

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH  
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SUBCHAPTER c: LONG-TERM CARE FACILITIESPART 295  
ASSISTED LIVING AND SHARED HOUSING ESTABLISHMENT CODE

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**AUTHORITY:** Implementing and authorized by the Assisted Living and Shared Housing Act [210 ILCS 9].

**SOURCE:** Adopted at 25 Ill. Reg. 14401, effective December 1, 2001; emergency amendment at 27 Ill. Reg. 6378, effective April 1, 2003, for a maximum of 150 days; emergency expired August 28, 2003; amended at 27 Ill. Reg. 18087, effective November 12, 2003; amended at 28 Ill. Reg. 14593, effective October 21, 2004; amended at 32 Ill. Reg. 7968, effective May 12, 2008; amended at 36 Ill. Reg. 13632, effective August 16, 2012; amended at 39 Ill. Reg. 11484, effective July 31, 2015; emergency amendment at 44 Ill. Reg. 8515, effective May 5, 2020, for a maximum of 150 days; emergency rule repealed at 44 Ill. Reg. 16258, effective September 15, 2020; emergency amendment at 44 Ill. Reg. 18960, effective November 19, 2020, for a maximum of 150 days.

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## SUBPART A: GENERAL PROVISIONS

**Section 295.300 Incorporated and Referenced Materials****EMERGENCY**

- a) The following private and professional association standards are incorporated in this Part.
- 1) National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Chapter 32, New Residential Board and Care Occupancies (2000), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169.
  - 2) American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV) (1994), which may be obtained from the American Psychiatric Association, 1000 Wilson Blvd., Suite 1825, Arlington, Virginia 22209.
- b) The following federal guidelines are incorporated in this Part:
- 1) ADA Accessibility Guidelines (ADAAG), July 2004, which may be obtained from the U.S. Access Board, 1331 F Street NW, Suite 1000, Washington, D.C. 20004-1111.
  - 2) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (2009), which can be found at <https://www.cdc.gov/infectioncontrol/guidelines/cauti/index.html>
  - 3) Guideline for Hand Hygiene in Health-Care Settings (October 2002), which can be found at <https://www.cdc.gov/mmwr/pdf/rr/rr5116.pdf>
  - 4) 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings (July 2019), available at <https://www.cdc.gov/infectioncontrol/pdf/guidelines/isolation-guidelines-H.pdf>
  - 5) Infection Control in Healthcare Personnel: Infrastructure and Routine Practices for Occupational Infection Prevention and Control Services

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(October 25, 2019), 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>

- 6) [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>
  - 7) [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>
- c) All incorporations by reference of federal guidelines and the standards of nationally recognized organizations refer to the standards on the date specified and do not include any editions or amendments subsequent to the date specified.
- d) The following statutes and State rules are referenced in this Part:
- 1) Federal statutes:  
Americans with Disabilities Act (42 USC 12101 et seq.)
  - 2) State of Illinois statutes:
    - A) Medical Practice Act of 1987 [225 ILCS 60]
    - B) Nurse Practice Act [225 ILCS 65]
    - C) Child Care Act of 1969 [225 ILCS 10]
    - D) Hospital Licensing Act [210 ILCS 85]
    - E) Nursing Home Care Act [210 ILCS 45]
    - F) MR/DD Community Care Act [210 ILCS 47]
    - G) Probate Act of 1975 [755 ILCS 5]
    - H) Illinois Public Aid Code [305 ILCS 5]

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- D) Illinois Administrative Procedure Act [5 ILCS 100]
  - J) Health Care Worker Background Check Act [225 ILCS 46]
  - K) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV]
  - L) Health Care Surrogate Act [755 ILCS 40]
  - M) Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]
  - N) Hospice Program Licensing Act [210 ILCS 60]
  - O) Freedom of Information Act [5 ILCS 140]
  - P) Alzheimer's Disease and Related Dementias Special Care Disclosure Act [210 ILCS 4]
  - Q) Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]
  - R) Code of Civil Procedure [735 ILCS 5]
  - S) Dietetic and Nutrition Services Practice Act [225 ILCS 30]
  - T) Community Living Facilities Licensing Act [210 ILCS 35]
  - U) Supportive Residences Licensing Act [210 ILCS 65]
  - V) Life Care Facilities Act [210 ILCS 40]
- 3) State of Illinois rules:
- A) Capital Development Board, Illinois Accessibility Code (71 Ill. Adm. Code 400)
  - B) Department of Public Health
    - i) Control of Communicable Diseases Code (77 Ill. Adm.

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- Code 690)
- ii) Food Service Sanitation Code (77 Ill. Adm. Code 750)
  - iii) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
  - iv) Drinking Water Systems Code (77 Ill. Adm. Code 900)
  - v) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
  - vi) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)
  - vii) Control of Tuberculosis Code (77 Ill. Adm. Code 696)
  - viii) Health Care Worker Background Check Code (77 Ill. Adm. Code 955)

(Source: Amended by emergency rulemaking at 44 Ill. Reg. 18960, effective November 19, 2020, for a maximum of 150 days)

## SUBPART D: RESIDENT CARE AND SERVICES

**Section 295.4045 Infection Control**  
**EMERGENCY**

- a) Policies and procedures for investigating, controlling, preventing, and testing for infections in the establishment 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). 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 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 establishment and made available, upon request, to:
- 1) staff;

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- 2) the resident and the resident's family or the resident's representative; and
  - 3) the Department or the local health authority.
- b) Each establishment shall adhere to 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 (see Section 295.300):
- 1) Guideline for Prevention of Catheter-Associated Urinary Tract Infections
  - 2) Guideline for Hand Hygiene in Health-Care Settings
  - 3) 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings
  - 4) Infection Control in Healthcare Personnel: Infrastructure and Routine Practices for Occupational Infection Prevention and Control Services
  - 5) Preparing for COVID-19 in Nursing Homes
  - 6) Responding to Coronavirus (COVID-19) in Nursing Homes
- c) Each establishment shall conduct testing of residents and staff for the control or detection of communicable diseases when:
- 1) The establishment 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.
- d) COVID-19 Testing  
The establishment shall test residents and staff for COVID-19. At a minimum, the establishment shall:
- 1) Conduct establishment-wide initial testing for all residents and staff;



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- 2) Prioritize and conduct immediate testing of residents or staff with symptoms of COVID-19;
- 3) If a resident or staff 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 staff when the establishment is not experiencing an outbreak. The frequency of testing shall be based on the spread of the virus in the community in which the establishment 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](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.
  - 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 establishment 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 (d)(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;

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- 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 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;
- e) Each establishment shall make arrangements with a testing laboratory to process any specimens collected under subsections (c) and (d) and ensure that complete information is submitted with each specimen, including name, address, date of birth, sex, race, and ethnicity. An establishment 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.
- f) For testing done under subsections (c) and (d), each establishment 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: Added at 44 Ill. Reg. 18960, effective November 19, 2020, for a maximum of 150 days)