

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

PART 330
SHELTERED CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

10	Section	
11	330.110	General Requirements
12	330.120	Application for License
13	330.130	Licensee
14	330.140	Issuance of an Initial License For a New Facility
15	330.150	Issuance of an Initial License Due to a Change of Ownership
16	330.160	Issuance of a Renewal License
17	330.163	Alzheimer's Special Care Disclosure
18	330.165	Criteria for Adverse Licensure Actions
19	330.170	Denial of Initial License
20	330.175	Denial of Renewal of License
21	330.180	Revocation of License
22	330.190	Experimental Program Conflicting With Requirements
23	330.200	Inspections, Surveys, Evaluations and Consultation
24	330.210	Filing an Annual Attested Financial Statement
25	330.220	Information to be Made Available to the Public By the Department
26	330.230	Information to be Made Available to the Public by the Licensee
27	330.240	Municipal Licensing
28	330.250	Ownership Disclosure
29	330.260	Issuance of Conditional Licenses
30	330.270	Monitoring and Receivership
31	330.271	Presentation of Findings
32	330.272	Determination to Issue a Notice of Violation or Administrative Warning
33	330.274	Determination of the Level of a Violation
34	330.276	Notice of Violation
35	330.277	Administrative Warning
36	330.278	Plans of Correction
37	330.280	Reports of Correction
38	330.282	Conditions for Assessment of Penalties
39	330.284	Calculation of Penalties (Repealed)
40	330.286	Notice of Penalty Assessment; Response by Facility
41	330.287	Consideration of Factors for Assessing Penalties
42	330.288	Reduction or Waiver of Penalties
43	330.290	Quarterly List of Violators (Repealed)

44	330.300	Alcoholism Treatment Programs in Long-Term Care Facilities
45	330.310	Department May Survey Facilities Formerly Licensed
46	330.315	Supported Congregate Living Arrangement Demonstration
47	330.320	Waivers
48	330.330	Definitions
49	330.340	Incorporated and Referenced Materials

50

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SUBPART B: ADMINISTRATION

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53 Section

54 330.510 Administrator

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SUBPART C: POLICIES

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58 Section

59 330.710 Resident Care Policies

60 330.715 Request for Resident Criminal History Record Information

61 330.720 Admission and Discharge Policies

62 330.724 Criminal History Background Checks for Persons Who Were Residents on May
63 10, 2006 (Repealed)

64 330.725 Identified Offenders

65 330.726 Discharge Planning for Identified Offenders

66 330.727 Transfer of an Identified Offender

67 330.730 Contract Between Resident and Facility

68 330.740 Residents' Advisory Council

69 330.750 General Policies

70 330.760 Personnel Policies

71 330.761 Whistleblower Protection

72 330.765 Initial Health Evaluation for Employees

73 330.770 Disaster Preparedness

74 330.780 Incidents and Accidents

75 330.785 Contacting Local Law Enforcement

76 330.790 Infection Control

77 330.792 Testing for Legionella Bacteria

78 330.795 Language Assistance Services

79 330.796 Electronic Monitoring

80

81

SUBPART D: PERSONNEL

82

83 Section

84 330.910 Personnel

85 330.911 Health Care Worker Background Check

86 330.913 Nursing and Personal Care Assistants (Repealed)

- 87 330.916 Student Interns (Repealed)
- 88 330.920 Consultation Services
- 89 330.930 Personnel Policies
- 90 330.940 Employee Assistance Program

91

92 SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

93

94 Section

- 95 330.1110 Medical Care Policies
- 96 330.1120 Personal Care
- 97 330.1125 Life Sustaining Treatments
- 98 330.1130 Communicable Disease Policies
- 99 330.1135 Tuberculin Skin Test Procedures
- 100 330.1140 Care and Treatment of Sexual Assault Survivors
- 101 330.1145 Restraints
- 102 330.1150 Emergency Use of Physical Restraints
- 103 330.1155 Unnecessary, Psychotropic, and Antipsychotic Drugs
- 104 330.1160 Vaccinations

105

106 SUBPART F: RESTORATIVE SERVICES

107

108 Section

- 109 330.1310 Activity Program
- 110 330.1320 Work Programs
- 111 330.1330 Written Policies for Restorative Services
- 112 330.1340 Volunteer Program

113

114 SUBPART G: MEDICATIONS

115

116 Section

- 117 330.1510 Medication Policies
- 118 330.1520 Administration of Medication
- 119 330.1530 Labeling and Storage of Medications

120

121 SUBPART H: RESIDENT AND FACILITY RECORDS

122

123 Section

- 124 330.1710 Resident Record Requirements
- 125 330.1720 Content of Medical Records
- 126 330.1730 Records Pertaining to Residents' Property
- 127 330.1740 Retention and Transfer of Resident Records
- 128 330.1750 Other Resident Record Requirements
- 129 330.1760 Retention of Facility Records

130 330.1770 Other Facility Record Requirements

131

132 SUBPART I: FOOD SERVICE

133

134 Section

135 330.1910 Director of Food Services

136 330.1920 Dietary Staff in Addition to Director of Food Services

137 330.1930 Hygiene of Dietary Staff

138 330.1940 Diet Orders

139 330.1950 Meal Planning

140 330.1960 Therapeutic Diets (Repealed)

141 330.1970 Scheduling of Meals

142 330.1980 Menus and Food Records

143 330.1990 Food Preparation and Service

144 330.2000 Food Handling Sanitation

145 330.2010 Kitchen Equipment, Utensils, and Supplies

146

147 SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

148

149 Section

150 330.2210 Maintenance

151 330.2220 Housekeeping

152 330.2230 Laundry Services

153

154 SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

155

156 Section

157 330.2410 Furnishings

158 330.2420 Equipment and Supplies

159

160 SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

161

162 Section

163 330.2610 Codes

164 330.2620 Water Supply

165 330.2630 Sewage Disposal

166 330.2640 Plumbing

167

168 SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR
169 NEW SHELTERED CARE FACILITIES

170

171 Section

172 330.2810 Applicable Requirements (Repealed)

