care, personal care, or rooming accommodations, consistent with the license of the establishment. The Department may not find an establishment to be in violation of Section 75 of this Act for failing to initiate an emergency discharge in these circumstances.

(h) If the Department determines that an involuntary termination of residency does not meet the requirements of this Act, the Department shall issue a written decision stating that the involuntary termination of residency is denied. If the action of the establishment giving rise to the request for hearings is the establishment's failure to readmit the resident following hospitalization, other medical leave of absence, or other absence, the Department shall order the immediate readmission of the resident to the establishment.

(i) If an order to readmit is entered pursuant to subsection (h), the establishment shall immediately comply. A surveyor shall make an on-site inspection of the establishment's compliance with the order within 3 days of the order's entry, unless the resident notifies the Department in
writing that there is compliance. As used in this subsection, "compliance" means the resident is living in the establishment or the establishment and the resident have agreed on a schedule for readmission. If the resident or resident's representative notifies the Department that the establishment is not complying with an agreed-upon schedule, or that the establishment is not complying with the representation described in subsection (k), a surveyor shall make an on-site inspection to determine compliance within 3 days of the notification.

(j) An establishment that does not readmit a resident after the Department has ordered readmission shall be assessed a daily fine of $250, beginning on the day of the surveyor's inspection. The fine shall be imposed for every day thereafter, until the establishment notifies the Department that it is in compliance with the order and a surveyor makes an on-site inspection to determine if there is compliance or the resident confirms to the Department that there is compliance, as defined in subsection (i) of this Section. The on-site inspection shall be made within 3 days of the notification by the establishment.

(k) Once a notice of appeal is filed, the Department shall hold a hearing unless the notice of appeal is withdrawn. If the notice of appeal is withdrawn based upon a representation made by the establishment to the resident and the Department, including the hearing officer, that a resident who has been previously denied readmission will be readmitted, failure to comply with the representation shall be considered a failure to
comply with a Department order pursuant to subsection (h) and
shall result in the imposition of a daily fine as provided in
subsection (j) of this Section.

(l) In addition to any other penalty, an establishment that
has improperly terminated the residency of a resident shall be
assessed no less than a Type 1 violation. The establishment
shall be required to submit an acceptable plan of correction to
the Department within 30 days after the violation is affirmed.
As used in this subsection, "improperly terminated that
residency" does not include issuing a notice of residency
termination that the Department finds does not meet the
statutory requirements for termination of residency if the
establishment complied with the procedural requirements of
this Act.

(m) A long term care ombudsman may request a hearing on
behalf of a resident and secure representation of a resident
if, in the judgment of the long term care ombudsman, doing so
is in the best interests of the resident and the resident does
not object.
(Source: P.A. 91-656, eff. 1-1-01.)

(210 ILCS 9/90)

Sec. 90. Contents of service delivery contract. A contract
between an establishment and a resident must be entitled
"assisted living establishment contract" or "shared housing
establishment contract" as applicable, shall be printed in no
less than 12 point type, and shall include at least the
following elements in the body or through supporting documents
or attachments:

(1) the name, street address, and mailing address of
the establishment;

(2) the name and mailing address of the owner or owners
of the establishment and, if the owner or owners are not
natural persons, the type of business entity of the owner
or owners;

(3) the name and mailing address of the managing agent
of the establishment, whether hired under a management
agreement or lease agreement, if the managing agent is
different from the owner or owners;

(4) the name and address of at least one natural person
who is authorized to accept service on behalf of the owners
and managing agent;

(5) a statement describing the license status of the
establishment and the license status of all providers of
health-related or supportive services to a resident under
arrangement with the establishment;

(6) the duration of the contract;

(7) the base rate to be paid by the resident and a
description of the services to be provided as part of this
rate;

(8) a description of any additional services to be
provided for an additional fee by the establishment
directly or by a third party provider under arrangement with the establishment;

(9) the fee schedules outlining the cost of any additional services;

(10) a description of the process through which the contract may be modified, amended, or terminated;

(11) a description of the establishment's complaint resolution process available to residents and notice of the availability of the Department on Aging's Senior Helpline for complaints;

(12) the name of the resident's designated representative, if any;

(13) the resident's obligations in order to maintain residency and receive services including compliance with all assessments required under Section 15;

(14) the billing and payment procedures and requirements;

(15) a statement affirming the resident's freedom to receive services from service providers with whom the establishment does not have a contractual arrangement, which may also disclaim liability on the part of the establishment for those services;

