

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Nursing Home Care Act is amended by changing
5 Section 2-201 as follows:

6 (210 ILCS 45/2-201) (from Ch. 111 1/2, par. 4152-201)

7 Sec. 2-201. To protect the residents' funds, the facility:

8 (1) Shall at the time of admission provide, in order of
9 priority, each resident, or the resident's guardian, if any, or
10 the resident's representative, if any, or the resident's
11 immediate family member, if any, with a written statement
12 explaining to the resident and to the resident's spouse (a)
13 their spousal impoverishment rights, as defined at Section 5-4
14 of the Illinois Public Aid Code, and at Section 303 of Title
15 III of the Medicare Catastrophic Coverage Act of 1988 (P.L.
16 100-360), ~~and~~ (b) their obligation to comply with the asset and
17 income disclosure requirements of Title XIX of the federal
18 Social Security Act and the regulations duly promulgated
19 thereunder, except that this item (b) does not apply to
20 facilities operated by the Illinois Department of Veterans'
21 Affairs that do not participate in Medicaid, and (c) the
22 resident's rights regarding personal funds and listing the
23 services for which the resident will be charged. The facility

1 shall obtain a signed acknowledgment from each resident or the
2 resident's guardian, if any, or the resident's representative,
3 if any, or the resident's immediate family member, if any, that
4 such person has received the statement and understands that
5 failure to comply with asset and income disclosure requirements
6 may result in the denial of Medicaid eligibility.

7 (2) May accept funds from a resident for safekeeping and
8 managing, if it receives written authorization from, in order
9 of priority, the resident or the resident's guardian, if any,
10 or the resident's representative, if any, or the resident's
11 immediate family member, if any; such authorization shall be
12 attested to by a witness who has no pecuniary interest in the
13 facility or its operations, and who is not connected in any way
14 to facility personnel or the administrator in any manner
15 whatsoever.

16 (3) Shall maintain and allow, in order of priority, each
17 resident or the resident's guardian, if any, or the resident's
18 representative, if any, or the resident's immediate family
19 member, if any, access to a written record of all financial
20 arrangements and transactions involving the individual
21 resident's funds.

22 (4) Shall provide, in order of priority, each resident, or
23 the resident's guardian, if any, or the resident's
24 representative, if any, or the resident's immediate family
25 member, if any, with a written itemized statement at least
26 quarterly, of all financial transactions involving the

1 resident's funds.

2 (5) Shall purchase a surety bond, or otherwise provide
3 assurance satisfactory to the Departments of Public Health and
4 Insurance that all residents' personal funds deposited with the
5 facility are secure against loss, theft, and insolvency.

6 (6) Shall keep any funds received from a resident for
7 safekeeping in an account separate from the facility's funds,
8 and shall at no time withdraw any part or all of such funds for
9 any purpose other than to return the funds to the resident upon
10 the request of the resident or any other person entitled to
11 make such request, to pay the resident his allowance, or to
12 make any other payment authorized by the resident or any other
13 person entitled to make such authorization.

14 (7) Shall deposit any funds received from a resident in
15 excess of \$100 in an interest bearing account insured by
16 agencies of, or corporations chartered by, the State or federal
17 government. The account shall be in a form which clearly
18 indicates that the facility has only a fiduciary interest in
19 the funds and any interest from the account shall accrue to the
20 resident. The facility may keep up to \$100 of a resident's
21 money in a non-interest bearing account or petty cash fund, to
22 be readily available for the resident's current expenditures.

23 (8) Shall return to the resident, or the person who
24 executed the written authorization required in subsection (2)
25 of this Section, upon written request, all or any part of the
26 resident's funds given the facility for safekeeping, including

1 the interest accrued from deposits.

2 (9) Shall (a) place any monthly allowance to which a
3 resident is entitled in that resident's personal account, or
4 give it to the resident, unless the facility has written
5 authorization from the resident or the resident's guardian or
6 if the resident is a minor, his parent, to handle it
7 differently, (b) take all steps necessary to ensure that a
8 personal needs allowance that is placed in a resident's
9 personal account is used exclusively by the resident or for the
10 benefit of the resident, and (c) where such funds are withdrawn
11 from the resident's personal account by any person other than
12 the resident, require such person to whom funds constituting
13 any part of a resident's personal needs allowance are released,
14 to execute an affidavit that such funds shall be used
15 exclusively for the benefit of the resident.

16 (10) Unless otherwise provided by State law, upon the death
17 of a resident, shall provide the executor or administrator of
18 the resident's estate with a complete accounting of all the
19 resident's personal property, including any funds of the
20 resident being held by the facility.

21 (11) If an adult resident is incapable of managing his
22 funds and does not have a resident's representative, guardian,
23 or an immediate family member, shall notify the Office of the
24 State Guardian of the Guardianship and Advocacy Commission.

25 (12) If the facility is sold, shall provide the buyer with
26 a written verification by a public accountant of all residents'

1 monies and properties being transferred, and obtain a signed
2 receipt from the new owner.

3 (Source: P.A. 86-410; 86-486; 86-1028; 87-551; 87-1122.)

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