173	330.2820	Applicability of These Standards
174	330.2830	Submission of a Program Narrative
175	330.2840	New Constructions, Additions, Conversions, and Alterations
176	330.2850	Preparation and Submission of Drawings and Specifications
177	330.2860	First Stage Drawings
178	330.2870	Second Stage Drawings
179	330.2880	Architectural Drawings
180	330.2890	Structural Drawings
181	330.3000	Mechanical Drawings
182	330.3010	Electrical Drawings
183	330.3020	Additions to Existing Structures
184	330.3030	Specifications
185	330.3040	Building Codes (Repealed)
186	330.3050	Site
187	330.3060	General Building Requirements
188	330.3070	Administration
189	330.3080	Corridors
190	330.3090	Bath and Toilet Rooms
191	330.3100	Living, Dining, Activity Rooms
192	330.3110	Bedrooms
193	330.3120	Special Care Room
194	330.3130	Kitchen
195	330.3140	Laundry
196	330.3150	Housekeeping, Service, and Storage
197	330.3160	Plumbing
198	330.3170	Heating and Cooling
199	330.3180	Electrical

SUBPART N: FIRE PROTECTION STANDARDS FOR
NEW SHELTERED CARE FACILITIES

200		
201		
202		
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204	Section	
205	330.3310	Applicable Requirements (Repealed)
206	330.3320	Applicability of These Standards
207	330.3330	Fire Protection
208	330.3340	Fire Department Service and Water Supply
209	330.3350	General Building Requirements
210	330.3360	Exit Facilities and Subdivision of Floor Areas
211	330.3370	Stairways, Vertical Openings, and Doorways
212	330.3380	Corridors
213	330.3390	Exit Lights and Directional Signs
214	330.3400	Hazardous Areas and Combustible Storage
215	330.3410	Fire Alarm and Detection System

- 216 330.3420 Fire Extinguishers, Electric Wiring, and Miscellaneous
- 217 330.3430 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

218

219 SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR
220 EXISTING SHELTERED CARE FACILITIES

221

222 Section

- 223 330.3610 Site
- 224 330.3620 General Building Requirements
- 225 330.3630 Administration
- 226 330.3640 Corridors
- 227 330.3650 Bath and Toilet Rooms
- 228 330.3660 Living, Dining, and Activity Rooms
- 229 330.3670 Bedrooms
- 230 330.3680 Special Care Room
- 231 330.3690 Kitchen
- 232 330.3700 Laundry Room
- 233 330.3710 Housekeeping and Service Rooms and Storage Space
- 234 330.3720 Plumbing and Heating
- 235 330.3730 Electrical

236

237 SUBPART P: FIRE PROTECTION STANDARDS FOR
238 EXISTING SHELTERED CARE FACILITIES

239

240 Section

- 241 330.3910 Fire Protection
- 242 330.3920 Fire Department Service and Water Supply
- 243 330.3930 Occupancy and Fire Areas
- 244 330.3940 Exit Facilities and Subdivision of Floor Areas
- 245 330.3950 Stairways, Vertical Openings, and Doorways
- 246 330.3960 Exit and Fire Escape Lights and Directional Signs
- 247 330.3970 Hazardous Areas and Combustible Storage
- 248 330.3980 Fire Alarm and Detection System
- 249 330.3990 Fire Extinguishers, Electric Wiring, and Miscellaneous
- 250 330.4000 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

251

252 SUBPART Q: RESIDENT'S RIGHTS

253

254 Section

- 255 330.4210 General
- 256 330.4220 Medical Care
- 257 330.4230 Restraints (Repealed)
- 258 330.4240 Abuse and Neglect

259	330.4250	Communication and Visitation
260	330.4260	Resident's Funds
261	330.4270	Residents' Advisory Council
262	330.4280	Contract With Facility
263	330.4290	Private Right of Action
264	330.4300	Transfer or Discharge
265	330.4310	Complaint Procedures
266	330.4320	Confidentiality
267	330.4330	Facility Implementation
268	330.4340	Social Isolation

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SUBPART R: DAY CARE PROGRAMS

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272 Section

273 330.4510 Day Care in Long-Term Care Facilities

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275 330.APPENDIX A Interpretation, Components, and Illustrative Services for Sheltered Care
276 Facilities (Repealed)

277 330.APPENDIX B Classification of Distinct Part of a Facility For Different Levels of Service
278 (Repealed)

279 330.APPENDIX C Forms for Day Care in Long-Term Care Facilities

280 330.APPENDIX D Criteria for Activity Directors Who Need Only Minimal Consultation
281 (Repealed)

282 330.APPENDIX E Guidelines for the Use of Various Drugs

283 330.TABLE A Heat Index Table/Apparent Temperature

284

285 AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

286

287 SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 807, effective March 1, 1980, for a
288 maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 933, effective July 28, 1980; amended at 6
289 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982;
290 amended at 6 Ill. Reg. 14547, effective November 8, 1982; amended at 6 Ill. Reg. 14681,
291 effective November 15, 1982; amended at 7 Ill. Reg. 1963, effective January 28, 1983; amended
292 at 7 Ill. Reg. 6973, effective May 17, 1983; amended at 7 Ill. Reg. 15825, effective November
293 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15, 1984; amended at 8 Ill. Reg. 15941,
294 effective August 17, 1984; codified at 8 Ill. Reg. 19790; amended at 8 Ill. Reg. 24241, effective
295 November 28, 1984; amended at 8 Ill. Reg. 24696, effective December 7, 1984; amended at 9 Ill.
296 Reg. 2952, effective February 25, 1985; amended at 9 Ill. Reg. 10974, effective July 1, 1985;
297 amended at 11 Ill. Reg. 16879, effective October 1, 1987; amended at 12 Ill. Reg. 1017, effective
298 December 24, 1987; amended at 12 Ill. Reg. 16870, effective October 1, 1988; emergency
299 amendment at 12 Ill. Reg. 18939, effective October 24, 1988, for a maximum of 150 days;
300 emergency expired March 23, 1989; amended at 13 Ill. Reg. 6562, effective April 17, 1989;
301 amended at 13 Ill. Reg. 19580, effective December 1, 1989; amended at 14 Ill. Reg. 14928,

