

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER d: LONG-TERM CARE FACILITIES

PART 396
LIFE CARE FACILITIES CONTRACT CODE

SUBPART A: LIFE CARE FACILITIES

Section

396.10	Definitions
<u>396.15</u>	<u>Incorporated and Referenced Materials</u>
396.20	Who Must Obtain a Permit
396.30	Application for a Permit
396.40	Permits
396.50	Provider Responsibilities
396.60	Enforcement Provisions
396.70	Penalty
<u>396.80</u>	<u>Posting of Long Term Care Ombudsman Program Information</u>
<u>396.85</u>	<u>Facility Employee Assistance Programs</u>
<u>396.90</u>	<u>Vaccinations</u>

SUBPART B: AT-HOME LIFE CARE

Section

<u>396.100</u>	<u>Eligibility and Application for a Certificate of Registration</u>
<u>396.110</u>	<u>Preliminary Certificate of Registration</u>
<u>396.120</u>	<u>Application for a Preliminary Certificate of Registration</u>
<u>396.130</u>	<u>Issuance of Preliminary Certificate of Registration</u>
<u>396.140</u>	<u>Certificate of Registration</u>
<u>396.150</u>	<u>Issuance of Certificate of Registration</u>
<u>396.160</u>	<u>Renewal of Certificate of Registration</u>
<u>396.170</u>	<u>Issuance of Renewal of Certificate of Registration</u>
<u>396.180</u>	<u>At-Home Continuing Care Personnel</u>
<u>396.190</u>	<u>Denial, Suspension, or Revocation</u>

AUTHORITY: Implementing and authorized by the Life Care Facilities Act [210 ILCS 40].

SOURCE: Adopted at 14 Ill. Reg. 19352, effective November 27, 1990; Subchapter c recodified at 49 Ill. Reg. 3411; amended at 50 Ill. Reg. _____, effective _____.

SUBPART A: LIFE CARE FACILITIES

Section 396.10 Definitions

"Act" means the Life Care Facilities Act [210 ILCS 40](~~Ill. Rev. Stat. 1989, ch. 111 1/2, par. 4160 et seq.~~).

"Actuarial forecast" means a quantitative assessment that predicts future financial risks and uncertainties that a certified actuary performs.

"At-home continuing care" means a program providing or committing to provide a range of services to an individual in the individual's private residence, either directly or indirectly by a provider, and/or access to amenities at the provider's affiliated locations, pursuant to a life care contract and payment of an entrance fee.

"At-home continuing care contract" means a contract to provide to a person for the duration of such person's life or for a term in excess of one year at-home continuing care services, as defined below, for such person, conditioned upon the transfer of an entrance fee to the provider of such services in addition to or in lieu of the payment of regular periodic charges for the care and services involved.

"At-home continuing care services" includes licensed "home health services", "home services" or "in-home services" and "home nursing services" as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act. "At-home continuing care services" also includes, but is not limited to, licensed assisted living services as defined in the Assisted Living and Shared Housing Act, licensed skilled nursing and intermediate care services as defined in the Nursing Home Care Act, coordinated at-home care management, wellness programs, health assessments and screenings, health information and referral, home safety evaluations, homemaker services, assistance with activities of daily living, personal emergency response systems, chronic disease management, and homecare services.

"Calendar day" or "day" means all days in a month or prescribed time frame. It includes weekends and federal or State government-declared holidays.

"Certificates of need" means those permits issued pursuant to the Illinois Health Facilities Planning Act, as now or hereafter amended (Section 2(n) of the Act,~~Ill. Rev. Stat. 1989, ch. 111½, pars. 1151 et seq.~~*).*

"Continuing care retirement community" means a facility, or multiple facilities in a campus setting, that offer housing, residential services, and nursing care, all in one location .

"Department" means the Department of Public Health (Section 2(a) of the Act).

"Director" means the Director of the Department (Section 2(b) of the Act).

"Entrance ~~fee~~Fee" shall have the meaning ascribed in Section 2(h) of the Act. ~~means an initial or deferred transfer to a provider of a sum of money or property, made or promised to be made by a person entering into a Life Care Contract, which assures a resident of services pursuant to a life care contract (Section 2(h) of the Act).~~

"Escrow ~~account~~Account" means an account with a bank, trust company, or other financial institution located in the State of Illinois, held in the name of the provider and the escrow agent. The escrow account is returned to the provider or paid to a third party on fulfillment of the escrow conditions.

