

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

PART 340  
ILLINOIS VETERANS' HOMES CODE  
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150 AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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152 SOURCE: Emergency rule adopted at 18 Ill. Reg. 10391, effective June 21, 1994, for a  
 153 maximum of 150 days; emergency rule expired November 18, 1994; adopted at 19 Ill. Reg.  
 154 5679, effective April 3, 1995; emergency amendment at 20 Ill. Reg. 496, effective January 1,  
 155 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg.  
 156 10045, effective July 15, 1996; amended at 20 Ill. Reg. 12013, effective September 10, 1996;  
 157 amended at 22 Ill. Reg. 3959, effective February 13, 1998; amended at 22 Ill. Reg. 7162,  
 158 effective April 15, 1998; amended at 23 Ill. Reg. 1038, effective January 15, 1999; amended at  
 159 23 Ill. Reg. 7931, effective July 15, 1999; amended at 24 Ill. Reg. 17225, effective November 1,  
 160 2000; amended at 25 Ill. Reg. 4869, effective April 1, 2001; amended at 26 Ill. Reg. 4870,  
 161 effective April 1, 2002; amended at 26 Ill. Reg. 10589, effective July 1, 2002; emergency  
 162 amendment at 27 Ill. Reg. 2222, effective February 1, 2003, for a maximum of 150 days;  
 163 emergency expired June 30, 2003; amended at 27 Ill. Reg. 5903, effective April 1, 2003;  
 164 emergency amendment at 27 Ill. Reg. 14230, effective August 15, 2003, for a maximum of 150  
 165 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15904, effective September  
 166 25, 2003; amended at 27 Ill. Reg. 18148, effective November 15, 2003; amended at 28 Ill. Reg.  
 167 11209, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11931, effective July 12,  
 168 2005, for a maximum of 150 days; emergency rule modified in response to JCAR  
 169 Recommendation at 29 Ill. Reg. 15208, effective September 23, 2005, for the remainder of the  
 170 maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg.  
 171 12924, effective August 2, 2005; amended at 30 Ill. Reg. 1452, effective January 23, 2006;  
 172

173 amended at 30 Ill. Reg. 5303, effective March 2, 2006; amended at 31 Ill. Reg. 6098, effective  
 174 April 3, 2007; amended at 31 Ill. Reg. 8841, effective June 6, 2007; amended at 33 Ill. Reg.  
 175 9384, effective June 17, 2009; amended at 34 Ill. Reg. 19214, effective November 23, 2010;  
 176 amended at 35 Ill. Reg. 3442, effective February 14, 2011; amended at 35 Ill. Reg. 11596,  
 177 effective June 29, 2011; amended at 37 Ill. Reg. 2330, effective February 4, 2013; amended at 37  
 178 Ill. Reg. 4983, effective March 29, 2013; amended at 39 Ill. Reg. 5482, effective March 25,  
 179 2015; amended at 42 Ill. Reg. 1132, effective January 5, 2018; emergency amendment at 44 Ill.  
 180 Reg. 8548, effective May 5, 2020, for a maximum of 150 days; emergency repeal of emergency  
 181 rule at 44 Ill. Reg. 16291, effective September 15, 2020; emergency amendment at 44 Ill. Reg.  
 182 18994, effective November 19, 2020, for a maximum of 150 days; emergency rule expired April  
 183 17, 2021; emergency amendment at 45 Ill. Reg. 425, effective December 18, 2020, for a  
 184 maximum of 150 days; emergency amendment to emergency rule at 45 Ill. Reg. 2098, effective  
 185 January 27, 2021, for the remainder of the 150 days; emergency rule as amended expired May  
 186 16, 2021; emergency amendment at 45 Ill. Reg. 5576, effective April 18, 2021, for a maximum  
 187 of 150 days; emergency expired September 14, 2021; emergency amendment at 45 Ill. Reg.  
 188 6719, effective May 17, 2021, for a maximum of 150 days; emergency expired October 13,  
 189 2021; emergency amendment at 45 Ill. Reg. 11994, effective September 15, 2021, for a  
 190 maximum of 150 days; emergency amendment to emergency rule at 45 Ill. Reg. 14597, effective  
 191 November 5, 2021, for the remainder of the 150 days; emergency expired February 11, 2022;  
 192 emergency amendment at 45 Ill. Reg. 13725, effective October 14, 2021, for a maximum of 150  
 193 days; emergency expired March 12, 2022; emergency amendment at 45 Ill. Reg. 14039, effective  
 194 October 22, 2021, for a maximum of 150 days; emergency expired March 20, 2022; emergency  
 195 amendment at 46 Ill. Reg. 3297, effective February 12, 2022, for a maximum of 150 days;  
 196 emergency expired July 11, 2022; emergency amendment at 46 Ill. Reg. 5357, effective March  
 197 13, 2022, for a maximum of 150 days; emergency expired August 9, 2022; emergency  
 198 amendment at 46 Ill. Reg. 5590, effective March 21, 2022, for a maximum of 150 days; amended  
 199 at 46 Ill. Reg. 10504, effective June 2, 2022; emergency amendment at 46 Ill. Reg. 13432,  
 200 effective July 15, 2022, for a maximum of 150 days; emergency amendment to emergency rule  
 201 at 46 Ill. Reg. 16504, effective September 19, 2022 for the remainder of the 150 days; emergency  
 202 amendment to emergency rule at 46 Ill. Reg. 18268, effective October 31, 2022, for the  
 203 remainder of the 150 days; emergency expired December 11, 2022; amended at 46 Ill. Reg.  
 204 14285, effective July 27, 2022; emergency amendment at 46 Ill. Reg. 20295, effective December  
 205 12, 2022, for a maximum of 150 days; emergency expired May 10, 2023; amended at 47 Ill. Reg.  
 206 7762, effective May 17, 2023; amended at 48 Ill. Reg. 13825, effective August 28, 2024;  
 207 amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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 209 **SUBPART C: RESIDENT RIGHTS**