302 effective October 1, 1990; amended at 15 Ill. Reg. 516, effective January 1, 1991; amended at 16
 303 Ill. Reg. 651, effective January 1, 1992; amended at 16 Ill. Reg. 14370, effective September 3,
 304 1992; emergency amendment at 17 Ill. Reg. 2405, effective February 3, 1993, for a maximum of
 305 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8000,
 306 effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993;
 307 amended at 17 Ill. Reg. 15089, effective September 3, 1993; amended at 17 Ill. Reg. 16180,
 308 effective January 1, 1994; amended at 17 Ill. Reg. 19258, effective October 26, 1993; amended
 309 at 17 Ill. Reg. 19576, effective November 4, 1993; amended at 17 Ill. Reg. 21044, effective
 310 November 20, 1993; amended at 18 Ill. Reg. 1475, effective January 14, 1994; amended at 18 Ill.
 311 Reg. 15851, effective October 15, 1994; amended at 19 Ill. Reg. 11567, effective July 29, 1995;
 312 emergency amendment at 20 Ill. Reg. 552, effective January 1, 1996, for a maximum of 150
 313 days; emergency expired on May 29, 1996; amended at 20 Ill. Reg. 10125, effective July 15,
 314 1996; amended at 20 Ill. Reg. 12160, effective September 10, 1996; amended at 22 Ill. Reg.
 315 4078, effective February 13, 1998; amended at 22 Ill. Reg. 7203, effective April 15, 1998;
 316 amended at 22 Ill. Reg. 16594, effective September 18, 1998; amended at 23 Ill. Reg. 1085,
 317 effective January 15, 1999; amended at 23 Ill. Reg. 8064, effective July 15, 1999; amended at 24
 318 Ill. Reg. 17304, effective November 1, 2000; amended at 25 Ill. Reg. 4901, effective April 1,
 319 2001; amended at 26 Ill. Reg. 4859, effective April 1, 2002; amended at 26 Ill. Reg. 10559,
 320 effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2202, effective February 1, 2003,
 321 for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill.
 322 Reg. 5473, effective March 25, 2003, for a maximum of 150 days; emergency expired August
 323 21, 2003; amended at 27 Ill. Reg. 5886, effective April 1, 2003; emergency amendment at 27 Ill.
 324 Reg. 14218, effective August 15, 2003, for a maximum of 150 days; emergency expired January
 325 11, 2004; amended at 27 Ill. Reg. 15880, effective September 25, 2003; amended at 27 Ill. Reg.
 326 18130, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3541, effective
 327 November 15, 2003; amended at 28 Ill. Reg. 11195, effective July 22, 2004; emergency
 328 amendment at 29 Ill. Reg. 11879, effective July 12, 2005, for a maximum of 150 days;
 329 emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15156, effective
 330 September 23, 2005, for the remainder of the maximum 150 days; emergency amendment
 331 expired December 8, 2005; amended at 29 Ill. Reg. 12891, effective August 2, 2005; amended at
 332 30 Ill. Reg. 1439, effective January 23, 2006; amended at 30 Ill. Reg. 5260, effective March 2,
 333 2006; amended at 31 Ill. Reg. 6072, effective April 3, 2007; amended at 31 Ill. Reg. 8828,
 334 effective June 6, 2007; amended at 33 Ill. Reg. 9371, effective June 17, 2009; amended at 34 Ill.
 335 Reg. 19199, effective November 23, 2010; amended at 35 Ill. Reg. 3415, effective February 14,
 336 2011; amended at 35 Ill. Reg. 11513, effective June 29, 2011; amended at 37 Ill. Reg. 2315,
 337 effective February 4, 2013; amended at 37 Ill. Reg. 4970, effective March 29, 2013; amended at
 338 39 Ill. Reg. 5470, effective March 25, 2015; amended at 41 Ill. Reg. 14826, effective November
 339 15, 2017; amended at 43 Ill. Reg. 3551, effective February 28, 2019; emergency amendment at
 340 44 Ill. Reg. 8536, effective May 5, 2020, for a maximum of 150 days; emergency repeal of
 341 emergency rule at 44 Ill. Reg. 16279, effective September 15, 2020; emergency amendment at 44
 342 Ill. Reg. 18972, effective November 19, 2020, for a maximum of 150 days; emergency rule
 343 expired April 17, 2021; emergency amendment at 45 Ill. Reg. 411, effective December 18, 2020,
 344 for a maximum of 150 days; emergency amendment to emergency rule at 45 Ill. Reg. 2084,

345 effective January 27, 2021, for the remainder of the 150 days; emergency expired May 16, 2021;
 346 emergency amendment at 45 Ill. Reg. 5554, effective April 18, 2021, for a maximum of 150
 347 days; emergency expired September 14, 2021; emergency amendment at 45 Ill. Reg. 6705,
 348 effective May 17, 2021, for a maximum of 150 days; emergency expired October 13, 2021;
 349 emergency amendment at 45 Ill. Reg. 11964, effective September 15, 2021, for a maximum of
 350 150 days; emergency amendment to emergency rule at 45 Ill. Reg. 14569, effective November 5,
 351 2021, for the remainder of the 150 days; emergency expired February 11, 2022; emergency
 352 amendment at 45 Ill. Reg. 13711, effective October 14, 2021, for a maximum of 150 days;
 353 emergency expired March 12, 2022; emergency amendment at 45 Ill. Reg. 14022, effective
 354 October 22, 2021, for a maximum of 150 days; emergency expired March 20, 2022; emergency
 355 amendment at 46 Ill. Reg. 3266, effective February 12, 2022, for a maximum of 150 days;
 356 emergency expired July 11, 2022; emergency amendment at 46 Ill. Reg. 5342, effective March
 357 13, 2022, for a maximum of 150 days; emergency expired August 9, 2022; emergency
 358 amendment at 46 Ill. Reg. 5573, effective March 21, 2022, for a maximum of 150 days; amended
 359 at 46 Ill. Reg. 10485, effective June 2, 2022; emergency amendment at 46 Ill. Reg. 13401,
 360 effective July 15, 2022, for a maximum of 150 days; emergency amendment to emergency rule
 361 at 46 Ill. Reg. 16447, effective September 19, 2022, for the remainder of the 150 days;
 362 emergency amendment to emergency rule at 46 Ill. Reg. 18243, effective October 31, 2022, for
 363 the remainder of the 150 days; emergency expired December 11, 2022; amended at 46 Ill. Reg.
 364 14268, effective July 27, 2022; emergency amendment at 46 Ill. Reg. 20270, effective December
 365 12, 2022, for a maximum of 150 days; emergency expired May 10, 2023; amended at 47 Ill. Reg.
 366 7743, effective May 17, 2023; amended at 48 Ill. Reg. 7397, effective May 3, 2024; amended at
 367 48 Ill. Reg. _____, effective _____.