(16) a statement that medical assistance under Article V or Article VI of the Illinois Public Aid Code is not available for payment for services provided in an establishment, excluding contracts executed with residents
residing in licensed establishments participating in the Department on Aging's Comprehensive Care in Residential Settings Demonstration Project;

(17) a statement detailing the admission, risk management, and residency termination criteria and procedures;

(18) a written explanation, prepared by the Office of State Long Term Care Ombudsman, of statement listing the rights specified in Sections 80 and Section 95, including an acknowledgement by the establishment and acknowledging that, by contracting with the assisted living or shared housing establishment, the resident does not forfeit those rights;

(19) a statement detailing the Department's annual on-site review process including what documents contained in a resident's personal file shall be reviewed by the on-site reviewer as defined by rule; and

(20) a statement outlining whether the establishment charges a community fee and, if so, the amount of the fee and whether it is refundable; if the fee is refundable, the contract must describe the conditions under which it is refundable and how the amount of the refund is determined; and

(21) educational material from the Office of State Long Term Care Ombudsman, written in consultation with a State association dedicated to Alzheimer's care, support, and
research with information on Alzheimer's disease and
dementia for residents who have been diagnosed with a
dementia, including signs and symptoms, stages, and
behaviors, and on a statewide helpline with resources for
those affected by Alzheimer's and other dementia operated
by a State association dedicated to Alzheimer's care,
support, and research; receipt of these educational
materials shall require signatures of acknowledgement of
receipt by a representative of the establishment, the
resident, and the resident's representative, if any.
(Source: P.A. 93-775, eff. 1-1-05; 94-256, eff. 7-19-05.)

(210 ILCS 9/95)

Sec. 95. Resident rights. No resident shall be deprived of
any rights, benefits, or privileges guaranteed by law, the
Constitution of the State of Illinois, or the Constitution of
the United States solely on account of his or her status as a
resident of an establishment, nor shall a resident forfeit any
of the following rights:

(1) the right to retain and use personal property and a
place to store personal items that is locked and secure;

(2) the right to refuse services and to be advised of
the consequences of that refusal;

(3) the right to respect for bodily privacy and dignity
at all times, especially during care and treatment;

(4) the right to the free exercise of religion;
(5) the right to privacy with regard to mail, phone
calls, and visitors;
(6) the right to uncensored access to the State
Ombudsman or his or her designee;
(7) the right to be free of retaliation for criticizing
the establishment or making complaints to appropriate
agencies;
(8) the right to be free of chemical and physical
restraints;
(9) the right to be free of abuse or neglect or to
refuse to perform labor;
(10) the right to confidentiality of the resident's
medical records;
(11) the right of access and the right to copy the
resident's personal files maintained by the establishment;
(12) the right to 24 hours access to the establishment;
(13) the right to a minimum of 90 days' notice of a planned establishment closure;
(14) the right to a minimum of 30 days' notice of an involuntary residency termination, except where the resident poses a threat to himself or others, or in other emergency situations, and the right to appeal such termination; if an establishment withdraws a notice of involuntary termination of residency, then the resident has the right to maintain residency at the establishment; and
the right to a 30-day notice of delinquency and at least 15 days right to cure delinquency; 
(16) the right to not be unlawfully transferred or discharged; 
(17) the right to retain residency during any hospital stay totaling 10 days or less following a hospital admission; and 
(18) the right not to be charged for any period during which the resident was unlawfully denied residency.
(Source: P.A. 91-656, eff. 1-1-01.)
agency that the Department considers available for appropriate
assistance to those involved. The Department may oversee and
coordinate the enforcement of State consumer protection
policies affecting residents residing in an establishment
licensed under this Act.

(c) The Department shall establish by rule complaint
receipt, investigation, resolution, and involuntary residency
termination procedures. Resolution procedures shall provide
for on-site review and evaluation of an assisted living or
shared housing establishment found to be in violation of this
Act within a specified period of time based on the gravity and
severity of the violation and any pervasive pattern of
occurrences of the same or similar violations.

(d) (Blank).

(e) The Department shall by rule establish penalties and
sanctions, which shall include, but need not be limited to, the
creation of a schedule of graduated penalties and sanctions to
include closure.

(f) The Department shall by rule establish procedures for
disclosure of information to the public, which shall include,
but not be limited to, ownership, licensure status, frequency
of complaints, disposition of substantiated complaints, and
disciplinary actions.

(g) (Blank).