"Facility" shall have the meaning ascribed in Section 2(f) of the Act and shall include a community care retirement community ("CCRC") ~~means a place or places in which a provider undertakes to provide a resident with nursing services, medical services or personal care services, in addition to maintenance services for a term in excess of one year or for life pursuant to a life care contract. The term also means a place or places in which a provider undertakes to provide such services to a non-resident (Section 2(f) of the Act).~~

"Financial disclosure statement" means the most recently completed and audited financial statement, and shall include, but not be limited to, disclosure of short term assets and liabilities ~~shall include, but not be limited to, disclosure of short term assets and liabilities.~~ This financial disclosure statement is to be delivered to prospective residents of a life care facility by the provider.

"Financial ~~institution~~Institution" shall have the meaning ascribed in Section 4 of the Financial Institutions Act. ~~means a savings and loan association authorized to do business under the "Illinois Savings and Loan Act of 1985", as amended (Ill. Rev. Stat. 1987, ch. 17, par. 3301 et seq.), or a credit union authorized to do business under the "Illinois Credit Union Act", as amended (Ill. Rev. Stat. 1987, ch. 17, par. 4401 et seq.).~~

"Financial plan" is a comprehensive document prepared by a CPA that outlines the current economic situation, financial goals, and the strategies that will be used to achieve those goals.

"Letter of ~~credit~~Credit" means an official guarantee from the issuer (bank, trust company, or other financial institution located in the State of Illinois) to honor the commitments imposed in its provision for the length of time and amount

specified. Since the issuer pledges its full faith and credit behind the instrument, it is a security equal to that of an escrow account. A letter of credit must be irrevocable and subject to the provisions of Section 7 of the Act which apply to the escrow in lieu of which the Letter of Credit is established.

"Life ~~care contract~~ *Care Contract*" shall have the meaning ascribed in Section 2(c) of the Act. ~~means a contract to provide to a person for the duration of such person's life or for a term in excess of one (1) year, nursing services, medical services or personal care services, in addition to maintenance services for such person in a facility, conditioned upon the transfer of an entrance fee to the provider of such services in addition to or in lieu of the payment of regular periodic charges for the care and services involved (Section 2(c) of the Act).~~

"Life care facility" is a facility, authorized by the State and operating under a permit issued by the Department authorizing it to enter into life care contracts with residents. A life care facility may include but, is not limited to, a continuing care retirement community.

"Living ~~unit~~ *Unit*" shall have the meaning ascribed in Section 2(g) of the Act. ~~means an apartment, room or other area within a facility set aside for the exclusive use of one or more identified residents, who have entered into a Life Care Contract (Section 2(g) of the Act).~~

"Maintenance ~~services~~ *Services*" shall have the meaning ascribed in Section 2(m) of the Act. ~~means food, shelter and laundry services (Section 2(m) of the Act).~~

"Marketing plan" is a strategic document that outlines how a business intends to promote its products or services to reach its target audience and achieve its marketing goals and includes a market study that demonstrates a need for the products or services.

"Medical ~~services~~ *Services*" shall have the meaning ascribed in Section 2(j) of the Act. ~~means those services pertaining to medical or dental care that are performed in behalf of patients at the direction of a physician licensed under the Medical Practice Act of 1987 (Ill. Rev. Stat. 1989, ch. 111, pars. 4400-1) or a dentist licensed under the Illinois Dental Practice Act (Ill. Rev. Stat. 1989, ch. 111, pars. 2301 et seq.) such physicians or by a registered or licensed practical nurse as defined in the Illinois Nursing Act of 1987 (Ill. Rev. Stat. 1989, ch. 111, pars. 3501 et seq.) or by other professional and technical personnel.~~ The Department shall not prescribe the course of medical treatment provided to an individual resident by the resident's physician in a facility.

"Newly ~~constructed facility~~ *Constructed Facility*" means a life care facility

~~that~~~~which~~ has not previously existed, at a site where structures are built or remodeled for the purpose of providing a place of residence for individuals with life care contracts~~contractees~~.

"Non-~~resident~~~~Resident~~" shall have the meaning ascribed in Section 2(o) of the Act.~~means a person admitted to a facility who has not entered into a life care contract (Section 2(o) of the Act).~~

"Nursing services~~Services~~" means those services pertaining to the curative, restorative and preventive aspects of nursing care that are performed at the direction of a physician licensed under the Medical Practice Act of 1987 by or under the supervision of a registered or licensed practical nurse as defined in the Illinois Nursing Act of 1987. For purposes of the Act and this Part, the term only applies to services provided in a facility licensed under the Nursing Home Care Act (~~Ill. Rev. Stat. 1989, ch. 111½, par. 4151-101 et seq.~~) (Section 2(k) of the Act).