368
 369 **SUBPART A: GENERAL PROVISIONS**

370
 371 **Section 330.340 Incorporated and Referenced Materials**

- 372
 373 a) The following standards and guidelines are incorporated in this Part:
 374
 375 1) For existing facilities (see Subpart O), National Fire Protection
 376 Association (NFPA) 101 (2012): Life Safety Code Chapter 19, applies to
 377 and is part of this Part, which may be obtained from the National Fire
 378 Protection Association, 1 Batterymarch Park, Quincy, MA 01269.
 379
 380 A) All appropriate references under NFPA 101 (2012), Chapter 2,
 381 Referenced Publications; and
 382
 383 B) NFPA 101 A (2013), Guide on Alternative Approaches to Life
 384 Safety
 385
 386 2) For new facilities (see Subpart M), NFPA 101 (2012): Life Safety Code,
 387 Chapter 18 and all appropriate references under Chapter 2, Referenced

388 Publications, applies to and is part of this Part, which may be obtained
 389 from the National Fire Protection Association, 1 Batterymarch Park,
 390 Quincy, MA 01269:

391
 392 A) NFPA 20 (2010), Standard for the Installation of Stationary Pumps
 393 for Fire Protection

394
 395 B) NFPA 22 (2008), Standard for Water Tanks for Private Fire
 396 Protection

397
 398 3) The following guidelines and toolkits of the Center for Infectious
 399 Diseases, Centers for Disease Control and Prevention, United States
 400 Public Health Service, Department of Health and Human Services may be
 401 obtained from the National Technical Information Services (NTIS), 5301
 402 Shawnee Road, Alexandria, VA 22312, info@ntis.gov, or the following
 403 Internet addresses:

404
 405 A) Guideline for Hand Hygiene in Health-Care Settings (October 25,
 406 2002), available at:
 407 [https://www.cdc.gov/infectioncontrol/guidelines/hand-](https://www.cdc.gov/infectioncontrol/guidelines/hand-hygiene/index.html)
 408 [hygiene/index.html](https://www.cdc.gov/infectioncontrol/guidelines/hand-hygiene/index.html)

409
 410 B) Guidelines for Preventing Healthcare-Associated Pneumonia, 2003
 411 (March 26, 2004), available at:
 412 [https://www.cdc.gov/infectioncontrol/pdf/guidelines/healthcare-](https://www.cdc.gov/infectioncontrol/pdf/guidelines/healthcare-associated-pneumonia-H.pdf)
 413 [associated-pneumonia-H.pdf](https://www.cdc.gov/infectioncontrol/pdf/guidelines/healthcare-associated-pneumonia-H.pdf)

414
 415 C) 2007 Guideline for Isolation Precautions: Preventing Transmission
 416 of Infectious Agents in Healthcare Settings (July 2023), available
 417 at: [https://www.cdc.gov/infectioncontrol/pdf/guidelines/isolation-](https://www.cdc.gov/infectioncontrol/pdf/guidelines/isolation-guidelines-H.pdf)
 418 [guidelines-H.pdf](https://www.cdc.gov/infectioncontrol/pdf/guidelines/isolation-guidelines-H.pdf)

419
 420 D) Infection Control in Healthcare Personnel, available in two parts:
 421 Infrastructure and Routine Practices for Occupational Infection
 422 Prevention and Control Services (October 25, 2019) and
 423 Epidemiology and Control of Selected Infections Transmitted
 424 Among Healthcare Personnel and Patients ([March 28,](#)
 425 [2024](#)~~October 3, 2022~~), both available at:
 426 [https://www.cdc.gov/infectioncontrol/guidelines/healthcare-](https://www.cdc.gov/infectioncontrol/guidelines/healthcare-personnel/index.html)
 427 [personnel/index.html](https://www.cdc.gov/infectioncontrol/guidelines/healthcare-personnel/index.html)

428

- 429 E) The Core Elements of Antibiotic Stewardship for Nursing Homes,
430 available at: [http://www.cdc.gov/antibiotic-use/core-
432 elements/pdfs/core-elements-antibiotic-stewardship-H.pdf](http://www.cdc.gov/antibiotic-use/core-
431 elements/pdfs/core-elements-antibiotic-stewardship-H.pdf)
- 433 F) The Core Elements of Antibiotic Stewardship for Nursing Homes,
434 Appendix A: Policy and Practice Actions to Improve Antibiotic
435 Use, available at: [https://www.cdc.gov/antibiotic-use/core-
438 elements/pdfs/core-elements-antibiotic-stewardship-appendix-a-
439 508.pdf](https://www.cdc.gov/antibiotic-use/core-
436 elements/pdfs/core-elements-antibiotic-stewardship-appendix-a-
437 508.pdf)
- 439 G) Nursing Home Antimicrobial Stewardship Guide, available at:
440 <https://www.ahrq.gov/nhguide/index.html> (March 2023)
441
- 442 H) Toolkit 3. Minimum Criteria for Common Infections Toolkit,
443 available at: [https://www.ahrq.gov/nhguide/toolkits/determine-
445 whether-to-treat/toolkit3-minimum-criteria.html](https://www.ahrq.gov/nhguide/toolkits/determine-
444 whether-to-treat/toolkit3-minimum-criteria.html) (September 2017)
- 446 D) Toolkit for Controlling Legionella in Common Sources of
447 Exposure (January 13, 2021), available at
448 [https://www.cdc.gov/legionella/downloads/Control-Toolkit-All-
450 Modules.pdf](https://www.cdc.gov/legionella/downloads/Control-Toolkit-All-
449 Modules.pdf)
- 451 4) American College of Obstetricians and Gynecologists, Guidelines for
452 Women's Health Care, Fourth Edition (2014), which may be obtained
453 from the American College of Obstetricians and Gynecologists
454 Distribution Center, P.O. Box 933104, Atlanta, GA 31193-3104 (800-
455 762-2264). (See Section 330.4220.)
- 456
- 457 5) American Society of Heating, Refrigerating, and Air Conditioning
458 Engineers (ASHRAE): ASHRAE Guideline 12-2020, "Managing the Risk
459 of Legionellosis Associated with Building Water Systems" (March 30,
460 2021), which may be obtained from the American Society of Heating,
461 Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle,
462 N.E., Atlanta, GA 30329.
- 463
- 464 b) All incorporations by reference of federal guidelines and the standards of
465 nationally recognized organizations refer to the standards on the date specified
466 and do not include any amendments or editions subsequent to the date specified.
467
- 468 c) The following statutes, federal regulation, and State regulations are referenced in
469 this Part:
- 470
- 471 1) Federal statutes:

- 472
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- A) Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.)
 - B) Social Security Act (42 U.S.C. 301 et seq., 1935 et seq. and 1936 et seq.)
 - C) Controlled Substances Act (21 U.S.C. 802)
 - 2) Federal regulation: 38 CFR 17.73, Medical Foster Homes – General (July 1, 2022)
 - 3) State of Illinois statutes:
 - A) Substance Use Disorder Act [20 ILCS 301]
 - B) Child Care Act of 1969 [225 ILCS 10]
 - C) Court of Claims Act [705 ILCS 505]
 - D) Illinois Dental Practice Act [225 ILCS 25]
 - E) Election Code [10 ILCS 5]
 - F) Freedom of Information Act [5 ILCS 140]
 - G) General Not For Profit Corporation Act of 1986 [805 ILCS 105]
 - H) Hospital Licensing Act [210 ILCS 85]
 - I) Illinois Health Facilities Planning Act [20 ILCS 3960]
 - J) Illinois Municipal Code [65 ILCS 5]
 - K) Life Care Facilities Act [210 ILCS 40]
 - L) Local Governmental and Governmental Employees Tort Immunity Act [745 ILCS 10]
 - M) Medical Practice Act of 1987 [225 ILCS 60]
 - N) Mental Health and Developmental Disabilities Code [405 ILCS 5]
 - O) Nurse Practice Act [225 ILCS 65]

- 515
- 516 P) Nursing Home Administrators Licensing and Disciplinary Act
- 517 [225 ILCS 70]
- 518
- 519 Q) Nursing Home Care Act [210 ILCS 45]
- 520
- 521 R) Illinois Occupational Therapy Practice Act [225 ILCS 75]
- 522
- 523 S) Pharmacy Practice Act [225 ILCS 85]
- 524
- 525 T) Illinois Physical Therapy Act [225 ILCS 90]
- 526
- 527 U) Private Sewage Disposal Licensing Act [225 ILCS 225]
- 528
- 529 V) Probate Act of 1975 [755 ILCS 5]
- 530
- 531 W) Illinois Public Aid Code [305 ILCS 5]
- 532
- 533 X) Illinois Administrative Procedure Act [5 ILCS 100]
- 534
- 535 Y) Clinical Psychologist Licensing Act [225 ILCS 15]
- 536
- 537 Z) Dietitian Nutritionist Practice Act [225 ILCS 30]
- 538
- 539 AA) Health Care Worker Background Check Act [225 ILCS 46]
- 540
- 541 BB) Clinical Social Work and Social Work Practice Act [225 ILCS 20]
- 542
- 543 CC) Illinois Living Will Act [755 ILCS 35]
- 544
- 545 DD) Illinois Power of Attorney Act [755 ILCS 45/Art. IV]
- 546
- 547 EE) Health Care Surrogate Act [755 ILCS 40]
- 548
- 549 FF) Health Care Right of Conscience Act [745 ILCS 70]
- 550
- 551 GG) Abused and Neglected Long-Term Care Facility Residents
- 552 Reporting Act [210 ILCS 30]
- 553
- 554 HH) Supportive Residences Licensing Act [210 ILCS 65]
- 555
- 556 II) MC/DD Act [210 ILCS 46]
- 557

- 558 JJ) Community Living Facilities Licensing Act [210 ILCS 35]
- 559
- 560 KK) Community-Integrated Living Arrangements Licensure and
- 561 Certification Act [210 ILCS 135]
- 562
- 563 LL) Counties Code [55 ILCS 5]
- 564
- 565 MM) Alzheimer's Disease and Related Dementias Special Care
- 566 Disclosure Act [210 ILCS 4]
- 567
- 568 NN) State Fire Marshal Act [20 ILCS 2905]
- 569
- 570 OO) Illinois Act on the Aging [20 ILCS 105]
- 571
- 572 PP) Illinois Speech-Language Pathology and Audiology Practice Act
- 573 [225 ILCS 110]
- 574
- 575 QQ) Assisted Living and Shared Housing Act [210 ILCS 9]
- 576
- 577 RR) Alternative Health Care Delivery Act [210 ILCS 3]
- 578
- 579 SS) Podiatric Medical Practice Act of 1987 [225 ILCS 100]
- 580
- 581 TT) Illinois Optometric Practice Act of 1987 [225 ILCS 80]
- 582
- 583 UU) Physician Assistant Practice Act of 1987 [225 ILCS 95]
- 584
- 585 VV) Language Assistance Services Act [210 ILCS 87]
- 586
- 587 WW) ID/DD Community Care Act [210 ILCS 47]
- 588
- 589 XX) Authorized Electronic Monitoring in Long-Term Care Facilities
- 590 Act [210 ILCS 32]
- 591
- 592 3) State of Illinois rules:
- 593
- 594 A) Capital Development Board, Illinois Accessibility Code (71 Ill.
- 595 Adm. Code 400)
- 596
- 597 B) Department of Public Health
- 598
- 599 i) Control of Notifiable Diseases and Conditions Code (77 Ill.
- 600 Adm. Code 690)

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- ii) Control of Sexually Transmissible Infections Code (77 Ill. Adm. Code 693)
 - iii) Food Code (77 Ill. Adm. Code 750)
 - iv) Illinois Plumbing Code (77 Ill. Adm. Code 890)
 - v) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
 - vi) Drinking Water Systems Code (77 Ill. Adm. Code 900)
 - vii) Water Well Construction Code (77 Ill. Adm. Code 920)
 - viii) Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)
 - ix) Access to Records of the Department of Public Health (2 Ill. Adm. Code 1127)
 - x) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
 - xi) Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)
 - xii) Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)
 - xiii) Medically Complex for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 390)
 - xiv) Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)
 - xv) Control of Tuberculosis Code (77 Ill. Adm. Code 696)
 - xvi) Health Care Worker Background Check Code (77 Ill. Adm. Code 955)
 - xvii) Language Assistance Services Code (77 Ill. Adm. Code 940)

- 644 xviii) Authorized Electronic Monitoring in Long-Term Care
- 645 Facilities Code (77 Ill. Adm. Code 389)
- 646
- 647 C) Department of Human Services, Alcoholism and Substance Abuse
- 648 Treatment and Intervention Licenses (77 Ill. Adm. Code 2060)
- 649
- 650 D) Office of the State Fire Marshal, Fire Prevention and Safety (41 Ill.
- 651 Adm. Code 100)
- 652
- 653 E) [Department on Aging, Community Care Program \(89 Ill. Adm.](#)
- 654 [Code 240\)](#)
- 655

656 (Source: Amended at 48 Ill. Reg. _____, effective _____)

