

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The MR/DD Community Care Act is amended by changing Sections 2-112, 2-203, 2-204, and 3-303.1 as follows:

(210 ILCS 47/2-112)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 2-112. Grievances. A resident shall be permitted to present grievances on behalf of himself or herself or others to the administrator, the DD ~~Long Term Care~~ Facility Advisory Board established under Section 2-204 of this Act ~~the Nursing Home Care Act~~, the residents' advisory council, State governmental agencies or other persons without threat of discharge or reprisal in any form or manner whatsoever. The administrator shall provide all residents or their representatives with the name, address, and telephone number of the appropriate State governmental office where complaints may be lodged.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/2-203)

(This Section may contain text from a Public Act with a

delayed effective date)

Sec. 2-203. Residents' advisory council. Each facility shall establish a residents' advisory council. The administrator shall designate a member of the facility staff to coordinate the establishment of, and render assistance to, the council.

(a) The composition of the residents' advisory council shall be specified by Department regulation, but no employee or affiliate of a facility shall be a member of any council.

(b) The council shall meet at least once each month with the staff coordinator who shall provide assistance to the council in preparing and disseminating a report of each meeting to all residents, the administrator, and the staff.

(c) Records of the council meetings will be maintained in the office of the administrator.

(d) The residents' advisory council may communicate to the administrator the opinions and concerns of the residents. The council shall review procedures for implementing resident rights, facility responsibilities and make recommendations for changes or additions which will strengthen the facility's policies and procedures as they affect residents' rights and facility responsibilities.

(e) The council shall be a forum for:

- (1) Obtaining and disseminating information;
- (2) Soliciting and adopting recommendations for facility programing and improvements;

(3) Early identification and for recommending orderly resolution of problems.

(f) The council may present complaints as provided in Section 3-702 on behalf of a resident to the Department, the DD Long Term Care Facility Advisory Board established under Section 2-204 of this Act ~~the Nursing Home Care Act~~ or to any other person it considers appropriate.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/2-204)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 2-204. DD Long Term Care Facility Advisory Board. The Director shall appoint a DD Facility Advisory Board to consult with the Department and the residents' advisory councils created under Section 2-203.

(a) The Advisory Board shall be composed of the following persons:

(1) the Director who shall serve as chairperson, ex officio, and nonvoting;

(2) one representative each of the Department of Healthcare and Family Services, the Department of Human Services, and the Office of the State Fire Marshal, all nonvoting members;

(3) one member who shall be a physician licensed to practice medicine in all its branches;

(4) one member who shall be a behavioral specialist selected from the recommendations of the Department of Human Services;

(5) three members who shall be selected from the recommendations by organizations whose membership consists of facilities;

(6) two members who shall represent the general public who are not members of a residents' advisory council established under Section 2-203 and who have no responsibility for management or formation of policy or financial interest in a facility;

(7) one member who is a member of a residents' advisory council established under Section 2-203 and is capable of actively participating on the Advisory Board; and

(8) one member who shall be selected from the recommendations of consumer organizations that engage solely in advocacy or legal representation on behalf of residents and their immediate families.

(b) The Advisory Board shall meet as frequently as the chairperson deems necessary, but not less than 4 times each year. Upon request by 4 or more members, the chairperson shall call a meeting of the Advisory Board. The affirmative vote of 6 members of the Advisory Board shall be necessary for Advisory Board action. A member of the Advisory Board may designate a replacement to serve at the Advisory Board meeting and vote in place of the member by submitting a letter of designation to

the chairperson prior to or at the Advisory Board meeting. The Advisory Board members shall be reimbursed for their actual expenses incurred in the performance of their duties.

(c) The Advisory Board shall advise the Department of Public Health on all aspects of its responsibilities under this Act, including the format and content of any rules promulgated by the Department of Public Health. Any such rules, except emergency rules promulgated pursuant to Section 5-45 of the Illinois Administrative Procedure Act, promulgated without obtaining the advice of the Advisory Board are null and void. If the Department fails to follow the advice of the Advisory Board, the Department shall, prior to the promulgation of such rules, transmit a written explanation of the reason therefor to the Advisory Board. During its review of rules, the Advisory Board shall analyze the economic and regulatory impact of those rules. If the Advisory Board, having been asked for its advice, fails to advise the Department within 90 days, the rules shall be considered acted upon. ~~The Long Term Care Facility Advisory Board established under Section 2-204 of the Nursing Home Care Act shall advise the Department of Public Health on all aspects of its responsibilities under this Act, including the format and content of any rules promulgated by the Department of Public Health. Any such rules, except emergency rules promulgated pursuant to Section 5-45 of the Illinois Administrative Procedure Act, promulgated without obtaining the advice of the Advisory Board are null and void. In the~~

~~event that the Department fails to follow the advice of the Board, the Department shall, prior to the promulgation of such rules, transmit a written explanation of the reason thereof to the Board. During its review of rules, the Board shall analyze the economic and regulatory impact of those rules. If the Advisory Board, having been asked for its advice, fails to advise the Department within 90 days, the rules shall be considered acted upon.~~

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/3-303.1)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 3-303.1. Waiver of facility's compliance with rule or standard. Upon application by a facility, the Director may grant or renew the waiver of the facility's compliance with a rule or standard for a period not to exceed the duration of the current license or, in the case of an application for license renewal, the duration of the renewal period. The waiver may be conditioned upon the facility taking action prescribed by the Director as a measure equivalent to compliance. In determining whether to grant or renew a waiver, the Director shall consider the duration and basis for any current waiver with respect to the same rule or standard and the validity and effect upon patient health and safety of extending it on the same basis, the effect upon the health and safety of residents, the quality

of resident care, the facility's history of compliance with the rules and standards of this Act and the facility's attempts to comply with the particular rule or standard in question. The Department may provide, by rule, for the automatic renewal of waivers concerning physical plant requirements upon the renewal of a license. The Department shall renew waivers relating to physical plant standards issued pursuant to this Section at the time of the indicated reviews, unless it can show why such waivers should not be extended for the following reasons:

(a) the condition of the physical plant has deteriorated or its use substantially changed so that the basis upon which the waiver was issued is materially different; or

(b) the facility is renovated or substantially remodeled in such a way as to permit compliance with the applicable rules and standards without substantial increase in cost. A copy of each waiver application and each waiver granted or renewed shall be on file with the Department and available for public inspection. The Director shall annually review such file and recommend to the DD Long-Term Care Facility Advisory Board established under Section 2-204 of this Act ~~Section 2-204 of the Nursing Home Care Act~~ any modification in rules or standards suggested by the number and nature of waivers requested and granted and the difficulties faced in compliance by similarly situated facilities.

(Source: P.A. 96-339, eff. 7-1-10.)

Public Act 096-1146

HB5323 Enrolled

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Section 99. Effective date. This Act takes effect July 1, 2010.