(h) Beginning January 1, 2000, the Department shall begin
drafting rules necessary for the administration of this Act.
(i) The Department shall by rule provide for a prohibition on conflicts of interest for surveyors and all persons who conduct involuntary transfer or discharge hearings. As used in this subsection, "conflict of interest" includes, but is not limited to, (1) the existence of any professional relationship within 2 years prior to conducting the survey or the hearing or (2) a financial relationship between a surveyor or person conducting an involuntary transfer or discharge hearing or his or her immediate family and an establishment regulated by the Department. As used in this subsection, "immediate family" means a husband or wife, natural or adoptive parents, children, siblings, stepparents, stepchildren, stepbrothers, stepsisters, father-in-law, mother-in-law, brothers-in-law, sisters-in-law, grandparents, and grandchildren.

(Source: P.A. 96-975, eff. 7-2-10.)

Section 10. The Nursing Home Care Act is amended by changing Sections 1-111, 1-114.005, 1-128, 2-104, 2-111, 3-202.05, 3-209, 3-305, 3-401, 3-401.1, 3-402, 3-404, 3-405, 3-410, 3-411, and 3-413 and by adding Sections 3-305.6, 3-413.1, and 3-424 as follows:

(210 ILCS 45/1-111) (from Ch. 111 1/2, par. 4151-111)

Sec. 1-111. "Discharge" means the full release of any resident from a facility. "Discharge" includes a nursing facility's failure to readmit following hospitalization, other
medical leave, or other absence.

(Source: P.A. 81-223.)

(210 ILCS 45/1-114.005)

Sec. 1-114.005. High risk designation. "High risk designation" means a violation of a provision of the Illinois Administrative Code or statute that has been identified by the Department through rulemaking or designated in statute to be inherently necessary to protect the health, safety, and welfare of a resident. "High risk designation" includes an unlawful discharge of a resident.

(Source: P.A. 96-1372, eff. 7-29-10.)

(210 ILCS 45/1-128) (from Ch. 111 1/2, par. 4151-128)

Sec. 1-128. "Transfer" means a change in status of a resident's living arrangements from one facility to another facility. "Transfer" includes a nursing facility's failure to readmit a resident following hospitalization, other medical leave, or other absence, resulting in the resident being moved to another institutional setting.

(Source: P.A. 81-223.)

(210 ILCS 45/2-104) (from Ch. 111 1/2, par. 4152-104)

Sec. 2-104. (a) A resident shall be permitted to retain the services of his own personal physician at his own expense or under an individual or group plan of health insurance, or under
any public or private assistance program providing such coverage. However, the facility is not liable for the negligence of any such personal physician. Every resident shall be permitted to obtain from his 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. Every resident shall be permitted to participate in the planning of his total care and medical treatment to the extent that his condition permits. 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 board appointed by the Director. The membership, operating procedures and review criteria for the institutional review board shall be prescribed under rules and regulations of the Department and shall comply with the requirements for institutional review boards established by the federal Food and Drug Administration. No person who has received compensation in the prior 3 years from an entity that manufactures, distributes, or sells pharmaceuticals, biologics, or medical devices may serve on the institutional review board.

The institutional review board may approve only research or treatment that meets the standards of the federal Food and Drug Administration with respect to (i) the protection of human
subjects and (ii) financial disclosure by clinical
investigators. The Office of State Long Term Care Ombudsman and
the State Protection and Advocacy organization shall be given
an opportunity to comment on any request for approval before
the board makes a decision. Those entities shall not be
provided information that would allow a potential human subject
to be individually identified, unless the board asks the
Ombudsman for help in securing information from or about the
resident. The board shall require frequent reporting of the
progress of the approved research or treatment and its impact
on residents, including immediate reporting of any adverse
impact to the resident, the resident's representative, the
Office of the State Long Term Care Ombudsman, and the State
Protection and Advocacy organization. The board may not approve
any retrospective study of the records of any resident about
the safety or efficacy of any care or treatment if the resident
was under the care of the proposed researcher or a business
associate when the care or treatment was given, unless the
study is under the control of a researcher without any business
relationship to any person or entity who could benefit from the
findings of the study.

No facility shall permit experimental research or
treatment to be conducted on a resident, or give access to any
person or person's records for a retrospective study about the
safety or efficacy of any care or treatment, without the prior
written approval of the institutional review board. No nursing
home administrator, or person licensed by the State to provide medical care or treatment to any person, may assist or participate in any experimental research on or treatment of a resident, including a retrospective study, that does not have the prior written approval of the board. Such conduct shall be grounds for professional discipline by the Department of Financial and Professional Regulation.

The institutional review board may exempt from ongoing review research or treatment initiated on a resident before the individual's admission to a facility and for which the board determines there is adequate ongoing oversight by another institutional review board. Nothing in this Section shall prevent a facility, any facility employee, or any other person from assisting or participating in any experimental research on or treatment of a resident, if the research or treatment began before the person's admission to a facility, until the board has reviewed the research or treatment and decided to grant or deny approval or to exempt the research or treatment from ongoing review.

