

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Medically Complex for the Developmentally Disabled Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 390
- 3) 

<u>Section Numbers:</u>	<u>Emergency Actions:</u>
390.340	Amendment
390.760	Amendment
- 4) Statutory Authority: MC/DD Act [210 ILCS 46]
- 5) Effective Date of Rules: November 19, 2020
- 6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: The emergency amendments will expire at the end of the 150-day period or upon repeal of the emergency rule.
- 7) Date Filed with the Index Department: November 19, 2020
- 8) A copy of the emergency rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: This emergency rule is adopted in response to Governor JB Pritzker's Gubernatorial Disaster Proclamations issued during 2020 related to COVID-19.  
  
Section 5-45 of the Illinois Administrative Procedure Act [5 ILCS 100/5-45] defines "emergency" as "the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare." The COVID-19 outbreak in Illinois is a significant public health crisis that warrants these emergency rules.
- 10) A Complete Description of the Subject and Issues: This rule amends requirements for MC/DD facilities' infection control policies and procedures, including updated COVID-19 testing requirements and updated incorporated materials from the CDC that address COVID-19 infection control. The rule also requires certified facilities to comply with recently updated federal requirements for COVID-19 testing under 42 CFR 483.80(h).
- 11) Are there any other rulemakings pending on this Part? No

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- 12) Statement of Statewide Policy Objective: This rulemaking will not create or expand a State mandate.
  
- 13) Information and questions regarding these emergency rules shall be directed to:

Elizabeth Paton  
Acting Rules Coordinator  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5th floor  
Springfield IL 62761

217/782-2043  
dph.rules@illinois.gov

The full text of the Emergency Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER c: LONG-TERM CARE FACILITIESPART 390  
MEDICALLY COMPLEX FOR THE  
DEVELOPMENTALLY DISABLED FACILITIES CODE

## SUBPART A: GENERAL PROVISIONS

## Section

390.2	COVID-19 Emergency Provisions for Licenses and Inspections
EMERGENCY	
390.110	General Requirements
390.120	Application for License
390.130	Licensee
390.140	Issuance of an Initial License for a New Facility
390.150	Issuance of an Initial License Due to a Change of Ownership
390.160	Issuance of a Renewal License
390.165	Criteria for Adverse Licensure Actions
390.170	Denial of Initial License
390.175	Denial of Renewal of License
390.180	Revocation of License
390.190	Experimental Program Conflicting With Requirements
390.200	Inspections, Surveys, Evaluations and Consultation
390.210	Filing an Annual Attested Financial Statement
390.220	Information to be Made Available to the Public by the Department
390.230	Information to be Made Available to the Public by the Licensee
390.240	Municipal Licensing
390.250	Ownership Disclosure
390.260	Issuance of Conditional Licenses
390.270	Monitor and Receivership
390.271	Presentation of Findings
390.272	Determination to Issue a Notice of Violation or Administrative Warning
390.274	Determination of the Type of a Violation
390.276	Notice of Violation
390.277	Administrative Warning
390.278	Plans of Correction

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390.280	Reports of Correction
390.282	Conditions for Assessment of Penalties
390.284	Calculation of Penalties (Repealed)
390.286	Notice of Penalty Assessment: Response by Facility
390.287	Consideration of Factors for Assessing Penalties
390.288	Reduction or Waiver of Penalties
390.290	Quarterly List of Violators (Repealed)
390.300	Alcoholism Treatment Programs in Long-Term Care Facilities
390.310	Department May Survey Facilities Formerly Licensed
390.315	Supported Congregate Living Arrangement Demonstration (Repealed)
390.320	Waivers
390.330	Definitions
390.340	Incorporated and Referenced Materials

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## SUBPART B: ADMINISTRATION

Section	
390.500	Administrator

## SUBPART C: POLICIES

Section	
390.610	Management Policies
390.620	Resident Care Policies
390.625	Pre-admission Assessment and Request for Criminal History Record Information (Repealed)
390.630	Admission, Retention and Discharge Policies
390.635	Identified Offenders (Repealed)
390.636	Discharge Planning for Identified Offenders (Repealed)
390.637	Transfer of an Identified Offender (Repealed)
390.640	Contract Between Resident and Facility
390.650	Residents' Advisory Council
390.660	General Policies
390.670	Personnel Policies
390.675	Initial Health Evaluation for Employees
390.680	Child Care/Habilitation Aides
390.681	Health Care Worker Background Check