"Permit" or "life care permit" shall have the meaning ascribed in Section 2(i) of the Act.~~means a written authorization to enter into life care contracts issued by the Department to a provider (Section 2(i) of the Act).~~

"Personal care services~~Care Services~~" shall have the meaning ascribed in Section 2(l) of the Act.~~means assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual, who is incapable of maintaining a private independent residence or who is incapable of managing his person whether or not a guardian has been appointed for such individual.~~ For purposes of the Act and this Part, the term only applies to services provided in a facility licensed under the Nursing Home Care Act, (~~Ill. Rev. Stat. 1989, ch. 111½, par. 4151-101 et seq.~~) (Section 2(l) of the Act).

"Provider" means a person or facility, such as a continuing care retirement community, who provides services pursuant to a life care contract (Section 2(d) of the Act). Provider includes corporations, partnerships, or other entities that provide or offer to provide at-home care and that operate a continuing care retirement community that is authorized to issue life care contracts to its residents pursuant to the requirements of Subpart A.

"Ready for occupancy" means that the facility's completed structure is ready to initiate and sustain full operations as a life care~~Life-Care~~ residence. All mechanical systems, including plumbing, electrical systems, ventilation systems for heating and cooling, and emergency alarm systems must be fully functional. Access driveways and walkways must be in place, and all services as described in

the ~~life care~~**Life-Care** contract must be available. The facility must be in compliance with all existing local housing codes.

"Regular periodic charges" means the monthly fee for care and services as described in the life care contract.

"Resident" ~~shall have the meaning ascribed in Section 2(e) of the Act.~~**means-a person who enters into a life care contract with a provider, or who is designated in a life care contract to be a person provided with maintenance and nursing, medical or personal care services (Section 2(e) of the Act).**

"Subscriber" means a person who contracts with a provider for at-home continuing care and resides in a private residence off of a continuing care retirement community campus.

"Substantially completed" means that the facility's entire structure and grounds are completed as described in the facility's architectural blueprints and construction contracts, and that the facility is in compliance with existing local building codes.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 396.15 Incorporated and Referenced Materials

a) The following State of Illinois statutes are referenced in this Part:

- 1) Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]
- 2) Health Care Worker Background Check Act [225 ILCS 46]
- 3) Illinois Dental Practice Act [225 ILCS 25]
- 4) Nurse Practice Act [225 ILCS 65]
- 5) Nursing Home Care Act [210 ILCS 45]
- 6) Financial Institutions Act [20 ILCS 1205]
- 7) Illinois Health Facilities Planning Act [20 ILCS 3960]

b) The following State of Illinois regulations are referenced in this Part:

1) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

2) Health Care Worker Background Check Code (77 Ill. Adm. Code 955)

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 396.30 Application for a Permit

- a) Applications shall be made on forms provided by the Department.
Application~~Applications~~ forms may be obtained by writing to:

Illinois Department of Public Health
Division of Health Statistics and Policy Development
535 West Jefferson Street, Second Floor
Springfield, Illinois 62761
Or electronically to DPH.Lifecare@illinois.gov

- b) An application for a permit to operate a life care facility must contain the following:

- 1) *A copy of the proposed form of life care contract to be entered into with residents (Section 4 of the Act).*
- 2) *A copy of the Letter of Credit~~letter-of-credit~~ or Escrow Agreement~~escrow agreement~~ as provided by Section 7 of ~~the~~the Act. To allow the Department to determine the provider's compliance with Section 7 of the Act, a complete, detailed, written description of any long-term facility financing~~financing-of-the-facility~~ must be submitted with the application. The submission of a copy of the Escrow Agreement~~escrow agreement~~ or Letter of Credit~~letter-of-credit~~ will fulfill this requirement if the document contains such a description.*
- 3) *A permit application fee of \$100.00 (Section 4 of the Act).*
- 4) An audited statement of the facility's financial position in each of the three years prior to the application.
 - A) If the facility has not previously existed, audited financial statements, including an equity statement describing~~, with descriptions of~~ the facility's start-up capital and financing, are required.

B) The provider's financial statements shall be prepared per~~Financial statements of the provider shall be prepared in accordance with~~ generally accepted accounting principles and reported upon by certified public accountants with generally accepted auditing standards.

5) The identity of the licensee~~licensed~~ or facilities at which licensed care will be provided to those residents in need of such care, as provided for in the life care contract.

