

AN ACT concerning regulation.

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

Section 1. Findings.

(1) The General Assembly finds that contact with family, friends, and clergy is an integral part of the quality of life for nursing home residents. Social isolation has long been a trigger for declining mental and physical health. While the digital revolution creates a new approach for community connectedness, the State of Illinois stands firmly in agreement with the body of research that shows in-person interactions is the preferable and more impactful avenue for family, friends, and clergy to connect with and support nursing home residents and supports virtual visitation programs as a supplement to in-person interactions. Furthermore, the State of Illinois looks to government payor sources and integrated entities of the health care system, including Medicaid managed care organizations, as key stakeholders in providing the adequate resources for residents to digitally connect with loved ones near and far.

(2) The General Assembly further finds that use of electronic devices to make and maintain contact with nursing home residents is a new approach and as such must be approached with care to ensure the protection of nursing home residents

from those who would seek to harm or defraud them using this new technology.

Section 5. The Nursing Home Care Act is amended by adding Section 3-102.3 as follows:

(210 ILCS 45/3-102.3 new)

Sec. 3-102.3. Religious and recreational activities; social isolation.

(a) In this Section:

"Assistive and supportive technology and devices" means computers, video conferencing equipment, distance based communication technology, or other technological equipment, accessories, or electronic licenses as may be necessary to ensure that residents are able to engage in face-to-face, verbal-based, or auditory-based contact, communication, religious activity, or recreational activity with other facility residents and with family members, friends, loved ones, caregivers, and other external support systems, through electronic means, in accordance with the provisions of paragraphs (2) and (3) of subsection (c).

"Religious and recreational activities" includes any religious, social, or recreational activity that is consistent with a resident's preferences and choosing, regardless of whether the activity is coordinated, offered, provided, or sponsored by facility staff or by an outside activities

provider.

"Resident's representative" has the same meaning as provided in Section 1-123.

"Social isolation" means a state of isolation wherein a resident of a long-term care facility is unable to engage in social interactions and religious and recreational activities with other facility residents or with family members, friends, loved ones, caregivers and external support systems.

"Virtual visitation" means the use of face-to-face, verbal-based, or auditory-based contact through electronic means.

(b) The Department shall:

(1) require each long-term care facility in the State to adopt and implement written policies, provide for the availability of assistive and supportive technology and devices to facility residents, and ensure that appropriate staff are in place to help prevent the social isolation of facility residents; and

(2) communicate regularly with the Department of Healthcare and Family Services and the Department on Aging regarding intergovernmental cooperation concerning best practices for potential funding for facilities to mitigate the potential for racial disparities as an unintended consequence of this Act.

The virtual visitation policies shall not be interpreted as a substitute for in-person visitation, but shall be wholly

in addition to existing in-person visitation policies.

(c) The social isolation prevention policies adopted by each long-term care facility pursuant to subsection (b) shall be consistent with rights and privileges guaranteed to residents and constraints provided under Sections 2-108, 2-109, and 2-110 and shall include the following:

(1) authorization and inclusion of specific protocols and procedures to encourage and enable residents of the facility to engage in in-person contact, communication, religious activity, and recreational activity with other facility residents and with family members, friends, loved ones, caregivers, and other external support systems, except when prohibited, restricted, or limited by federal or State statute, rule, regulation, executive order, or guidance;

(2) authorization and inclusion of specific protocols and procedures to encourage and enable residents to engage in face-to-face, verbal-based, or auditory-based contact, communication, religious activity, and recreational activity with other facility residents and with family members, friends, loved ones, caregivers, and other external support systems through the use of electronic or virtual means and methods, including, but not limited to, computer technology, the Internet, social media, videoconferencing, videophone, and other innovative technological means or methods, whenever the resident is

subject to restrictions that limit his or her ability to engage in in-person contact, communication, religious activity, or recreational activity as authorized by paragraph (1) and when the technology requested is not being used by other residents in the event of a limited number of items of technology in a facility;

(3) a mechanism for residents of the facility or the residents' representatives to request access to assistive and supportive technology and devices as may be necessary to facilitate the residents' engagement in face-to-face, verbal-based, or auditory-based contact, communication, religious activity, and recreational activity with other residents, family members, friends, and other external support systems, through electronic means, as provided by paragraph (2);

(4) specific administrative policies, procedures, and protocols governing:

(A) the acquisition, maintenance, and replacement of assistive and supportive technology and devices;

(B) the use of environmental barriers and other controls when the assistive and supportive technology and devices acquired pursuant to subparagraph (A) are in use, especially in cases where the assistive and supportive technology and devices are likely to become contaminated with bodily substances, are touched frequently, or are difficult to clean; and

(C) the regular cleaning of the assistive and supportive technology and devices acquired pursuant to subparagraph (A) and any environmental barriers or other physical controls used in association therewith;

(5) a requirement that (i) upon admission and (ii) at the request of a resident or the resident's representative, appropriate staff shall develop and update an individualized virtual visitation schedule while taking into account the individual's requests and preferences with respect to the residents' participation in social interactions and religious and recreational activities;

