**Section 330.270 Monitor and Receivership**

a) *The Department may place an employee or agent to serve as a monitor in a facility when any of the following conditions exist:*

1) *The facility is operating without a license;*

2) *The Department has suspended, revoked or refused to renew the existing license of the facility;*

3) *The facility is closing or has informed the Department that it intends to close and adequate arrangements for relocation of residents have not been made at least 30 days prior to closure;* or

4) *The Department determines that an emergency exists, whether or not it has initiated revocation or nonrenewal procedures, if because of the unwillingness or inability of the licensee to remedy the emergency the Department believes a monitor is necessary.* As used in this subsection, *"emergency" means a threat to the health, safety or welfare of a resident that the facility is unwilling or unable to correct.* (Section 3-501 of the Act)

b) The monitor shall meet the following minimum requirements:

1) be in good physical health as evidenced by a physical examination by a physician within the last year;

2) have an understanding of the needs of long-term care facility residents as evidenced by one year of experience in working, as appropriate, with elderly or developmentally disabled individuals in programs such as patient care, social work or advocacy;

3) have an understanding of the Act and this Part which are the subject of the monitor's duties as evidenced in a personal interview of the candidate;

4) not be related to the owners of the involved facility either through blood, marriage or common ownership of real or personal property except ownership of stock that is traded on a stock exchange;

5) have successfully completed a baccalaureate degree or possess a nursing license or a nursing home administrator's license; and

6) have two years full-time work experience in the long-term care industry of the State of Illinois.

c) The monitor shall be under the supervision of the Department; shall perform the duties of a monitor delineated in Section 3-502 of the Act; and shall accomplish the following actions:

1) visit the facility as directed by the Department;

2) review all records pertinent to the condition for such monitor's placement under subsection (a) of this Section;

3) provide to the Department written and oral reports detailing the observed conditions of the facility; and

4) be available as a witness for hearings involving the condition for placement as monitor.

d) All communications, including but not limited to data, memoranda, correspondence, records and reports shall be transmitted to and become the property of the Department. In addition, findings and results of the monitor's work done under this Part shall be strictly confidential and not subject to disclosure without written authorization from the Department or by court order subject to disclosure only in accordance with the provisions of the Freedom of Information Act, subject to the confidentiality requirements of the Act.

e) The assignment as monitor may be terminated at any time by the Department.

f) Through consultation with the long-term care industry associations, professional organizations, consumer groups and health-care management corporations, the Department shall maintain a list of receivers. Preference on the list shall be given to individuals possessing a valid Illinois Nursing Home Administrator's License, experience in financial and operations management of a long-term care facility and individuals with access to consultative experts with the aforementioned experience. To be placed on the list, individuals must meet the following minimum requirements:

1) be in good physical and mental health as evidenced by a physical examination by a physician within the last year;

2) have an understanding of the needs of long-term care facility residents and the delivery of the highest possible quality of care as evidenced by one year of experience in working with elderly or developmentally disabled individuals in programs such as patient care, social work, or advocacy;

3) have an understanding and working knowledge of the Act and this Part as evidenced by a personal interview of the candidate;

4) have successfully completed a baccalaureate degree or possess a nursing license or a nursing home administrator's license; and

5) have two years full-time working experience in the Illinois long-term care industry.

g) Upon appointment of a receiver for a facility by a court, the Department shall inform the individual of all legal proceedings to date which concern the facility.

h) The receiver may request that the Director of the Department authorize expenditures from monies appropriated, pursuant to Section 3-511 of the Act, if incoming payments from the operation of the facility are less than the cost incurred by the receiver.

i) In the case of Department ordered patient transfers, the receiver may:

1) assist in providing for the orderly transfer of all residents in the facility to other suitable facilities or make other provisions for their continued health;

2) assist in providing for transportation of the resident, his medical records and his belongings if he is transferred or discharged; assist in locating alternative placement; assist in preparing the resident for transfer; and permit the resident's legal guardian to participate in the selection of the resident's new location;

3) unless emergency transfer is necessary, explain alternative placements to the resident and provide orientation to the place chosen by the resident or resident's guardian.

j) *In any action or special proceeding brought against a receiver in the receiver's official capacity for acts committed while carrying out* the aforesaid *powers and duties, the receiver shall be considered a public employee under the Local Governmental and Governmental Employees Tort Immunity Act* [745 ILCS 10]. *A receiver may be held liable in a personal capacity only for the receiver's own gross negligence, intentional acts or breach of fiduciary duty.* (Section 3-513 of the Act)

(Source: Amended at 19 Ill. Reg. 11567, effective July 29, 1995)