657

658 SUBPART Q: RESIDENT'S RIGHTS

659

660 **Section 330.4300 Transfer or Discharge**

- 661
- 662 a) *A resident may be discharged from a facility after [they give](#)~~he or she gives~~ the*
 - 663 *administrator, a physician, or a nurse of the facility written notice of [their](#)~~his or~~*
 - 664 *~~her~~ desire to be discharged. If a guardian has been appointed for a resident or if*
 - 665 *the resident is a minor, the resident shall be discharged upon written consent of*
 - 666 *[their](#)~~his or her~~ guardian or if the resident is a minor, [the resident's](#)~~his or her~~*
 - 667 *parent unless there is a court order to the contrary. In such cases, upon the*
 - 668 *resident's discharge, the facility is relieved from any responsibility for the*
 - 669 *resident's care, safety or well-being. (Section 2-111 of the Act)*
 - 670
 - 671 b) Each resident's rights regarding involuntary transfer or discharge from a facility
 - 672 shall be as described in subsections (c) through (y) of this Section.
 - 673
 - 674 c) Reasons for Transfer or Discharge
 - 675
 - 676 1) *A facility may involuntarily transfer or discharge a resident only for one*
 - 677 *or more of the following reasons:*
 - 678
 - 679 A) *for medical reasons.*
 - 680
 - 681 B) *for the resident's physical safety.*
 - 682
 - 683 C) *for the physical safety of other residents, the facility staff or facility*
 - 684 *visitors.*
 - 685
 - 686 D) *for either late payment or nonpayment for the resident's stay,*

687 *except as prohibited by Titles XVIII and XIX of the federal Social*
 688 *Security Act. For purposes of this Section, "late payment" means*
 689 *non-receipt of payment after submission of a bill. If payment is not*
 690 *received within 45 days after submission of a bill, a facility may*
 691 *send a notice to the resident and responsible party requesting*
 692 *payment within 30 days. If payment is not received within such 30*
 693 *days, the facility may thereupon institute transfer or discharge*
 694 *proceedings by sending a notice of transfer or discharge to the*
 695 *resident and responsible party by registered or certified mail. The*
 696 *notice shall state, in addition to the requirements of Section 3-403*
 697 *of the Act and subsection (e) of this Section, that the responsible*
 698 *party has the right to pay the amount of the bill in full up to the*
 699 *date the transfer or discharge is to be made and then the resident*
 700 *shall have the right to remain in the facility. Such payment shall*
 701 *terminate the transfer or discharge proceedings. This subsection*
 702 *(c) does not apply to those residents whose care is provided under*
 703 *the Illinois Public Aid Code_ (Section 3-401 of the Act)*

704
 705 2) Prohibition of Discrimination

706
 707 A) *A facility participating in the Medical Assistance Program is*
 708 *prohibited from failing or refusing to retain as a resident any*
 709 *person because the resident~~he or she~~ is a recipient of or an*
 710 *applicant for the Medical Assistance Program under Article V of*
 711 *the Illinois Public Aid Code. (Section 3-401.1(a) of the Act) For*
 712 *the purposes of Section 3-401.1 of the Act, a recipient or applicant*
 713 *shall be considered a resident in the facility during any hospital*
 714 *stay totaling 10 days or less following a hospital admission.*
 715 *(Section 3-401.1(a-10) of the Act) The day on which a resident is*
 716 *discharged from the facility and admitted to the hospital shall be*
 717 *considered the first day of the 10-day period.*

718
 719 B) *A facility which violates subsection (c)(2)(A) of this Section shall*
 720 *be guilty of a business offense and fined not less than \$500 nor*
 721 *more than \$1,000 for the first offense and not less than \$1,000 nor*
 722 *more than \$5,000 for each subsequent offense. (Section 3-401.1(b)*
 723 *of the Act)*

724
 725 d) *Involuntary transfer or discharge of a resident from a facility shall be preceded*
 726 *by the discussion required under subsection (j) of this Section and by a minimum*
 727 *written notice of 21 days, except in one of the following instances:*

728
 729 1) *When an emergency transfer or discharge is ordered by the resident's*

730 attending physician because of the resident's health care needs. The State
731 Long Term Care Ombudsman shall be notified at the time of the
732 emergency transfer or discharge; (Section 3-402(a) of the Act)
733

734 2) When the transfer or discharge is mandated by the physical safety of other
735 residents, the facility staff, or facility visitors, as documented in the
736 clinical record. The Department and the State Long Term Care
737 Ombudsman shall be notified prior to any such involuntary transfer or
738 discharge. The Department will immediately offer transfer, or discharge
739 and relocation assistance to residents transferred or discharged under this
740 subsection (d), and the Department may place relocation teams as
741 provided in Section 3-419 of the Act; or (Section 3-402(b) of the Act)
742

743 3) When an identified offender is within the provisional admission period
744 defined in Section 1-120.3 of the Act and Section 330.330 of this Part. If
745 the Identified Offender Report and Recommendation prepared under
746 Section 2-201.6 of the Act shows that the identified offender poses a
747 serious threat or danger to the physical safety of other residents, the
748 facility staff, or facility visitors in the admitting facility, and the facility
749 determines that it is unable to provide a safe environment for the other
750 residents, the facility staff, or facility visitors, the facility shall transfer or
751 discharge the identified offender within 3 days after its receipt of the
752 Identified Offender Report and Recommendation. (Section 3-402(c) of the
753 Act)
754

755 e) For transfer or discharge made under subsection (d), the notice of transfer or
756 discharge shall be made as soon as practicable before the transfer or discharge.
757 The notice required by subsection (d) of this Section shall be on a form prescribed
758 by the Department and shall contain all of the following:
759

760 1) The stated reason for the proposed transfer or discharge; (Section 3-
761 403(a) of the Act)
762

763 2) The effective date of the proposed transfer or discharge; (Section 3-403(b)
764 of the Act)
765

766 3) A statement in not less than 12-point type, which reads: "You have a right
767 to appeal the facility's decision to transfer or discharge you. If you think
768 you should not have to leave this facility, you may file a request for a
769 hearing with the Department of Public Health within 10 days after
770 receiving this notice. If you request a hearing, it will be held not later
771 than 10 days after your request, and you generally will not be transferred
772 or discharged during that time. If the decision following the hearing is not

