



February 24, 2023

Tracey Trigillo
 Rules Coordinator
 Department of Public Health
 Lincoln Plaza
 524 South 2nd Street, 6th Floor
 Springfield, IL 62701

Ms. Trigillo:

On behalf of LeadingAge Illinois, thank you for the opportunity to comment on the Department's proposed rule changes regarding the Assisted Living and Shared Housing Establishment Code (**7 Ill. Adm. Code 295**). **These rules appeared in the January 13, 2023 edition of the Illinois Register.**

LeadingAge Illinois represents the complete continuum of care for older adults, including Assisted Living. We appreciate the Department's work to ensure that residents enjoy a quality and this necessary part of the continuum. We appreciate the opportunity to provide comments on the proposed rules.

LeadingAge Illinois Comments:

Section 295.500 (Application for License):

15(e)(1): ~~\$6,000~~ \$2,000 for an assisted living establishment and ~~\$60~~ \$20 per licensed unit; or
 2) ~~\$3,000~~ \$1,000 for a shared housing establishment.

LeadingAge Illinois Comment:

The tripling of fees and fines is a major concern to LeadingAge Illinois. Establishments have faced severe financial challenges due to COVID-19. Unlike skilled nursing facilities, assisted living establishments receive no relief funding from the State of Illinois. Those financial struggles couple with inflation and ever-rising costs make this not the time to raise fees or fines.

295.1050 (Violations):

Type 2 violation – an act or omission by the establishment or its staff that causes harm to a resident or has the potential to cause harm to a resident or residents.

Type 1 violation – an act or omission by the establishment or its staff that causes severe harm or the death of a resident or has the potential to cause severe harm to a resident or residents.

LeadingAge Illinois Comments/Proposal:

Propose striking the new language from Type 1:

Type 1 violation – an act or omission by the establishment or its staff that causes severe harm or the death of a resident or has the potential to cause severe harm to a resident or residents.

Propose: Type 2 violation – an act or omission by the establishment or its staff that causes harm to a resident or where harm to a resident was averted.

Section 295.1060 (Remedies and Sanctions):

(A)(6): Fines – shall be imposed as follows: The Department ~~will may~~ impose a fine of up to ~~\$1,500~~ \$500 for an initial Type 2 violation.

B) The Department ~~will may~~ impose a fine of up to ~~\$3,000~~ \$1000 on any provider that has repeat Type 2 violations at a subsequent on-site inspection.

C) The Department ~~will may~~ impose a fine of up to ~~\$6,000~~ \$2000 for initial Type 1 violations.

D) The Department ~~will shall~~ impose a fine of up to ~~\$20,000~~ \$10,000 on any provider that has a repeat Type 1 violation or when the Director or the Director's designee determines that a serious and immediate threat exists.

LeadingAge Illinois Comments:

We propose not changing the fine and keeping the same amounts instead of the exorbitant amounts proposed.

Section 295.1070 Annual On-Site Review and Complaint Investigation Procedures:

(h)(3), the Elimination of a provider's opportunity to submit a statement of dispute is a concern: ~~The establishment may also submit a statement of dispute regarding any of the alleged violations within 15 days. The Department shall review all statements of dispute submitted prior to making its final determination that a violation exists or of the level of the violation. If the Department does not make a change to the statement of violations based upon the statement of dispute, it shall provide a brief justification of its determination in writing.~~

LeadingAge Illinois Comment:

We recommend this language not be deleted from the Code. The language has been in place for over two decades and is often utilized by providers as an opportunity to dispute violations. We propose not deleting this language.

(j):

LeadingAge Illinois Comments/Proposal:

We propose adding this language to (j): Establishment may also request a review of the findings and violations before a Peer Board made up of four establishment representatives. The Peer Board shall be made up of representatives of four approved establishment providers in the state. An establishment requesting review of findings before the Peer Board shall be allowed to present written or oral evidence regarding the alleged findings. The Peer Board shall review the evidence presented and make a final determination that a violation exists or of the level of the violation. If the Peer Board does not make a change to the findings and violations, it shall issue a statement of violations based upon the statement of dispute, it shall and provide a brief justification of its determination in writing."