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390.682	Resident Attendants
390.683	Registry of Child Care/Habilitation Aides
390.685	Student Interns
390.690	Disaster Preparedness
390.700	Incidents and Accidents
390.750	Contacting Local Law Enforcement
390.760	Infection Control

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## SUBPART D: PERSONNEL

Section	
390.810	General
390.820	Categories of Personnel
390.830	Consultation Services

## SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

Section	
390.1010	Service Programs
390.1020	Medical Services
390.1025	Life-Sustaining Treatments
390.1030	Physician Services
390.1035	Tuberculin Skin Test Procedures
390.1040	Nursing Services
390.1050	Dental Care Services
390.1060	Physical and Occupational Therapy Services
390.1070	Psychological Services
390.1080	Social Services
390.1090	Speech Pathology and Audiology Services
390.1100	Recreational and Activity Services
390.1110	Educational Services
390.1120	Work Activity and Prevocational Training Services
390.1130	Communicable Disease Policies
390.1140	Vaccinations
390.1150	Language Assistance Services

## SUBPART F: RESTRAINTS AND BEHAVIOR MANAGEMENT

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## Section

- 390.1310 Restraints
- 390.1312 Nonemergency Use of Physical Restraints
- 390.1314 Emergency Use of Physical Restraints
- 390.1316 Unnecessary, Psychotropic, and Antipsychotic Drugs
- 390.1320 Behavior Management
- 390.1330 Behavior Emergencies (Repealed)

## SUBPART G: MEDICATIONS

## Section

- 390.1410 Medication Policies and Procedures
- 390.1420 Compliance with Licensed Prescriber's Orders
- 390.1430 Administration of Medication
- 390.1440 Labeling and Storage of Medications
- 390.1450 Control of Medications

## SUBPART H: RESIDENT AND FACILITY RECORDS

## Section

- 390.1610 Resident Record Requirements
- 390.1620 Content of Medical Records
- 390.1630 Confidentiality of Resident's Records
- 390.1640 Records Pertaining to Residents' Property
- 390.1650 Retention and Transfer of Resident Records
- 390.1660 Other Resident Record Requirements
- 390.1670 Staff Responsibility for Medical Records
- 390.1680 Retention of Facility Records
- 390.1690 Other Facility Record Requirements

## SUBPART I: FOOD SERVICE

## Section

- 390.1810 Director of Food Services
- 390.1820 Dietary Staff in Addition to Director of Food Services
- 390.1830 Hygiene of Dietary Staff
- 390.1840 Diet Orders

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390.1850	Meal Planning
390.1860	Infant and Therapeutic Diets
390.1870	Scheduling Meals
390.1880	Menus and Food Records
390.1890	Food Preparation and Service
390.1900	Preparation of Infant Formula
390.1910	Food Handling Sanitation
390.1920	Kitchen Equipment, Utensils, and Supplies

## SUBPART J: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

Section	
390.2010	Maintenance
390.2020	Housekeeping
390.2030	Laundry Services

## SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section	
390.2210	Furnishings
390.2220	Equipment and Supplies
390.2230	Sterilization of Supplies and Equipment

## SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section	
390.2410	Codes
390.2420	Water Supply
390.2430	Sewage Disposal
390.2440	Plumbing

## SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

Section	
390.2610	Applicability of these Standards
390.2620	Codes and Standards
390.2630	Preparation of Drawings and Specifications
390.2640	Site

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390.2650	Administration and Public Areas
390.2660	Nursing Unit
390.2670	Dining, Play, Activity/Program Rooms
390.2680	Therapy and Personal Care
390.2690	Service Departments
390.2700	General Building Requirements
390.2710	Structural
390.2720	Mechanical Systems
390.2730	Plumbing Systems
390.2740	Electrical Systems

## SUBPART N: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING FACILITIES

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390.2910	Applicability
390.2920	Codes and Standards
390.2930	Preparation of Drawings and Specifications
390.2940	Site
390.2950	Administration and Public Areas
390.2960	Nursing Unit
390.2970	Play, Dining, Activity/Program Rooms
390.2980	Treatment and Personal Care
390.2990	Service Department
390.3000	General Building Requirements
390.3010	Structural
390.3020	Mechanical Systems
390.3030	Plumbing Systems
390.3040	Electrical Requirements