- 773 *in your favor, you generally will not be transferred or discharged prior to*
 774 *the expiration of 30 days following receipt of the original notice of the*
 775 *transfer or discharge. A form to appeal the facility's decision and to*
 776 *request a hearing is attached. If you have any questions, call the*
 777 *Department of Public Health or the State Long Term Care Ombudsman at*
 778 *the telephone ~~numbers~~number listed below.";* (Section 3-403(c) of the Act)
 779
- 780 4) *A hearing request form, together with a postage paid, preaddressed*
 781 *envelope to the Department; and* (Section 3-403(d) of the Act)
 782
- 783 5) *The name, address, and telephone number of the person charged with the*
 784 *responsibility of supervising the transfer or discharge.* (Section 3-403(e)
 785 *of the Act)*
 786
- 787 f) *A request for a hearing made under subsection (e) of this Section and Section 3-*
 788 *403 of the Act shall stay a transfer pending a hearing or appeal of the decision,*
 789 *unless a condition which would have allowed transfer or discharge in less than 21*
 790 *days as described under subsections (d)(1) and (2) of this Section develops in the*
 791 *interim.* (Section 3-404 of the Act)
 792
- 793 g) *A copy of the notice required by subsection (d) of this Section and Section 3-402*
 794 *of the Act shall be placed in the resident's clinical record and a copy shall be*
 795 *transmitted to the Department, the State Long Term Care Ombudsman, the*
 796 *resident, and the resident's representative, ~~and, if the resident's care is paid for in~~*
 797 *~~whole or part through Title XIX, to the Department of Healthcare and Family~~*
 798 *~~Services.~~* (Section 3-405 of the Act)
 799
- 800 h) *When the basis for an involuntary transfer or discharge is the result of an action*
 801 *by the Department of Healthcare and Family Services with respect to a recipient*
 802 *of Title XIX and a hearing request is filed with the Department of Healthcare and*
 803 *Family Services, the 21-day written notice period shall not begin until a final*
 804 *decision in the matter is rendered by the Department of Healthcare and Family*
 805 *Services or a court of competent jurisdiction and notice of that final decision is*
 806 *received by the resident and the facility.* (Section 3-406 of the Act)
 807
- 808 i) *When nonpayment is the basis for involuntary transfer or discharge, the resident*
 809 *shall have the right to redeem up to the date that the discharge or transfer is to be*
 810 *made and then shall have the right to remain in the facility.* (Section 3-407 of the
 811 *Act)*
 812
- 813 j) *The planned involuntary transfer or discharge shall be discussed with the*
 814 *resident, the resident's representative and person or agency responsible for the*
 815 *resident's placement, maintenance, and care in the facility. The explanation and*

- 816 *discussion of the reasons for involuntary transfer or discharge shall include the*
 817 *facility administrator or other appropriate facility representative as the*
 818 *administrator's designee. The content of the discussion and explanation shall be*
 819 *summarized in writing and shall include the names of the individuals involved in*
 820 *the discussions and made a part of the resident's clinical record. (Section 3-408*
 821 *of the Act)*
- 822
- 823 k) *The facility shall offer the resident counseling services before the transfer or*
 824 *discharge of the resident. (Section 3-409 of the Act)*
- 825
- 826 l) *A resident subject to involuntary transfer or discharge from a facility, the*
 827 *resident's guardian or if the resident is a minor, ~~the resident's his or her~~ parent*
 828 *shall have the opportunity to file a request for a hearing with the Department*
 829 *within 10 days following receipt of the written notice of the involuntary transfer*
 830 *or discharge by the facility. (Section 3-410 of the Act)*
- 831
- 832 m) *The Department of Public Health, when the basis for involuntary transfer or*
 833 *discharge is other than action by the Department of Healthcare and Family*
 834 *Services with respect to the Title XIX Medicaid recipient, shall hold a hearing at*
 835 *the resident's facility not later than 10 days after a hearing request is filed, and*
 836 *render a decision within 14 days after the filing of the hearing request. (Section*
 837 *3-411 of the Act)*
- 838
- 839 n) *The hearing before the Department provided under subsection (m) of this Section*
 840 *shall be conducted as prescribed under Section 3-703 of the Act. In determining*
 841 *whether a transfer or discharge is authorized, the burden of proof in this hearing*
 842 *rests on the person requesting the transfer or discharge. (Section 3-412 of the*
 843 *Act)*
- 844
- 845 o) *If the Department determines that a transfer or discharge is authorized under*
 846 *subsection (c) of this Section, the resident shall not be required to leave the*
 847 *facility before the 34th day following receipt of the notice required under*
 848 *subsection (d) of this Section, or the 10th day following receipt of the*
 849 *Department's decision, whichever is later, unless a condition which would have*
 850 *allowed transfer or discharge in less than 21 days as described under subsections*
 851 *(d)(1) and (2) of this Section develops in the interim. (Section 3-413 of the Act)*
 852
- 853 p) *The Department of Healthcare and Family Services shall continue Title XIX*
 854 *Medicaid funding during the appeal, transfer, or discharge period for those*
 855 *residents who are Title XIX recipients affected by subsection (c) of this Section.*
 856 *(Section 3-414 of the Act)*
- 857
- 858 q) *The Department ~~will~~ may transfer or discharge any resident from any facility*

859 required to be licensed under the Act and this Part when any of the following
 860 conditions exist:

- 861
- 862 1) ~~The~~*Such* facility is operating without a license; (Section 3-415(a) of the
 863 Act)
 - 864
 - 865 2) *The Department has suspended, revoked or refused to renew the license of*
 866 *the facility as provided under Section 3-119 of the Act. (Section 3-415(b)*
 867 *of the Act)*
 - 868
 - 869 3) *The facility has requested the aid of the Department in the transfer or*
 870 *discharge of the resident and the Department finds that the resident*
 871 *consents to transfer or discharge; (Section 3-415(c) of the Act)*
 - 872
 - 873 4) *The facility is closing or intends to close and adequate arrangement for*
 874 *relocation of the resident has not been made at least 30 days prior to*
 875 *closure; or (Section 3-415(d) of the Act)*
 - 876
 - 877 5) *The Department determines that an emergency exists which requires*
 878 *immediate transfer or discharge of the resident. (Section 3-415(e) of the*
 879 *Act)*
 - 880
 - 881 r) *In deciding to transfer or discharge a resident from a facility under subsection (q)*
 882 *of this Section, the Department ~~will~~*shall* consider the likelihood of serious harm*
 883 *which may result if the resident remains in the facility. (Section 3-416 of the Act)*
 884
 - 885 s) *The Department ~~will~~*shall* offer transfer or discharge and relocation assistance to*
 886 *residents transferred or discharged under subsection (c) through (q) of this*
 887 *Section, including information on available alternative placements. Residents*
 888 *shall be involved in planning the transfer or discharge and shall choose among*
 889 *the available alternative placements, except that where an emergency makes prior*
 890 *resident involvement impossible, the Department ~~will~~*may* make a temporary*
 891 *placement until a final placement can be arranged. Residents may choose their*
 892 *final alternative placement and shall be given assistance in transferring to such*
 893 *place. No resident ~~shall~~*may* be forced to remain in a temporary or permanent*
 894 *placement. ~~When~~*Where* the Department makes or participates in making the*
 895 *relocation decision, consideration shall be given to proximity to the resident's*
 896 *relatives and friends. The resident shall be allowed three visits to potential*
 897 *alternative placements prior to removal, except where medically contraindicated*
 898 *or where the need for immediate transfer or discharge requires reduction in the*
 899 *number of visits. When the Department provides information on available*
 900 *alternative placements in community-based settings for individuals being*
 901 *discharged or transferred from facilities licensed under the Act, the information*