210  
 211 **Section 340.1470 Transfer or Discharge**

- 212  
 213 a) *A resident may be discharged from a facility after ~~they give~~~~he or she gives~~ the*  
 214 *administrator, a physician, or a nurse of the facility written notice of ~~their~~~~his or~~*  
 215 *~~her~~ desire to be discharged. If a guardian has been appointed for a resident or if*

216 *the resident is a minor, the resident shall be discharged upon written consent of*  
 217 *their~~his or her~~ guardian or if the resident is a minor, the resident's~~his or her~~*  
 218 *parent unless there is a court order to the contrary. In such cases, upon the*  
 219 *resident's discharge, the facility is relieved from any responsibility for the*  
 220 *resident's care, safety or well-being. (Section 2-111 of the Act)*

221  
 222 b) *A facility may involuntarily transfer or discharge a resident only for one or more*  
 223 *of the following reasons:*

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 225 1) *for medical reasons;*

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 227 2) *for the resident's physical safety;*

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 229 3) *for the physical safety of other residents, the facility staff or facility*  
 230 *visitors; or*

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 232 4) *for either late payment or nonpayment for the resident's stay, except as*  
 233 *prohibited by Titles XVIII and XIX of the federal Social Security Act. For*  
 234 *purposes of this Section, "late payment"~~"Late Payment"~~ means non-*  
 235 *receipt of payment after submission of a bill. If payment is not received*  
 236 *within 45 days after submission of a bill, a facility may send a notice to the*  
 237 *resident and responsible party requesting payment within 30 days. If*  
 238 *payment is not received within such 30 days, the facility may thereupon*  
 239 *institute transfer or discharge proceedings by sending a notice of transfer*  
 240 *or discharge to the resident and responsible party by registered or*  
 241 *certified mail. The notice shall state, in addition to the requirements of*  
 242 *Section 3-403 of the Act and subsection (e) of this Section, that the*  
 243 *responsible party has the right to pay the amount of the bill in full up to*  
 244 *the date the transfer or discharge is to be made and then the resident shall*  
 245 *have the right to remain in the facility. Such payment shall terminate the*  
 246 *transfer or discharge proceedings. This subsection (b) does not apply to*  
 247 *those residents whose care is provided under the Illinois Public Aid Code.*  
 248 *(Section 3-401 of the Act)*

249  
 250 c) *A facility participating in the Medical Assistance Program is prohibited from*  
 251 *failing or refusing to retain as a resident any person because the resident~~he or she~~*  
 252 *is a recipient of, or an applicant for, the Medical Assistance Program under*  
 253 *Article V of the Illinois Public Aid Code. (Section 3-401.1(a) of the Act) For the*  
 254 *purposes of Section 3-401.1 of the Act, a recipient or applicant shall be*  
 255 *considered a resident in the facility during any hospital stay totaling 10 days or*  
 256 *less following a hospital admission. (Section 3-401.1(a-10) of the Act) The day*  
 257 *on which a resident is discharged from the facility and admitted to the hospital*  
 258 *shall be considered the first day of the 10-day~~10day~~ period.*