## SUBPART O: RESIDENT'S RIGHTS

Section	
390.3210	General
390.3220	Medical Care
390.3230	Restraints (Repealed)
390.3240	Abuse and Neglect
390.3250	Communication and Visitation
390.3260	Resident's Funds



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390.3270	Residents' Advisory Council
390.3280	Contract With Facility
390.3290	Private Right of Action
390.3300	Transfer or Discharge
390.3310	Complaint Procedures
390.3320	Confidentiality
390.3330	Facility Implementation

## SUBPART P: DAY CARE PROGRAMS

## Section

390.3510	Day Care in Long-Term Care Facilities
390.APPENDIX A	Interpretation and Illustrative Services for Long-Term Care Facility for Residents Under 22 Years of Age (Repealed)
390.APPENDIX B	Forms for Day Care in Long-Term Care Facilities
390.APPENDIX C	Guidelines for the Use of Various Drugs
390.TABLE A	Infant Feeding
390.TABLE B	Daily Nutritional Requirements By Age Group
390.TABLE C	Sound Transmissions Limitations
390.TABLE D	Pressure Relationships and Ventilation Rates of Certain Areas for New Long-Term Care Facilities for Persons Under Twenty-Two (22) Years of Age
390.TABLE E	Sprinkler Requirements
390.TABLE F	Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the MC/DD Act [210 ILCS 46].

SOURCE: Adopted at 6 Ill. Reg. 1658, effective February 1, 1982; emergency amendment at 6 Ill. Reg. 3223, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11622, effective September 14, 1982; amended at 6 Ill. Reg. 14557 and 14560, effective November 8, 1982; amended at 6 Ill. Reg. 14678, effective November 15, 1982; amended at 7 Ill. Reg. 282, effective December 22, 1982; amended at 7 Ill. Reg. 1927, effective January 28, 1983; amended at 7 Ill. Reg. 8574, effective July 11, 1983; amended at 7 Ill. Reg. 15821, effective November 15, 1983; amended at 7 Ill. Reg. 16988, effective December 14, 1983; amended at 8 Ill. Reg. 15585, 15589, and 15592, effective August 15, 1984; amended at 8 Ill. Reg. 16989, effective September 5, 1984; codified at 8 Ill. Reg. 19823; amended at 8 Ill. Reg. 24159, effective November 29, 1984; amended at 8 Ill. Reg. 24656, effective December 7, 1984;

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amended at 8 Ill. Reg. 25083, effective December 14, 1984; amended at 9 Ill. Reg. 122, effective December 26, 1984; amended at 9 Ill. Reg. 10785, effective July 1, 1985; amended at 11 Ill. Reg. 16782, effective October 1, 1987; amended at 12 Ill. Reg. 931, effective December 24, 1987; amended at 12 Ill. Reg. 16780, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18243, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6301, effective April 17, 1989; amended at 13 Ill. Reg. 19521, effective December 1, 1989; amended at 14 Ill. Reg. 14904, effective October 1, 1990; amended at 15 Ill. Reg. 1878, effective January 25, 1991; amended at 16 Ill. Reg. 623, effective January 1, 1992; amended at 16 Ill. Reg. 14329, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2390, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7974, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15073, effective September 3, 1993; amended at 17 Ill. Reg. 16167, effective January 1, 1994; amended at 17 Ill. Reg. 19235, effective October 26, 1993; amended at 17 Ill. Reg. 19547, effective November 4, 1993; amended at 17 Ill. Reg. 21031, effective November 20, 1993; amended at 18 Ill. Reg. 1453, effective January 14, 1994; amended at 18 Ill. Reg. 15807, effective October 15, 1994; amended at 19 Ill. Reg. 11525, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 535, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10106, effective July 15, 1996; amended at 20 Ill. Reg. 12101, effective September 10, 1996; amended at 22 Ill. Reg. 4062, effective February 13, 1998; amended at 22 Ill. Reg. 7188, effective April 15, 1998; amended at 22 Ill. Reg. 16576, effective September 18, 1998; amended at 23 Ill. Reg. 1069, effective January 15, 1999; amended at 23 Ill. Reg. 8021, effective July 15, 1999; amended at 24 Ill. Reg. 17283, effective November 1, 2000; amended at 25 Ill. Reg. 4890, effective April 1, 2001; amended at 26 Ill. Reg. 4890, effective April 1, 2002; amended at 26 Ill. Reg. 10645, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2258, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5509, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5947, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14250, effective August 15, 2003, for a maximum of 150 days; emergency expired January 12, 2004; amended at 27 Ill. Reg. 15949, effective September 25, 2003; amended at 27 Ill. Reg. 18204, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3565, effective November 15, 2003; amended at 28 Ill. Reg. 11231, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 12025, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15301, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12988, effective August 2, 2005; amended at 30 Ill. Reg. 1473, effective January 23, 2006; amended at 30 Ill. Reg. 5383, effective March 2, 2006; amended at 31 Ill. Reg. 6145, effective April 3, 2007; amended at 31 Ill. Reg.