The institutional review board requirements of this subsection (a) do not apply to investigational drugs, biological products, or devices used by a resident with a terminal illness as set forth in the Right to Try Act.

(b) 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.

All physician's orders and plans of treatment shall have the authentication of the physician. For the purposes of this subsection (b), "authentication" means an original written signature or an electronic signature system that allows for the verification of a signer's credentials. A stamp signature, with or without initials, is not sufficient.

According to rules adopted by the Department, every woman resident of child-bearing age shall receive routine obstetrical and gynecological evaluations as well as necessary prenatal care.

(c) 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. The resident's refusal shall free the facility from the obligation to provide the treatment. If a resident's refusal of treatment does not endanger other residents or staff, then the refusal of treatment is not grounds for discharge.

(d) Every resident, resident's guardian, or parent if the resident is a minor shall be permitted to inspect and copy all his clinical and other records concerning his care and maintenance kept by the facility or by his physician. The facility may charge a reasonable fee for duplication of a
record.
(Source: P.A. 99-270, eff. 1-1-16.)

(210 ILCS 45/2-111) (from Ch. 111 1/2, par. 4152-111)

Sec. 2-111. A resident shall not be transferred or discharged in violation of this Act. A resident may not be charged for any period during which the resident was unlawfully denied the right to reside in a facility. A resident may be discharged from a facility after he gives the administrator, a physician, or a nurse of the facility written notice of his desire to be discharged. If a guardian has been appointed for a resident or if the resident is a minor, the resident shall be discharged upon written consent of his guardian or if the resident is a minor, his parent unless there is a court order to the contrary. In such cases, upon the resident's discharge, the facility is relieved from any responsibility for the resident's care, safety or well-being. A resident has the right to not be unlawfully transferred or discharged. An unlawful transfer or discharge is, at minimum, a type A violation.
(Source: P.A. 81-223.)

(210 ILCS 45/3-202.05)
Sec. 3-202.05. Staffing ratios effective July 1, 2010 and thereafter.
(a) For the purpose of computing staff to resident ratios, direct care staff shall include:
(1) registered nurses;
(2) licensed practical nurses;
(3) certified nurse assistants;
(4) psychiatric services rehabilitation aides;
(5) rehabilitation and therapy aides;
(6) psychiatric services rehabilitation coordinators;
(7) assistant directors of nursing;
(8) 50% of the Director of Nurses' time; and
(9) 30% of the Social Services Directors' time.

The Department shall, by rule, allow certain facilities subject to 77 Ill. Admin. Code 300.4000 and following (Subpart S) to utilize specialized clinical staff, as defined in rules, to count towards the staffing ratios.

Within 120 days of the effective date of this amendatory Act of the 97th General Assembly, the Department shall promulgate rules specific to the staffing requirements for facilities federally defined as Institutions for Mental Disease. These rules shall recognize the unique nature of individuals with chronic mental health conditions, shall include minimum requirements for specialized clinical staff, including clinical social workers, psychiatrists, psychologists, and direct care staff set forth in paragraphs (4) through (6) and any other specialized staff which may be utilized and deemed necessary to count toward staffing ratios.

Within 120 days of the effective date of this amendatory Act of the 97th General Assembly, the Department shall
promulgate rules specific to the staffing requirements for facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013. These rules shall recognize the unique nature of individuals with chronic mental health conditions, shall include minimum requirements for specialized clinical staff, including clinical social workers, psychiatrists, psychologists, and direct care staff set forth in paragraphs (4) through (6) and any other specialized staff which may be utilized and deemed necessary to count toward staffing ratios.

(b) (Blank). Beginning January 1, 2011, and thereafter, light intermediate care shall be staffed at the same staffing ratio as intermediate care.

(b-5) For purposes of the minimum staffing ratios in this Section, all residents shall be classified as requiring either skilled care or intermediate care.

As used in this subsection:

"Skilled care" means skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision.

"Intermediate care" means basic nursing care and other restorative services under periodic medical direction.

(c) Facilities shall notify the Department within 60 days after the effective date of this amendatory Act of the 96th General Assembly, in a form and manner prescribed by the
Department, of the staffing ratios in effect on the effective
date of this amendatory Act of the 96th General Assembly for
both intermediate and skilled care and the number of residents
receiving each level of care.

(d)(1) Effective July 1, 2010, for each resident needing
skilled care, a minimum staffing ratio of 2.5 hours of nursing
and personal care each day must be provided; for each resident
needing intermediate care, 1.7 hours of nursing and personal
care each day must be provided.