A) Newly constructed facilities may make licensed long-term~~long term~~ care beds available to non-residents only with the approval of the Department. Approval will be based upon whether the facility will provide~~be providing~~ sufficient licensed beds to accommodate~~accomodate~~ its residents without having to transfer or discharge any resident or non-resident. Facilities seeking such approval shall include with the application a written explanation of~~as to~~ how the above will be accomplished. This explanation shall include, at a minimum, the number and type of licensed beds at the facility, the maximum number of beds that will be used for non-residents, a description of any plans to phase out the number of beds to be used for non-residents, and projections of the number and types of licensed beds that will be needed for residents, along with the basis for those projections. ~~Facilities which received a "continuum of care variance" from the Illinois Health Facilities Planning Board under 77 Ill. Adm. Code 1110.1730(c)(3) will not receive approval to admit non-residents to long-term care beds.~~

B) If the life care facility does not contain licensed long-term care beds, the facility shall submit to the Department a written explanation of plans to meet the eventual needs of residents who require contractually entitled levels of care beyond maintenance services in living units at the time of application. (See Section 396.10)~~contains no licensed long-term care beds, a written explanation of plans to meet the eventual needs of those residents who require contractually entitled levels of care, beyond maintenance services in living units, must be provided to the Department at the time of application. "Living units", and "Maintenance Services" are defined in Section 396.10 of the Life Care Facilities Contract Code.~~

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 396.50 Provider Responsibilities

- a) *At the time of or prior to the execution of a life care contract and the transfer of any money or other property to a provider or escrow agent, the provider shall deliver to the resident a copy of a financial disclosure statement reflecting the provider's financial condition. This statement shall include, but not be limited to, disclosure of short term assets and liabilities. (Section 5(a) of the Act);*
- b) *The life care contract shall provide that any person entering the contract shall have a period of 14 days beginning with the first full calendar day following the execution of the contract, or the payment of an initial sum of money as a deposit or application fee, or receipt of the financial disclosure statement, whichever occurs last, within which to rescind the life care contract without penalty or further obligation. In the event of such rescission, all money or property paid or transferred by such person shall be fully refunded. No person shall be required to move into a facility until after the expiration of the 14 day ~~rescission~~recision period. No permit will be issued if the form of life care contract attached as an exhibit in support of the application for permit as provided in Section 396.30(b) does not contain the provisions required by this subsection. (Section 5(b) of the Act);*
- c) *To the extent that a facility also qualifies as a long-term care facility under the Nursing Home Care Act, then the long-term care portion of the facility must comply with the Nursing Home Care Act and 77 Ill. Adm. Code 300 and that Act and the regulations promulgated thereunder as well as the Act and this Part.*
- d) *When required by subsections (e) and (f) below, the provider shall establish and maintain, on a current basis, an escrow account and/or letter of credit with a bank, trust company, or other financial institution located in the State of Illinois. ~~The~~Such financial institution shall provide to the Department notification describing the facility's escrow account or letter of credit annually~~on an annual basis~~ and within 15 days after~~of~~ any change affecting the escrow account or letter of credit.*
- e) *Requirements for new facilities:*
 - 1) *If the entrance fee applies to a living unit which has not previously been occupied by any resident, all entrance fee payments representing either all or any smaller portion of the total entrance fee shall be paid to the escrow agent by the resident (Section 7(a)(1) of the Act).*
 - 2) *When the provider has sold at least ½ of ~~its~~the living units ~~covered by a single permit~~, obtained a mortgage commitment, if needed, and obtained*

all necessary zoning permits and Certificates of Need~~certificates of need~~, if required, the escrow agent may release a sum representing $\frac{1}{5}$ of the resident's total entrance fee to the provider. Upon completion of the foundation of the living unit an additional $\frac{1}{5}$ of the resident's total entrance fee may be released to the provider. When the living unit is under roof a further and additional $\frac{1}{5}$ of the resident's total entrance fee may be released to the provider. All remaining monies, if any, shall remain in escrow until the resident's living unit is substantially completed and ready for occupancy by the resident. When the living unit is ready for occupancy the escrow agent may release the remaining escrow amount to the provider and further entrance fee payments, if any, may be paid by the resident to the provider directly. All monies released from escrow shall be used for the facility and for no other purpose. (Section 7(a)(2) of the Act)

