**Section 389.120 Consent of the Roommate**

a) *Prior to the authorized electronic monitoring, a resident must obtain the written consent of any other resident residing in the room on the notification and consent form prescribed by the Department. Except as otherwise provided in this Section, a roommate, a roommate's plenary guardian of the person, or the parent of a roommate under the age of 18 must consent in writing to the authorized electronic monitoring in the resident's room.*

b) *If the roommate has not affirmatively objected to the authorized electronic monitoring in accordance with* the Act and this Section*, and the roommate's*

*physician determines that the roommate lacks the ability to understand and appreciate the nature and consequences of electronic monitoring, the following individuals may consent on behalf of the roommate, in order of priority:*

1) *A health care agent named under the Illinois Power of Attorney Act;*

2) *A roommate's resident's representative;*

3) *The roommate's spouse;*

4) *The roommate's parent;*

5) *The roommate's adult child who has the written consent of the other adult children of the resident to act as the sole decision maker regarding authorized electronic monitoring; or*

6) *The roommate's adult brother or sister who has the written consent of the other adult siblings of the resident to act as the sole decision maker regarding authorized electronic monitoring.*  (Section 15(c) of the Act)

c) *Consent by a roommate under* this Section *authorizes the resident's use of any recording obtained under* the *Act, as provided in Section 45 of the Act and* Section 389.135(d) of this Part*.* (Section 15(c-5) of the Act)

d) *Any resident previously conducting authorized electronic monitoring must obtain* written *consent from any new roommate before the resident may resume authorized electronic monitoring. If a new roommate does not consent to authorized electronic monitoring,* the device shall be turned off by the resident or the resident's representative*.* If *the resident conducting the authorized electronic monitoring does not remove or disable the electronic monitoring device, the facility may turn off the device* and shall note the date, time, and reason in the resident's record*.* (Section 15(c-7) of the Act)

e) *Consent may be withdrawn by the resident or roommate at any time, and the withdrawal of consent shall be documented in the resident's clinical record. If a roommate withdraws consent and the resident conducting the authorized electronic monitoring does not remove or disable the electronic monitoring device, the facility may turn off the electronic monitoring device* and shall note the date, time, and reason in the resident's record*.* (Section 15(d) of the Act)

f) *If a resident who is residing in a shared room wants to conduct authorized electronic monitoring and another resident living in or moving into the same shared room refuses to consent to the use of an electronic monitoring device, the facility shall make a reasonable attempt to accommodate the resident who wants to conduct authorized electronic monitoring. A facility has met the requirement to make a reasonable attempt to accommodate a resident who wants to conduct authorized electronic monitoring when upon notification that a roommate has not consented to the use of an electronic monitoring device in his or her room, the facility offers to move either resident to another shared room that is available at the time of the request. If a resident chooses to reside in a private room in order to accommodate the use of an electronic monitoring device, the resident must pay the private room rate. If a facility is unable to accommodate a resident due to lack of space, the facility must reevaluate the request every 2 weeks until the request is fulfilled.* (Section 15(e) of the Act)