must include a comprehensive list of a range of appropriate, client-oriented services and the name of and contact information for the ADA coordinator in the relocation locale. The comprehensive list must include the name and contact information for each agency or organization providing those services and a summary of the services provided by each agency or organization. A hotline or similar crisis telephone number must also be provided to individuals relocating into the community. (Section 3-417 of the Act)

t) *The Department ~~will~~shall prepare resident transfer or discharge plans to assure safe and orderly removals and protect residents' health, safety, welfare and rights. In nonemergencies and where possible in emergencies, the Department ~~will~~shall design and implement such plans in advance of transfer or discharge.* (Section 3-418 of the Act)

u) *The Department may place relocation teams in any facility from which residents are being discharged or transferred for any reason, for the purpose of implementing transfer or discharge plans.* (Section 3-419 of the Act)

v) *In any transfer or discharge conducted under subsection (q) through (t) of this Section the Department ~~will~~shall:*

1) *Provide written notice to the facility prior to the transfer or discharge. The notice ~~will~~shall state the basis for the order of transfer or discharge and ~~will~~shall inform the facility of its right to an informal conference prior to transfer or discharge under this Section, and its right to a subsequent hearing under subsection (x) of this Section. If a facility desires to contest a nonemergency transfer or discharge, prior to transfer or discharge it shall, within four working days after receipt of the notice, send a written request for an informal conference to the Department. The Department ~~will~~shall, within four working days from the receipt of the request, hold an informal conference in the county in which the facility is located. Following this conference, the Department ~~will~~may affirm, modify or overrule its previous decision. Except in an emergency, transfer or discharge ~~will~~may not begin until the period for requesting a conference has passed or, if a conference is requested, until after a conference has been held; and* (Section 3-420(a) of the Act)

2) *Provide written notice to any resident to be removed, to the resident's representative, if any, and to a member of the resident's family, where practicable, prior to the removal. The notice ~~will~~shall state the reason for which transfer or discharge is ordered and ~~will~~shall inform the resident of the resident's right to challenge the transfer or discharge under subsection (x) of this Section. The Department ~~will~~shall hold an informal conference*

945 *with the resident or the resident's representative prior to transfer or*
 946 *discharge at which the resident or the representative may present any*
 947 *objections to the proposed transfer or discharge plan or alternative*
 948 *placement. (Section 3-420(b) of the Act)*

949
 950 w) *In any transfer or discharge conducted under subsection (q)(5) of this Section,*
 951 *the Department ~~will~~shall notify the facility and any resident to be removed that an*
 952 *emergency has been found to exist and removal has been ordered, and ~~will~~shall*
 953 *involve the residents in removal planning if possible. With the consent of the*
 954 *resident or the resident's representative, the facility must inform the resident's*
 955 *designated care coordination unit, as defined in 89 Ill. Adm. Code 240.260, of the*
 956 *resident's pending discharge and must provide the resident or the resident's*
 957 *representative with the case coordination unit's telephone number and other*
 958 *contact information. Following emergency removal, the Department ~~will~~shall*
 959 *provide written notice to the facility, to the resident, to the resident's*
 960 *representative, if any, and to a member of the resident's family, where*
 961 *practicable, of the basis for the finding that an emergency existed and of the right*
 962 *to challenge removal under subsection (x) of this Section. (Section 3-421 of the*
 963 *Act)*

964
 965 x) *Within ten days following transfer or discharge, the facility or any resident*
 966 *transferred or discharged may send a written request to the Department for a*
 967 *hearing under Section 3-703 of the Act to challenge the transfer or discharge.*
 968 *The Department ~~will~~shall hold the hearing within 30 days after receipt of the*
 969 *request. The hearing ~~will~~shall be held at the facility from which the resident is*
 970 *being transferred or discharged, unless the resident or resident's representative,*
 971 *requests an alternative hearing site. If the facility prevails, it may file a claim*
 972 *against the State under the Court of Claims Act for payments lost less expenses*
 973 *saved as a result of the transfer or discharge. No resident transferred or*
 974 *discharged may be held liable for the charge for care which would have been*
 975 *made had the resident remained in the facility. If a resident prevails, the resident*
 976 *may file a claim against the State under the Court of Claims Act for any excess*
 977 *expenses directly caused by the order to transfer or discharge. The Department*
 978 *~~will~~shall assist the resident in returning to the facility if assistance is requested.*
 979 *(Section 3-422 of the Act)*

980
 981 y) *~~The administrator~~Any owner of a facility licensed under the Act shall give ~~60~~90*
 982 *days notice prior to voluntarily closing a facility or closing any part of a facility,*
 983 *or prior to closing any part of a facility if closing such part will require the*
 984 *transfer or discharge of more than 10% of the residents. Such notice shall be*
 985 *given to the Department, to the office of the State Long-Term Care Ombudsman,*
 986 *to any resident who must be transferred or discharged, to the resident's*
 987 *representative, and to a member of the resident's family, where practicable. If the*

988 Department suspends, revokes, or denies renewal of the facility's license, then
989 notice shall be given no later than the date specified by the Department. Notice
990 shall state the proposed date of closing and the reason for closing. The facility
991 shall submit a closure plan to the Department for approval which shall address
992 the process for the safe and orderly transfer of residents. The approved plan shall
993 be included in the notice. The facility shall offer to assist the resident in securing
994 an alternative placement and shall advise the resident on available alternatives.
995 When~~Where~~ the resident is unable to choose an alternate placement and is not
996 under guardianship, the Department shall be notified of the need for relocation
997 assistance. A facility closing in its entirety shall not admit any new residents on
998 or after the date written notice is submitted to the Department under the Act and
999 this Part. The facility shall comply with all applicable laws and regulations until
1000 the date of closing, including those related to transfer or discharge of residents.
1001 The Department will~~may~~ place a relocation team in the facility as provided under
1002 subsection (u) of this Section. (Section 3-423 of the Act)
1003
1004

(Source: Amended at 48 Ill. Reg. _____, effective _____)