(2) Effective January 1, 2011, the minimum staffing ratios
shall be increased to 2.7 hours of nursing and personal care
each day for a resident needing skilled care and 1.9 hours of
nursing and personal care each day for a resident needing
intermediate care.

(3) Effective January 1, 2012, the minimum staffing ratios
shall be increased to 3.0 hours of nursing and personal care
each day for a resident needing skilled care and 2.1 hours of
nursing and personal care each day for a resident needing
intermediate care.

(4) Effective January 1, 2013, the minimum staffing ratios
shall be increased to 3.4 hours of nursing and personal care
each day for a resident needing skilled care and 2.3 hours of
nursing and personal care each day for a resident needing
intermediate care.

(5) Effective January 1, 2014, the minimum staffing ratios
shall be increased to 3.8 hours of nursing and personal care
each day for a resident needing skilled care and 2.5 hours of nursing and personal care each day for a resident needing intermediate care.

(e) Ninety days after the effective date of this amendatory Act of the 97th General Assembly, a minimum of 25% of nursing and personal care time shall be provided by licensed nurses, with at least 10% of nursing and personal care time provided by registered nurses. These minimum requirements shall remain in effect until an acuity based registered nurse requirement is promulgated by rule concurrent with the adoption of the Resource Utilization Group classification-based payment methodology, as provided in Section 5-5.2 of the Illinois Public Aid Code. Registered nurses and licensed practical nurses employed by a facility in excess of these requirements may be used to satisfy the remaining 75% of the nursing and personal care time requirements. Notwithstanding this subsection, no staffing requirement in statute in effect on the effective date of this amendatory Act of the 97th General Assembly shall be reduced on account of this subsection.

(f) The Department shall adopt rules by January 1, 2018 establishing a system for determining compliance with minimum direct care staffing standards. Compliance shall be determined at least quarterly using the Center for Medicare and Medicaid Services’ payroll-based journal and nursing home facility census and payroll data, which shall be obtained quarterly by the Department. The Department shall, at minimum, use the
quarterly payroll-based journal and census data to calculate the number of hours provided per resident day, and compare this ratio to the minimums required by this Section.

(g) The Department shall adopt rules by January 1, 2018 establishing financial penalties for facilities out of compliance with minimum staffing standards. Monetary penalties shall be imposed beginning no later than October 1, 2018, and quarterly thereafter, for the latest quarter for which the Department has data. Monetary penalties shall be established based on a formula that calculates the cost of wages and benefits for the missing staff hours, and in no circumstances shall be less than twice the calculated cost of wages and benefits for the missing staff hours during the quarter, or the minimum penalty for a Type B violation, whichever is greater. The penalty shall be imposed regardless of whether the facility has committed other violations of this Act during the quarter. The penalty may not be waived. Nothing in this Section shall preclude a facility from being given a high risk designation for failure to comply with this Section that, when cited with other violations of this Act, increases the otherwise-applicable penalty.

(h) A violation of the minimum staffing requirements under this Section is, at minimum, a Type B violation.

(Source: P.A. 97-689, eff. 6-14-12; 98-104, eff. 7-22-13.)

(210 ILCS 45/3-209) (from Ch. 111 1/2, par. 4153-209)
Sec. 3-209. Every facility shall conspicuously post for 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 this 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 Section 3-210.

(5) A facility that has received a notice of violation for having violated the minimum staffing requirements of Section 3-202.05 shall display for 3 months following the date that the notice of violation was issued, a notice that it did not have enough staff to meet the needs of the facility's residents during the quarter cited in the notice of violation.

(Source: P.A. 81-1349.)

(210 ILCS 45/3-305) (from Ch. 111 1/2, par. 4153-305)

Sec. 3-305. The license of a facility which is in violation of this Act or any rule adopted thereunder may be subject to the penalties or fines levied by the Department as specified in this Section.

(1) A licensee who commits a Type "AA" violation as defined
in Section 1-128.5 is automatically issued a conditional license for a period of 6 months to coincide with an acceptable plan of correction and assessed a fine up to $25,000 per violation.

(1.5) A licensee who commits a Type "A" violation as defined in Section 1-129 is automatically issued a conditional license for a period of 6 months to coincide with an acceptable plan of correction and assessed a fine of up to $12,500 per violation.

(2) A licensee who commits a Type "B" violation as defined in Section 1-130 shall be assessed a fine of up to $1,100 per violation or the penalty specified in subsection (g) of Section 3-202.05, whichever is greater.