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- d) *Involuntary transfer or discharge of a resident from a facility shall be preceded by the discussion required under Section 3-408 ~~of the Act~~ of the Act and subsection (j) of this Section and by a minimum written notice of 21 days, except in one of the following instances:*
- 1) *When an emergency transfer or discharge is ordered by the resident's attending physician because of the resident's health care needs. The State Long Term Care Ombudsman shall be notified at the time of the emergency transfer or discharge; (Section 3-402(a) of the Act)*
  - 2) *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 and the State Long Term Care Ombudsman shall be notified prior to any such involuntary transfer or discharge. The Department will immediately offer transfer, or discharge and relocation assistance to residents transferred or discharged under this subsection (d), and the Department may place relocation teams as provided in Section 3-419 of the Act; or (Section 3-402(b) of the Act)*
  - 3) *When an identified offender is within the provisional admission period defined in Section 1-120.3 of the Act and Section 340.1000 of this Part. If the Identified Offender Report and Recommendation prepared under Section 2-201.6 of the Act 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. (Section 3-402(c) of the Act)*
- e) For transfer or discharge made under subsection (d), the notice of transfer or discharge shall be made as soon as practicable before the transfer or discharge. *The notice required by Section 3-402 of the Act and subsection (d) of this Section shall be on a form prescribed by the Department and shall contain all of the following:*
- 1) *The stated reason for the proposed transfer or discharge; (Section 3-403(a) of the Act)*
  - 2) *The effective date of the proposed transfer or discharge; (Section 3-403(b) of the Act)*

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- 3) *A statement in not less than 12-point type, which reads: "You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may file a request for a hearing with the Department of Public Health within 10 days after receiving this notice. If you request a hearing, it will be held not later than 10 days after your request, and you generally will not be transferred or discharged during that time. If the decision following the hearing is not in your favor, you generally will not be transferred or discharged prior to the expiration of 30 days following receipt of the original notice of the transfer or discharge. A form to appeal the facility's decision and to request a hearing is attached. If you have any questions, call the Department of Public Health or the State Long Term Care Ombudsman at the telephone ~~numbers~~number listed below."; (Section 3-403(c) of the Act)*
- 4) *A hearing request form, together with a postage paid, preaddressed envelope to the Department; and (Section 3-403(d) of the Act)*
- 5) *The name, address, and telephone number of the person charged with the responsibility of supervising the transfer or discharge. (Section 3-403(e) of the Act)*
- f) *A request for a hearing made under Section 3-403 of the Act and subsection (e) of this Section shall stay a transfer pending a hearing or appeal of the decision, unless a condition which would have allowed transfer or discharge in less than 21 days as described under subsections (d)(1) and (2) of this Section develops in the interim. (Section 3-404 of the Act)*
- g) *A copy of the notice required by Section 3-402 of the Act and subsection (d) of this Section shall be placed in the resident's clinical record and a copy shall be transmitted to the Department, the State Long Term Care Ombudsman, the resident, and the resident's representative, ~~and, if the resident's care is paid for in whole or part through Title XIX, to the Department of Healthcare and Family Services~~. (Section 3-405 of the Act)*
- h) *When the basis for an involuntary transfer or discharge is the result of an action by the Department of Healthcare and Family Services with respect to a recipient of Title XIX and a hearing request is filed with the Department of Healthcare and Family Services, the 21-day written notice period shall not begin until a final decision in the matter is rendered by the Department of Healthcare and Family Services or a court of competent jurisdiction and notice of that final decision is received by the resident and the facility. (Section 3-406 of the Act)*