(6) a requirement that appropriate staff, upon the request of a resident or the resident's family members, guardian, or representative, shall develop an individualized virtual visitation schedule for the resident, which shall:

(A) address the need for a virtual visitation schedule and establish a virtual visitation schedule if deemed to be appropriate;

(B) identify the assessed needs and preferences of the resident and any preferences specified by the resident's representative, unless a preference specified by the resident conflicts with a preference specified by the resident's representative, in which case the resident's preference shall take priority;

(C) document the long-term care facility's defined

virtual hours of visitation and inform the resident and the resident's representative that virtual visitation pursuant to paragraph (2) of subsection (c) will adhere to the defined visitation hours;

(D) describe the location within the facility and assistive and supportive technology and devices to be used in virtual visitation; and

(E) describe the respective responsibilities of staff, visitors, and the resident when engaging in virtual visitation pursuant to the individualized visitation plan;

(7) a requirement (i) upon admission and (ii) at the request of the resident or the resident's representative, to provide notification to the resident and the resident's representative that they have the right to request of facility staff the creation and review of a resident's individualized virtual visitation schedule;

(8) a requirement (i) upon admission and (ii) at the request of the resident or resident's representative, to provide, in writing to the resident or resident's representative, virtual visitation hours, how to schedule a virtual visitation, and how to request assistive and supportive technology and devices;

(9) specific policies, protocols, and procedures governing a resident's requisition, use, and return of assistive and supportive technology and devices maintained

pursuant to subparagraph (A) of paragraph (4), and require appropriate staff to communicate those policies, protocols, and procedures to residents; and

(10) the designation of at least one member of the therapeutic recreation or activities department, or, if the facility does not have such a department, the designation of at least one senior staff member, as determined by facility management, to train other appropriate facility employees, including, but not limited to, activities professionals and volunteers, social workers, occupational therapists, and therapy assistants, to provide direct assistance to residents upon request and on an as-needed basis, as necessary to ensure that each resident is able to successfully access and use, for the purposes specified in paragraphs (2) and (3) of this subsection, the assistive and supportive technology and devices acquired pursuant to subparagraph (A) of paragraph (4).

(d) A long-term care facility may apply to the Department for civil monetary penalty fund grants for assistive and supportive technology and devices and may request other available federal and State funds.

(e) The Department shall determine whether a long-term care facility is in compliance with the provisions of this Section and the policies, protocols, and procedures adopted pursuant to this Section in accordance with the Nursing Home

Care Act for surveys and inspections.

In addition to any other applicable penalties provided by law, a long-term care facility that fails to comply with the provisions of this Section or properly implement the policies, protocols, and procedures adopted pursuant to subsection (b) shall be liable to pay an administrative penalty as a Type "C" violation, the amount of which shall be determined in accordance with a schedule established by the Department by rule. The schedule shall provide for an enhanced administrative penalty in the case of a repeat or ongoing violation. Implementation of an administrative penalty as a Type "C" violation under this subsection shall not be imposed prior to January 1, 2023.

(f) Whenever a complaint received by the Office of State Long Term Care Ombudsman discloses evidence that a long-term care facility has failed to comply with the provisions of this Section or to properly implement the policies, protocols, and procedures adopted pursuant to subsection (b), the Office of State Long Term Care Ombudsman shall refer the matter to the Department.

(g) This Section does not impact, limit, or constrict a resident's right to or usage of his or her personal property or electronic monitoring under Section 2-115.

(h) Specific protocols and procedures shall be developed to ensure that the quantity of assistive and supportive technology and devices maintained on-site at the facility

remains sufficient, at all times, to meet the assessed social and activity needs and preferences of each facility resident. Residents' family members or caregivers should be considered, as appropriate, in the assessment and reassessment.

(i) Within 60 days after the effective date of this amendatory Act of the 102nd General Assembly, the Department shall file rules necessary to implement the provisions of this Section. The rules shall include, but need not be limited to, minimum standards for the social isolation prevention policies to be adopted pursuant to subsection (b), a penalty schedule to be used pursuant to subsection (e), and policies regarding a long-term care facility's Internet access and subsequent Internet barriers in relation to a resident's virtual visitation plan pursuant to paragraph (2) of subsection (c).

(j) The Department's rules under subsection (i) shall take into account Internet bandwidth limitations outside of the control of a long-term care facility.

(k) Nothing in this Section shall be interpreted to mean that addressing the issues of social isolation shall take precedence over providing for the health and safety of the residents.

Section 10. The Illinois Administrative Procedure Act is amended by adding Section 5-45.8 as follows:

(5 ILCS 100/5-45.8 new)

Sec. 5-45.8. Emergency rulemaking; Nursing Home Care Act.
To provide for the expeditious and timely implementation of
this amendatory Act of the 102nd General Assembly, emergency
rules implementing Section 3-102.3 of the Nursing Home Care
Act may be adopted in accordance with Section 5-45 by the
Department of Public Health. The adoption of emergency rules
authorized by Section 5-45 and this Section is deemed to be
necessary for the public interest, safety, and welfare.

This Section is repealed on January 1, 2027.

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