(2.5) A licensee who commits 10 or more Type "C" violations, as defined in Section 1-132, in a single survey shall be assessed a fine of up to $250 per violation. A licensee who commits one or more Type "C" violations with a high risk designation, as defined by rule, shall be assessed a fine of up to $500 per violation.

(3) A licensee who commits a Type "AA" or Type "A" violation as defined in Section 1-128.5 or 1-129 which continues beyond the time specified in paragraph (a) of Section 3-303 which is cited as a repeat violation shall have its license revoked and shall be assessed a fine of 3 times the fine computed per resident per day under subsection (1).

(4) A licensee who fails to satisfactorily comply with an
accepted plan of correction for a Type "B" violation or an administrative warning issued pursuant to Sections 3-401 through 3-413 or the rules promulgated thereunder shall be automatically issued a conditional license for a period of not less than 6 months. A second or subsequent acceptable plan of correction shall be filed. A fine shall be assessed in accordance with subsection (2) when cited for the repeat violation. This fine shall be computed for all days of the violation, including the duration of the first plan of correction compliance time.

(5) For the purpose of computing a penalty under subsections (2) through (4), the number of residents per day shall be based on the average number of residents in the facility during the 30 days preceding the discovery of the violation.

(6) When the Department finds that a provision of Article II 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. In the case of a violation involving any action other than theft of money belonging to a resident, reimbursement shall be ordered only if a provision of Article II has been violated with regard to that or any other resident of the facility within the 2 years immediately preceding the violation in question.

(7) For purposes of assessing fines under this Section, a
repeat violation shall be a violation which has been cited
during one inspection of the facility for which an accepted
plan of correction was not complied with or a new citation of
the same rule if the licensee is not substantially addressing
the issue routinely throughout the facility.

(7.5) If an occurrence results in more than one type of
violation as defined in this Act (that is, a Type "AA", Type
"A", Type "B", or Type "C" violation), the Department shall
assess only one fine, which shall not exceed the maximum fine
that may be assessed for the most serious type of violation charged. For purposes of the preceding sentence, a Type "AA"
violation is the most serious type of violation that may be
charged, followed by a Type "A", Type "B", or Type "C"
violation, in that order.

(8) The minimum and maximum fines that may be assessed
pursuant to this Section shall be twice those otherwise
specified for any facility that willfully makes a misstatement
of fact to the Department, or willfully fails to make a
required notification to the Department, if that misstatement
or failure delays the start of a surveyor or impedes a survey.

(9) High risk designation. If the Department finds that a
facility has violated a provision of the Illinois
Administrative Code that has a high risk designation, or that a
facility has violated the same provision of the Illinois
Administrative Code 3 or more times in the previous 12 months,
the Department may assess a fine of up to 2 times the maximum
fine otherwise allowed.

(10) If a licensee has paid a civil monetary penalty imposed pursuant to the Medicare and Medicaid Certification Program for the equivalent federal violation giving rise to a fine under this Section, the Department shall offset the fine by the amount of the civil monetary penalty. The offset may not reduce the fine by more than 75% of the original fine, however. (Source: P.A. 98-104, eff. 7-22-13.)

(210 ILCS 45/3-305.6 new)

Sec. 3-305.6. Failure to readmit a resident. A facility that fails to comply with an order of the Department to readmit a resident, shall be assessed a daily fine of $250. The fine shall be assessed beginning on the date of the surveyor inspection required by Section 3-413.1. The fine shall be imposed for every day thereafter until the facility notifies the Department that the facility is in compliance with the order and a surveyor makes an on-site inspection that confirms compliance or the resident or resident's representative confirms to the Department in writing that there is compliance. The on-site inspection shall be made within 3 days of the notification by the facility.

As used in this Section, "compliance with the order" means a resident is living in a facility, or a facility and a resident have agreed on a schedule for readmission. If a resident subsequently notifies the Department that a facility
is not complying with an agreed-upon schedule, a surveyor shall make an on-site inspection to determine compliance within 3 days of the notification.