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 346 i) *When nonpayment is the basis for involuntary transfer or discharge, the resident*  
 347 *shall have the right to redeem up to the date that the discharge or transfer is to be*  
 348 *made and then shall have the right to remain in the facility. (Section 3-407 of the*  
 349 *Act)*  
 350  
 351 j) *The planned involuntary transfer or discharge shall be discussed with the*  
 352 *resident, the resident's representative and person or agency responsible for the*  
 353 *resident's placement, maintenance, and care in the facility. The explanation and*  
 354 *discussion of the reasons for involuntary transfer or discharge shall include the*  
 355 *facility administrator or other appropriate facility representative as the*  
 356 *administrator's designee. The content of the discussion and explanation shall be*  
 357 *summarized in writing and shall include the names of the individuals involved in*  
 358 *the discussions. This summary shall be made a part of the resident's clinical*  
 359 *record. (Section 3-408 of the Act)*  
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 361 k) *The facility shall offer the resident counseling services before the transfer or*  
 362 *discharge of the resident. (Section 3-409 of the Act)*  
 363  
 364 l) *A resident subject to involuntary transfer or discharge from a facility, the*  
 365 *resident's guardian or if the resident is a minor, ~~the resident's~~ his or her parent*  
 366 *shall have the opportunity to file a request for a hearing with the Department*  
 367 *within 10 days following receipt of the written notice of the involuntary transfer*  
 368 *or discharge by the facility. (Section 3-410 of the Act)*  
 369  
 370 m) *The Department of Public Health, when the basis for involuntary transfer or*  
 371 *discharge is other than action by the Department of Healthcare and Family*  
 372 *Services with respect to the Title XIX Medicaid recipient, shall hold a hearing at*  
 373 *the resident's facility not later than ~~10~~14 days after a hearing request is filed, and*  
 374 *render a decision within 14 days after the filing of the hearing request. (Section*  
 375 *3-411 of the Act)*  
 376  
 377 n) *The hearing before the Department provided under Section 3-411 of the Act and*  
 378 *subsection (m) of this Section shall be conducted as prescribed under Section ~~3-~~*  
 379 *~~7033-703~~ of the Act. In determining whether a transfer or discharge is*  
 380 *authorized, the burden of proof in this hearing rests on the person requesting the*  
 381 *transfer or discharge. (Section 3-412 of the Act)*  
 382  
 383 o) *If the Department determines that a transfer or discharge is authorized under*  
 384 *Section 3-401 of the Act and subsection (b) of this Section, the resident shall not*  
 385 *be required to leave the facility before the 34th day following receipt of the notice*  
 386 *required under Section 3-402 of the Act and subsection (c) of this Section, or the*  
 387 *10<sup>th</sup> day following receipt of the Department's decision, whichever is later, unless*

388 a condition which would have allowed transfer or discharge in less than 21 days  
389 as described under Section 3-402 of the Act and subsections (d)(1) and (2) of this  
390 Section develops in the interim. (Section 3-413 of the Act)

391  
392 p) The Department of Healthcare and Family Services shall continue Title XIX  
393 Medicaid funding during the appeal, transfer, or discharge period for those  
394 residents who are Title XIX recipients affected by Section 3-401 of the Act and  
395 subsection (c) of this Section. (Section 3-414 of the Act)

396  
397 q) ~~The administrator~~~~Any owner~~ of a facility licensed under the Act and this Part  
398 shall give ~~60 days~~~~90 days~~ notice prior to voluntarily closing a facility or closing  
399 any part of a facility, or prior to closing any part of a facility if closing such part  
400 will require the transfer or discharge of more than 10% percent of the residents.  
401 Such notice shall be given to the Department, to the office of the State Long-Term  
402 Care Ombudsman, to any resident who must be transferred or discharged, to the  
403 resident's representative, and to a member of the resident's family, where  
404 practicable. If the Department suspends, revokes, or denies renewal of the  
405 facility's license, then notice shall be given no later than the date specified by the  
406 Department. Notice shall state the proposed date of closing and the reason for  
407 closing. The facility shall submit a closure plan to the Department for approval  
408 which shall address the process for the safe and orderly transfer of residents. The  
409 approved plan shall be included in the notice. The facility shall offer to assist the  
410 resident in securing an alternative placement and shall advise the resident on  
411 available alternatives. ~~When~~~~Where~~ the resident is unable to choose an alternate  
412 placement and is not under guardianship, the Department shall be notified of the  
413 need for relocation assistance. A facility closing in its entirety shall not admit  
414 any new residents on or after the date written notice is submitted to the  
415 Department under the Act and this Part. The facility shall comply with all  
416 applicable laws and regulations until the date of closing, including those related  
417 to transfer or discharge of residents. The Department will place a relocation  
418 team in the facility as provided under Section 3-419 of the Act. (Section 3-423 of  
419 the Act)

420  
421 (Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)