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8864, effective June 6, 2007; amended at 33 Ill. Reg. 9406, effective June 17, 2009; amended at 34 Ill. Reg. 19239, effective November 23, 2010; amended at 35 Ill. Reg. 3495, effective February 14, 2011; amended at 39 Ill. Reg. 5503, effective March 25, 2015; amended at 42 Ill. Reg. 6716, effective March 29, 2018; amended at 43 Ill. Reg. 3564, effective February 26, 2019; emergency amendment at 44 Ill. Reg. 8573, effective May 5, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 44 Ill. Reg. 16317, effective September 15, 2020, for the remainder of the 150 days; emergency rule as amended expired October 1, 2020; emergency amendment at 44 Ill. Reg. 16920, effective October 2, 2020, for a maximum of 150 days; emergency amendment at 44 Ill. Reg. 19068, effective November 19, 2020, for a maximum of 150 days.

## SUBPART A: GENERAL PROVISIONS

**Section 390.340 Incorporated and Referenced Materials****EMERGENCY**

- a) The following regulations, guidelines, and standards are incorporated in this Part:
- 1) ANSI/ASME Standard No. A17.1-2007, Safety Code for Elevators and Escalators, which may be obtained from the American Society of Mechanical Engineers (ASME) International, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900.
  - 2) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals (2009), and Handbook of Applications (2007), which may be obtained from the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329.
  - 3) American Society for Testing and Materials (ASTM), International Standard No. E90-02 (2009): Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements, and Standard No. E84-16, Standard Test Method for Surface Burning Characteristics of Building Materials (2006), which may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959.
  - 4) International Building Code (IBC) (2012), which may be obtained from

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Building Officials and Code Administrators (BOCA) International, 4051 W. Flossmoor Road, Country Club Hills, Illinois 60478-5795.

- 5) For existing facilities (see Subpart N), National Fire Protection Association (NFPA) 101 (2012): Life Safety Code, Chapter 19 (Existing Health Care Occupancies), and all appropriate references under Chapter 12 (New Assembly Occupancies), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169.
- 6) For new facilities (see Subpart M), NFPA 101 (2012): Life Safety Code, Chapter 18 (New Health Care Occupancies), including all appropriate references under Chapter 2 (Definitions) and Chapter 18, and excluding Chapter 5 (Performance Based Options), and all other references to performance based options. NFPA 101A: Alternative Approaches to Life Safety shall not apply to new construction. In addition to the publications referenced in Chapter 2, the following standards, which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169, shall be applicable for all long-term facilities:
  - A) NFPA 20 (2010), Standard for the Installation of Stationary Pumps for Fire Protection
  - B) NFPA 22 (2008), Standard for Water Tanks for Private Fire Protection
  - C) NFPA 24 (2010), Standard for the Installation of Private Fire Service Mains and Their Appurtenances
  - D) NFPA 50 (2001), Standard for Bulk Oxygen Systems at Consumer Sites
- 7) The following standards, which may be obtained from Underwriters Laboratories (UL), Inc., 333 Pfingsten Rd., Northbrook, Illinois 60062:
  - A) Fire Resistance Directory (2015 Edition)

