

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 Sections 2-106 and 2-106.1 as follows:

6 (210 ILCS 45/2-106) (from Ch. 111 1/2, par. 4152-106)

7 Sec. 2-106. (a) For purposes of this Act, (i) a physical
8 restraint is any manual method or physical or mechanical
9 device, material, or equipment attached or adjacent to a
10 resident's body that the resident cannot remove easily and
11 restricts freedom of movement or normal access to one's body.
12 Devices used for positioning, including but not limited to bed
13 rails, gait belts, and cushions, shall not be considered to be
14 restraints for purposes of this Section; (ii) a chemical
15 restraint is any drug used for discipline or convenience and
16 not required to treat medical symptoms. The Department shall by
17 rule, designate certain devices as restraints, including at
18 least all those devices which have been determined to be
19 restraints by the United States Department of Health and Human
20 Services in interpretive guidelines issued for the purposes of
21 administering Titles XVIII and XIX of the Social Security Act.

22 (b) Neither restraints nor confinements shall be employed
23 for the purpose of punishment or for the convenience of any

1 facility personnel. No restraints or confinements shall be
2 employed except as ordered by a physician who documents the
3 need for such restraints or confinements in the resident's
4 clinical record.

5 (c) A restraint may be used only with the informed consent
6 of the resident, the resident's guardian, or the resident's
7 ~~other authorized~~ representative. A restraint may be used only
8 for specific periods, if it is the least restrictive means
9 necessary to attain and maintain the resident's highest
10 practicable physical, mental or psychosocial well-being,
11 including brief periods of time to provide necessary
12 life-saving treatment. A restraint may be used only after
13 consultation with appropriate health professionals, such as
14 occupational or physical therapists, and a trial of less
15 restrictive measures has led to the determination that the use
16 of less restrictive measures would not attain or maintain the
17 resident's highest practicable physical, mental or
18 psychosocial well-being. However, if the resident needs
19 emergency care, restraints may be used for brief periods to
20 permit medical treatment to proceed unless the facility has
21 notice that the resident has previously made a valid refusal of
22 the treatment in question.

23 (d) A restraint may be applied only by a person trained in
24 the application of the particular type of restraint.

25 (e) Whenever a period of use of a restraint is initiated,
26 the resident shall be advised of his or her right to have a

1 person or organization of his or her choosing, including the
2 Guardianship and Advocacy Commission, notified of the use of
3 the restraint. A recipient who is under guardianship may
4 request that a person or organization of his or her choosing be
5 notified of the restraint, whether or not the guardian approves
6 the notice. If the resident so chooses, the facility shall make
7 the notification within 24 hours, including any information
8 about the period of time that the restraint is to be used.
9 Whenever the Guardianship and Advocacy Commission is notified
10 that a resident has been restrained, it shall contact the
11 resident to determine the circumstances of the restraint and
12 whether further action is warranted.

13 (f) Whenever a restraint is used on a resident whose
14 primary mode of communication is sign language, the resident
15 shall be permitted to have his or her hands free from restraint
16 for brief periods each hour, except when this freedom may
17 result in physical harm to the resident or others.

18 (g) The requirements of this Section are intended to
19 control in any conflict with the requirements of Sections 1-126
20 and 2-108 of the Mental Health and Developmental Disabilities
21 Code.

22 (Source: P.A. 97-135, eff. 7-14-11.)

23 (210 ILCS 45/2-106.1)

24 Sec. 2-106.1. Drug treatment.

25 (a) A resident shall not be given unnecessary drugs. An

1 unnecessary drug is any drug used in an excessive dose,
2 including in duplicative therapy; for excessive duration;
3 without adequate monitoring; without adequate indications for
4 its use; or in the presence of adverse consequences that
5 indicate the drugs should be reduced or discontinued. The
6 Department shall adopt, by rule, the standards for unnecessary
7 drugs contained in interpretive guidelines issued by the United
8 States Department of Health and Human Services for the purposes
9 of administering Titles XVIII and XIX of the Social Security
10 Act.

11 (b) Psychotropic medication shall not be prescribed
12 without the informed consent of the resident, the resident's
13 guardian, or the resident's ~~other authorized~~ representative.
14 "Psychotropic medication" means medication that is used for or
15 listed as used for antipsychotic, antidepressant, antimanic,
16 or antianxiety behavior modification or behavior management
17 purposes in the latest editions of the AMA Drug Evaluations or
18 the Physician's Desk Reference. The Department shall adopt, by
19 rule, a protocol specifying how informed consent for
20 psychotropic medication may be obtained or refused. The
21 protocol shall require, at a minimum, a discussion between (i)
22 the resident or the resident's authorized representative and
23 (ii) the resident's physician, a registered pharmacist (who is
24 not a dispensing pharmacist for the facility where the resident
25 lives), or a licensed nurse about the possible risks and
26 benefits of a recommended medication and the use of

1 standardized consent forms designated by the Department. Each
2 form developed by the Department (i) shall be written in plain
3 language, (ii) shall be able to be downloaded from the
4 Department's official website, (iii) shall include information
5 specific to the psychotropic medication for which consent is
6 being sought, and (iv) shall be used for every resident for
7 whom psychotropic drugs are prescribed. In addition to creating
8 those forms, the Department shall approve the use of any other
9 informed consent forms that meet criteria developed by the
10 Department.

11 In addition to any other penalty prescribed by law, a
12 facility that is found to have violated this subsection, or the
13 federal certification requirement that informed consent be
14 obtained before administering a psychotropic medication, shall
15 thereafter be required to obtain the signatures of 2 licensed
16 health care professionals on every form purporting to give
17 informed consent for the administration of a psychotropic
18 medication, certifying the personal knowledge of each health
19 care professional that the consent was obtained in compliance
20 with the requirements of this subsection.

21 (c) The requirements of this Section are intended to
22 control in a conflict with the requirements of Sections 2-102
23 and 2-107.2 of the Mental Health and Developmental Disabilities
24 Code with respect to the administration of psychotropic
25 medication.

26 (Source: P.A. 95-331, eff. 8-21-07; 96-1372, eff. 7-29-10.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.