(210 ILCS 45/3-401) (from Ch. 111 1/2, par. 4153-401)
Sec. 3-401. A facility may involuntarily transfer or discharge a resident only for one or more of the following reasons:

(a) the facility is unable to meet the medical needs of the resident, as documented in the resident's clinical record by his or her physician for medical reasons;
(b) for the resident's physical safety;
(c) for the physical safety of other residents, the facility staff or facility visitors; or
(d) for either late payment or nonpayment for the resident's stay, except as prohibited by Titles XVIII and XIX of the federal Social Security Act. For purposes of this Section, "late payment" means non-receipt of payment after submission of a bill. If payment is not received within 45 days after submission of a bill, a facility may send a notice to the resident and responsible party requesting payment within 30 days. If payment is not received within such 30 days, the facility may thereupon institute transfer or discharge proceedings by sending a notice of transfer or discharge to the resident and responsible party by registered or certified mail. The
notice shall state, in addition to the requirements of Section 3-403 of this Act, that the responsible party has the right to pay the amount of the bill in full up to the date the transfer or discharge is to be made and then the resident shall have the right to remain in the facility. Such payment shall terminate the transfer or discharge proceedings. This subsection does not apply to those residents whose care is provided for under the Illinois Public Aid Code. The Department shall adopt rules setting forth the criteria and procedures to be applied in cases of involuntary transfer or discharge permitted under this Section.

Prior to issuing the notice of transfer or discharge of a resident under subsection (a), (b), or (c) of this Section, an attending physician shall conduct an in-person assessment, with the findings documented in the resident's clinical record.

In the absence of other bases for transfer or discharge listed in this Section, and unless it has complied with the prior notice and other procedural requirements of this Act, a facility may not refuse to readmit a resident following a medical leave of absence if the resident's need for care does not exceed the provisions of the facility's license.

(Source: P.A. 91-357, eff. 7-29-99.)

(210 ILCS 45/3-401.1) (from Ch. 111 1/2, par. 4153-401.1)

Sec. 3-401.1. (a) A facility participating in the Medical
The Assistance Program is prohibited from failing or refusing to retain as a resident any person because he or she is a recipient of or an applicant for the Medical Assistance Program. A resident who is in the process of appealing the denial of his or her application for the Medical Assistance Program is considered to be a Medicaid applicant under this Section.

(a-5) After the effective date of this amendatory Act of 1997, a facility of which only a distinct part is certified to participate in the Medical Assistance Program may refuse to retain as a resident any person who resides in a part of the facility that does not participate in the Medical Assistance Program and who is unable to pay for his or her care in the facility without Medical Assistance only if:

(1) the facility, no later than at the time of admission and at the time of the resident's contract renewal, explains to the resident (unless he or she is incompetent), and to the resident's representative, and to the person making payment on behalf of the resident for the resident's stay, in writing, that the facility may discharge the resident if the resident is no longer able to pay for his or her care in the facility without Medical Assistance;

(2) the resident (unless he or she is incompetent), the resident's representative, and the person making payment on behalf of the resident for the resident's stay,
acknowledge in writing that they have received the written explanation.

(a-10) For the purposes of this Section, a recipient or applicant shall be considered a resident in the facility during any hospital stay totaling 10 days or less following a hospital admission. The Department of Healthcare and Family Services shall recoup funds from a facility when, as a result of the facility's refusal to readmit a recipient after hospitalization for 10 days or less, the recipient incurs hospital bills in an amount greater than the amount that would have been paid by that Department (formerly the Illinois Department of Public Aid) for care of the recipient in the facility. The amount of the recoupment shall be the difference between the Department of Healthcare and Family Services' (formerly the Illinois Department of Public Aid's) payment for hospital care and the amount that Department would have paid for care in the facility.

(b) A facility which violates this Section shall be guilty of a business offense and fined not less than $500 nor more than $1,000 for the first offense and not less than $1,000 nor more than $5,000 for each subsequent offense.

(Source: P.A. 95-331, eff. 8-21-07.)

(210 ILCS 45/3-402) (from Ch. 111 1/2, par. 4153-402)

Sec. 3-402. Involuntary transfer or discharge of a resident from a facility shall be preceded by the discussion required
under Section 3-408 and by a minimum written notice of 30 days, except in one of the following instances:

(a) When an emergency transfer or discharge is ordered by the resident's attending physician because of the resident's health care needs upon an attending physician completing an in-person assessment.

(b) When the transfer or discharge is mandated by the physical safety of other residents, the facility staff, or facility visitors, as documented in the clinical record. The Department, the Office of State Long Term Care Ombudsman, and the resident's managed care organization, if applicable, shall be notified prior to any such involuntary transfer or discharge. The Department shall immediately offer transfer, or discharge and relocation assistance to residents transferred or discharged under this subparagraph (b), and the Department may place relocation teams as provided in Section 3-419 of this Act.

(c) When an identified offender is within the provisional admission period defined in Section 1-120.3. If the Identified Offender Report and Recommendation prepared under Section 2-201.6 shows that the identified offender poses a serious threat or danger to the physical safety of other residents, the facility staff, or facility visitors in the admitting facility and the facility determines that it is unable to provide a safe environment for the other residents, the facility staff, or facility visitors, the facility shall transfer or discharge the
identified offender within 3 days after its receipt of the
Identified Offender Report and Recommendation.
(Source: P.A. 96-1372, eff. 7-29-10.)