(m)

LeadingAge Illinois Comments/Proposal:

"If an establishment desires to contest the remedies and sanctions and underlying remedies and sanctions and underlying alleged violations, the establishment shall, within 30 days after receipt of notice under subsections (i or j) of this Section, notify the Department in writing of its request for a hearing under Section 60 of the Act."

295.2050 (Incident and Accident Reporting):

a) An establishment shall report to the Department any serious incident or accident. For the purposes of this Section, "serious" means any incident or accident that causes physical or emotional harm or injury to a resident.~~an incident or accident that has a significant negative effect on a resident's health, safety or welfare. A significant negative effect shall be assumed whenever an unplanned or unscheduled visit to a hospital is necessary as a result of that incident or accident, treatment is provided, and follow-up care is~~

required.

b) The report shall be made by contacting the Department of Public Health Central Complaint Registry via email at DPH.LTCAL@illinois.gov or as requested by the Department or by fax or by other electronic means within 24 hours after the occurrence of the incident or accident.

LeadingAge Illinois Comments/Proposal:

a) An establishment shall report to the Department significant physical harm or injury to a resident caused by an incident or accident that. A change in a resident's condition that is due to a health or medical decline is not a reportable incident or accident. For purposes of this section, an injury that requires basic first aid or monitoring does not qualify as a significant physical harm or injury. has a significant negative effect on a resident's health, safety or welfare. A significant negative effect shall be assumed whenever an unplanned or unscheduled visit to a hospital is necessary as a result of that incident or accident, treatment is provided, and follow-up care is required.

b) The report shall be made by contacting the Division of Assisted Living Department of Public Health Central Complaint Registry or by fax or by other electronic means within 24 hours one business day after the occurrence of the incident or accident.

Other LeadingAge Illinois Comments on Rule Amendments Needed:

Section 295.200 (Definitions):

LeadingAge Illinois Comments/Proposal:

We propose amending the definition of "Physician's assessment" to:

Physician's assessment "Resident Assessment - a comprehensive assessment that includes an evaluation of the resident's or prospective resident's physical, cognitive, and psychosocial condition, completed by a physician or other licensed clinician delegated by the physician."

The justification for this proposed change is that physicians are increasingly utilizing physician assistants and nurse practitioners for assessments.

295.700 (Issuance of a Renewal License):

Replace (b) with:

"the application is approved, and if the licensee (i) has not committed a Type 1 violation in the preceding 24 months, (ii) has not committed a Type 2 violation in the preceding 24 months, (iii) has not had an inspection, review, or evaluation that resulted in a finding of 10 or more Type 3 violations in the preceding 24 months, and (iv) has not admitted or retained a resident in violation of Section 75 of this Act in the preceding 24 months, the Department shall renew the license for an additional period of 2 years at the request of the licensee. If a licensee whose license has been renewed for 2 years under this Section subsequently fails to meet any of the conditions set forth in items (i), (ii), and (iii), then, in addition to any other sanctions that the Department may impose under this Act, the Department shall revoke the 2-year license and replace it with a one-year license until the licensee again meets all of the conditions set forth in items (i), (ii), and (iii). If appropriate, the renewal application shall not be approved unless the applicant has provided to the Department an accurate disclosure document in accordance with the Alzheimer's Disease and Related Dementias Special Care Disclosure Act. If the application for renewal is not timely filed, the Department shall so inform the licensee."

295.4000 (Physician's Assessment):

Propose adding to Parts (a), (b), (c), and (e) the following language: "or a licensed clinician delegated by the physician."

*Adding this language will allow staff such as a physician assistant or nurse practitioner to complete the assessment, which is how the procedure is most commonly carried out in practice.

Again, thank you for the opportunity to comment on the proposed rules. Please feel free to contact me anytime with questions at 217.789.1677 or jspeaks@leadingageil.org.

Kindest regards,

A handwritten signature in black ink, appearing to read "Jason Speaks". The signature is fluid and cursive, with the first name "Jason" written in a larger, more prominent script than the last name "Speaks".

Jason Speaks
Director of Government Relations