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- B) Building Material Directory (2015 Edition)
- 8) The following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, which may be obtained from the National Technical Information Services (NTIS), 5301 Shawnee Rd., Alexandria, Virginia 22313, info@ntis.gov:
- A) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (2009), available at <https://www.cdc.gov/infectioncontrol/guidelines/cauti/index.html>
- B) Guideline for Hand Hygiene in Health-Care Settings (October 2002), available at <https://www.cdc.gov/mmwr/pdf/rr/rr5116.pdf>
- C) Guidelines for Prevention of Intravascular Catheter-Related Infections (2011), available at <https://www.cdc.gov/hai/pdfs/bsi-guidelines-2011.pdf>
- D) Guideline for Prevention of Surgical Site Infection (2017~~4999~~), available at <https://jamanetwork.com/journals/jamasurgery/fullarticle/2623725>
- E) Guideline for Preventing Healthcare-Associated Pneumonia (2003), available at <https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5303a1.htm>
- F) ~~2007~~ Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings (July 2019~~2007~~), available at <https://www.cdc.gov/infectioncontrol/pdf/guidelines/isolation-guidelines-H.pdf>
- G) [Infection Control in Healthcare Personnel: Infrastructure and Routine Practices for Occupational Infection Prevention and Control Services \(October 25, 2019\)](https://www.cdc.gov/infectioncontrol/pdf/guidelines/infection-control-HCP-H.pdf), available in two parts at <https://www.cdc.gov/infectioncontrol/pdf/guidelines/infection-control-HCP-H.pdf> and <https://www.cdc.gov/infectioncontrol/guidelines/healthcare-personnel/index.html> ~~Guidelines for Infection~~

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~~Control in Health Care Personnel (1998)~~

- H) [Preparing for COVID-19 in Nursing Homes \(June 25, 2020\)](https://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html), available at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html>
- I) [Responding to Coronavirus \(COVID-19\) in Nursing Homes \(April 30, 2020\)](https://www.cdc.gov/coronavirus/2019-ncov/hcp/nursing-homes-responding.html), available at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/nursing-homes-responding.html>
- 9) American College of Obstetricians and Gynecologists, Guidelines for Women's Health Care, Fourth Edition (2014), which may be obtained from the American College of Obstetricians and Gynecologists Distribution Center, P.O. Box 933104, Atlanta, Georgia 31193-3104 (800-762-2264). (See Section 390.3220.)
- b) All incorporations by reference of federal regulations, [guidelines](#) and ~~the~~ standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any amendments or editions subsequent to the date specified.
- c) The following statutes and State regulations are referenced in this Part:
- 1) Federal statutes [and regulations](#):
- A) Civil Rights Act of 1964 (42 USC 2000e et seq.)
- B) Social Security Act (42 USC 301 et seq., 1395 et seq., and 1396 et seq.)
- C) Controlled Substances Act (21 USC 802)
- 2) State of Illinois statutes:
- A) Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301]
- B) Boiler and Pressure Vessel Safety Act [430 ILCS 75]

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- C) Child Care Act of 1969 [225 ILCS 10]
- D) Code of Civil Procedure [735 ILCS 5]
- E) Court of Claims Act [705 ILCS 505]
- F) Illinois Dental Practice Act [225 ILCS 25]
- G) Election Code [10 ILCS 5]
- H) Freedom of Information Act [5 ILCS 140]
- I) General Not For Profit Corporation Act [805 ILCS 105]
- J) Hospital Licensing Act [210 ILCS 85]
- K) Illinois Controlled Substances Act [720 ILCS 570]
- L) Illinois Health Facilities Planning Act [20 ILCS 3960]
- M) Illinois Municipal Code [65 ILCS 5]
- N) Life Care Facilities Act [210 ILCS 40]
- O) Local Governmental and Governmental Employees Tort Immunity Act [745 ILCS 10]
- P) Medical Practice Act of 1987 [225 ILCS 60]
- Q) Mental Health and Developmental Disabilities Code [405 ILCS 5]
- R) Nurse Practice Act [225 ILCS 65]
- S) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70]
- T) Nursing Home Care Act [210 ILCS 45]

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- U) Illinois Occupational Therapy Practice Act [225 ILCS 75]
- V) Pharmacy Practice Act [225 ILCS 85]
- W) Illinois Physical Therapy Act [225 ILCS 90]
- X) Private Sewage Disposal Licensing Act [225 ILCS 225]
- Y) Probate Act of 1975 [755 ILCS 5]
- Z) Illinois Public Aid Code [305 ILCS 5]
- AA) Safety Glazing Materials Act [430 ILCS 60]
- BB) School Code [105 ILCS 5]
- CC) Illinois Administrative Procedure Act [5 ILCS 100]
- DD) Clinical Psychologist Licensing Act [225 ILCS 15]
- EE) Dietitian Nutritionist Practice Act [225 ILCS 30]
- FF) Health Care Worker Background Check Act [225 ILCS 46]
- GG) Clinical Social Work and Social Work Practice Act [225 ILCS 20]
- HH) Illinois Living Will Act [755 ILCS 35]
- II) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV]
- JJ) Health Care Surrogate Act [755 ILCS 40]
- KK) Health Care Right of Conscience Act [745 ILCS 70]
- LL) Abused and Neglected Long-Term Care Facility Residents Reporting Act [210 ILCS 30]