(210 ILCS 45/3-404) (from Ch. 111 1/2, par. 4153-404)
Sec. 3-404. A request for a hearing made under Section
3-403 shall stay a transfer or discharge pending a hearing or
appeal of the decision, unless a condition which would have
allowed transfer or discharge in less than 30 days as
described under paragraphs (a) and (b) of Section 3-402
develops in the interim.
(Source: P.A. 81-223.)

(210 ILCS 45/3-405) (from Ch. 111 1/2, par. 4153-405)
Sec. 3-405. A copy of the notice required by Section 3-402
shall be placed in the resident's clinical record and a copy
shall be transmitted to the Department, the resident, and the
resident's representative, if any, the resident's managed care
organization, if applicable, and the Office of State Long Term
Care Ombudsman.
(Source: P.A. 97-820, eff. 7-17-12.)

(210 ILCS 45/3-410) (from Ch. 111 1/2, par. 4153-410)
Sec. 3-410. A resident subject to involuntary transfer or
discharge from a facility, the resident's guardian or if the
resident is a minor, his parent shall have the opportunity to
file a request for a hearing with the Department within 10 days following receipt of the written notice of the involuntary transfer or discharge by the facility. A long term care ombudsman may request a hearing on behalf of the resident, and secure representation for the resident, if, in the judgment of the long term care ombudsman, doing so is in the best interests of the resident, and the resident does not object.

(Source: P.A. 81-223.)

(210 ILCS 45/3-411) (from Ch. 111 1/2, par. 4153-411)

Sec. 3-411. The Department of Public Health, when the basis for involuntary transfer or discharge is other than action by the Department of Healthcare and Family Services (formerly Department of Public Aid) with respect to the Title XIX Medicaid recipient, shall hold a hearing at the resident's facility not later than 10 days after a hearing request is filed, and render a decision within 14 days after the filing of the hearing request. Once a request for a hearing is filed, the Department shall hold a hearing unless the request is withdrawn by the resident. If the request for a hearing is withdrawn based upon a representation made by the facility to the resident and the Department, including the hearing officer, that a resident who has been denied readmission will be readmitted, and the resident or resident representative notifies the Department that the facility is still denying readmission, failure to readmit is considered failure to comply
with a Department order to readmit pursuant to Section 3-305.6,
including the imposition of a daily fine under Section 3-305.6.
(Source: P.A. 95-331, eff. 8-21-07.)

(210 ILCS 45/3-413) (from Ch. 111 1/2, par. 4153-413)

Sec. 3-413. If the Department determines that a transfer or
discharge is authorized under Section 3-401, the resident shall
not be required to leave the facility before the 34th day
following receipt of the notice required under Section 3-402,
or the 10th day following receipt of the Department's decision,
whichever is later, unless a condition which would have allowed
transfer or discharge in less than 30 days as described
under paragraphs (a) and (b) of Section 3-402 develops in the
interim.
(Source: P.A. 81-223.)

(210 ILCS 45/3-413.1 new)

Sec. 3-413.1. Denial of transfer or discharge. If the
Department determines that a transfer or discharge is not
authorized under Section 3-401, then the Department shall issue
a written decision stating that the transfer or discharge is
denied. If the action of the facility giving rise to the
request for hearings is the facility's failure to readmit the
resident following hospitalization, other medical leave of
absence, or other absence, then the Department shall order the
immediate readmission of the resident to the facility. The
facility shall comply with the order immediately. A surveyor shall make an on-site inspection of the facility's compliance with the order within 3 days of the order's entry unless the resident notifies the Department in writing that there is compliance.

(210 ILCS 45/3-424 new)

Sec. 3-424. Conflict of interest. The Department shall adopt rules providing for a prohibition on conflicts of interest for surveyors and all persons who conduct involuntary transfer or discharge hearings. As used in this Section, "conflict of interest" includes, but is not limited to, the existence of any professional relationship within 2 years prior to conducting the survey or the hearing, or a financial relationship between (1) a surveyor or person conducting an involuntary transfer or discharge hearing or their immediate family, and (2) a facility regulated by the Department. As used in this Section, "immediate family" means husband or wife, natural or adoptive parents, children, siblings, stepparents, stepchildren, stepbrothers, stepsisters, father-in-law, mother-in-law, brothers-in-law, sisters-in-law, grandparents, and grandchildren.

Section 99. Effective date. This Act takes effect upon becoming law."