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- MM) Supportive Residences Licensing Act [210 ILCS 65]
  - NN) MC/DD Act [210 ILCS 46]
  - OO) Community Living Facilities Licensing Act [210 ILCS 35]
  - PP) Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]
  - QQ) Counties Code [55 ILCS 5]
  - RR) Podiatric Medical Practice Act of 1987 [225 ILCS 100]
  - SS) Illinois Optometric Practice Act of 1987 [225 ILCS 80]
  - TT) Physician Assistant Practice Act of 1987 [220 ILCS 95]
  - UU) Alternative Health Care Delivery Act [225 ILCS 3]
  - VV) Illinois Uniform Conviction Information Act [20 ILCS 2635]
  - WW) Wrongs to Children Act [720 ILCS 150]
  - XX) Assisted Living and Shared Housing Act [210 ILCS 9]
  - YY) Language Assistance Services Act [210 ILCS 87]
  - ZZ) State Fire Marshal Act [20 ILCS 2905]
- 3) State of Illinois rules:
- A) Office of the State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 2120)
  - B) Capital Development Board, Illinois Accessibility Code (71 Ill. Adm. Code 400)
  - C) Department of Public Health

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- i) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
- ii) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)
- iii) Food Service Sanitation Code (77 Ill. Adm. Code 750)
- iv) Illinois Plumbing Code (77 Ill. Adm. Code 890)
- v) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
- vi) Drinking Water Systems Code (77 Ill. Adm. Code 900)
- vii) Water Well Construction Code (77 Ill. Adm. Code 920)
- viii) Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)
- ix) Access to Records of the Department of Public Health (2 Ill. Adm. Code 1127)
- x) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
- xi) Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)
- xii) Sheltered Care Facilities Code (77 Ill. Adm. Code 330)
- xiii) Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)
- xiv) Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)
- xv) Control of Tuberculosis Code (77 Ill. Adm. Code 696)

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- xvi) Health Care Worker Background Check Code (77 Ill. Adm. Code 955)
- xvii) Language Assistance Services Code (77 Ill. Adm. Code 940)
- D) Department of Financial and Professional Regulation:
  - i) Illinois Controlled Substances Act (77 Ill. Adm. Code 3100)
  - ii) Pharmacy Practice Act (68 Ill. Adm. Code 1330)
- E) Department of Human Services, Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060)
- F) Department of Natural Resources, Regulation of Construction within Flood Plains (17 Ill. Adm. Code 3706)
- G) Department of Healthcare and Family Services, Medical Payment (89 Ill. Adm. Code 140)

(Source: Amended by emergency rulemaking at 44 Ill. Reg. 19068, effective November 19, 2020, for a maximum of 150 days)

## SUBPART C: POLICIES

**Section 390.760 Infection Control****EMERGENCY**

- a) Policies and procedures for investigating, controlling, ~~and~~ preventing, and testing infections in the facility shall be established and followed. The policies and procedures shall be consistent with, and include, the requirements of the Control of Communicable Diseases Code (77 Ill. Adm. Code 690) and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693). All staff (which, for purposes of this Section, includes individuals providing services under contractual or other arrangement and volunteers) shall be trained on the policies

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and procedures and training records shall be maintained for three years. Activities shall be monitored to ensure that these policies and procedures are followed. Infection control policies and procedures shall be maintained in the facility and made available, upon request, to:

- 1) staff;
  - 2) the resident and the resident's family or resident's representative; and
  - 3) the Department or the certified local health department.
- b) A group, i.e., an infection control committee, quality assurance committee, or other facility entity, shall periodically, but no less than annually, review the results of investigations and activities to control infections. Upon request, the facility shall provide the Department with the group's recommendations to control infections within the facility.
- c) Each facility shall adhere to the following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Services, Department of Health and Human Services (see Section 390.340):
- 1) Guideline for Prevention of Catheter-Associated Urinary Tract Infections
  - 2) Guideline for Hand Hygiene in Health Care Settings
  - 3) Guidelines for Prevention of Intravascular Catheter-Related Infections
  - 4) Guideline for Prevention of Surgical Site Infection
  - 5) Guidelines for Preventing Healthcare-Associated Pneumonia~~Guideline for Prevention of Nosocomial Pneumonia~~
  - 6) 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings~~in Hospitals~~
  - 7) Infection Control in Healthcare Personnel: Infrastructure and Routine Practices for Occupational Infection Prevention and Control Services~~Guidelines for Infection Control in Health Care Personnel~~

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- 8) Preparing for COVID-19 in Nursing Homes
  - 9) Responding to Coronavirus (COVID-19) in Nursing Homes
- d) Each facility shall conduct testing of residents and staff for the control or detection of communicable diseases when:
- 1) The facility is experiencing an outbreak; or
  - 2) Directed by the Department or the certified local health department when the chance of transmission is high, including, but not limited to, regional outbreaks, epidemics, or pandemics.
- e) COVID-19 Testing  
The facility shall test residents and staff for COVID-19. At a minimum, the facility shall:
- 1) Conduct facility-wide initial testing for all residents and facility staff;
  - 2) Prioritize and conduct immediate testing of residents or staff with symptoms of COVID-19;
  - 3) If a resident or staff in the facility tests positive for SARS-CoV-2 CO, all residents and staff who have not tested positive in the past 90 days shall be retested every three to seven days until no new cases are identified;
  - 4) Conduct testing of facility staff when the facility is not experiencing an outbreak. The frequency of testing shall be based on the spread of the virus in the community in which the facility is located. Facilities shall use their county positivity rate from the prior week, as listed on the CMMS website <https://data.cms.gov/stories/s/COVID-19-Nursing-Home-Data/bkwz-xpvg>, as the trigger for staff testing frequency as follows:
    - A) If county positivity rate is below 5%, staff shall be tested once per month, at a minimum.

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- B) If county positivity rate is between 5% and 10%, staff shall be tested once a week, at a minimum.
  - C) If county positivity rate is greater than 10%, staff shall be tested at least twice per week.
- 5) Conduct testing of residents who are asymptomatic and who leave the facility for medical treatment and then return (e.g., residents who receive regular hemodialysis, including those who are dialyzed at an onsite facility that treats nursing home and community patients), according to the frequency specified in subsection (e)(4);
- 6) Documentation
- A) For residents, document in each resident's record any time a test was completed, including the result of the test, or whether testing was refused or contraindicated;
  - B) For staff members, document in each staff member's confidential medical file (as distinct from the staff member's personnel file) any time a test was completed, including the result of the test, or whether testing was refused or contraindicated;
  - C) For volunteers and individuals providing services under contractual or other arrangement, document, in each individual's confidential medical file, any time a test was completed, including the result of the test or whether testing was contraindicated. In the event that no confidential medical file is maintained, the agreement for the services that are being provided under arrangement, as well as the program for volunteers, shall include a process for documenting these results;
- 7) Upon confirmation that a resident or staff tests positive with COVID-19 or, if a resident or staff displays symptoms consistent with COVID-19, take immediate steps to prevent the transmission of COVID-19, including but not limited to cohorting (i.e., residents who have tested positive for COVID-19 are housed on the same unit until they are no longer infectious), isolation and quarantine, environmental cleaning and

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disinfecting, hand hygiene, and use of appropriate personal protective equipment;

- 8) Have written procedures for addressing residents and staff who refuse testing or are unable to be tested, including a requirement that all volunteers shall agree to testing;
- f) Each facility shall make arrangements with a testing laboratory to process any specimens collected under subsections (d) and (e) and ensure that complete information is submitted with each specimen, including name, address, date of birth, sex, race, and ethnicity. A facility may use point-of-care antigen tests (e.g., BinaxNow) if real-time reverse transcription polymerase chain reaction (RT-PCR) tests cannot be obtained from an off-site testing laboratory with a less than 48 hour turn-around time.
- g) For testing done under subsections (d) and (e), each facility shall report weekly to the Department, on a form and in a manner prescribed by the Department, the number of residents and staff tested, and the number of positive, negative and indeterminate cases.

(Source: Amended by emergency rulemaking at 44 Ill. Reg. 19068, effective November 19, 2020, for a maximum of 150 days)