- f) Requirements for all facilities:
At the time of resident occupancy and at all times thereafter, the escrow amount shall be in an amount which equals or exceeds the aggregate principal and interest payments due during the next 6 months on account of any first mortgage or other long-term financing of the facility~~facilities~~ (Section 7(b)(1) of the Act). Balloon payments due at the conclusion of the mortgage~~Mortgage~~ shall not be subject to the escrow requirements (Section 7(b)(5) of the Act). In lieu of the escrow account, the provider may obtain an irrevocable letter of credit in the amount required by this provision. The letter of credit shall specify that funds are to be paid out in the amount and manner specified by the Director.
- g) The escrow monies required by Section 6 of the Act may be released to the provider upon approval by the Director. Approval~~Such approval~~ shall only be granted in the event of unforeseeable peril or calamity, such as damage due to fire, vandalism, earthquake, etc., or if~~in the event that~~ the escrow funds are the only source for payment of the long-term debt of the facility. The Director may attach such conditions on the release of monies as they deem~~he deems~~ fit including, but not limited to, the performance of an audit which satisfies the Director that the facility is solvent, a plan from the facility to bring the facility back in compliance with Section (6) and a repayment schedule and that the funds be used solely for the purpose for which they were released (Section 7(b)(2) of the Act).
- h) The provider shall submit an audited statement of the facility's financial condition annually to the Department~~An audited statement of the financial condition of the facility must be submitted annually to the Department by the provider~~ within 120 days of the close of the facility's fiscal year.
- i) Providers shall~~must~~ immediately report to the Department in writing any changes

in the financial condition of the facility ~~that~~^{which} could threaten the facility's ability to sustain operations or meet its contractual obligations to its residents or creditors. Reportable changes in the facility's financial condition include serious delinquency in payments due to creditors, reduction of services to which residents are entitled, financial loss due to theft or gross mismanagement, as well as loss due to physical damage to the facility or legal damages for which the provider is found to be liable.

j) *If the facility ceases to operate all monies in the escrow account except the amount representing principal and interest shall be repaid by the escrow agent to the resident (Section 7(b)(4) of the Act). Repayments~~Such repayments~~ shall be in the form of a cashier's check.*

k) *Pre-sale disclosures. Prior to the execution of a refundable life care contract and the transfer of any money or other property to a provider or escrow agent, the provider shall deliver to the consumer a pre-sale disclosure printed on paper. The pre-sale disclosure shall be signed by the consumer prior to executing the life care contract. The pre-sale disclosure shall include:*

1) *The caption, "ENTRY FEE REFUNDS: CONSUMER NOTICE", in at least 28-point font and the remaining portion in at least 12-point font;*

2) *The caption, "The timing of refunds for past residents may not be indicative of your refund experience. Your ability to collect on the full amount of the calculated refund may be modified or nullified pending market conditions, any future sale of this organization, or in the event of bankruptcy. Current residents, former residents awaiting refunds, and the estates of former residents awaiting refunds shall be provided with the most recent entry fee refund data disclosure upon request.";*

3) *For refunds returned by the provider in the most recently completed calendar year:*

A) *The average number of months passed before the refund of an entry fee by the provider; and*

B) *The median number of months passed before the refund of an entry fee by the provider;*

4) *The percentage of entry fee contracts awaiting refunds from the provider with wait times exceeding 24 months as of the end of the most recently completed calendar year;*

- 5) The percentage of entry fee contracts awaiting refunds from the provider with wait times exceeding 36 months as of the end of the most recently completed calendar year;
 - 6) The percentage of entry fee contracts awaiting refunds from the provider with wait times exceeding 60 months as of the end of the most recently completed calendar year;
 - 7) The number of entry fee contracts awaiting refunds from the provider as of the last day of the most recently completed calendar year; and
 - 8) The number of entry fee refunds returned by the provider in the most recently completed calendar year (Section 5.1(a) of the Act).
- l) For the purpose of determining the time a refund is due, the start time of the refund begins after the unit has been permanently vacated, returned to resalable condition, and the outgoing resident has a zero balance due, excluding outstanding balances to be payable by outside payors, including, but not limited to, Medicare, Medicaid, Managed Medicare, or within 30 days of the unit being permanently vacated and the outgoing resident has a zero balance due, whichever is shorter. Refund delays due to estate factors outside of the community's control, including, but not limited to, probate challenges, estate challenges, or an inability to confirm next of kin, are not included in the outstanding refunds to be disclosed (Section 5.1(b) of the Act).
- m) Pre-sale disclosures may include additional data by calendar year (Section 5.1(c) of the Act).
- n) If a payee for an entry fee refund cannot be determined, for purposes of calculating the data in subsection (k), a refund shall be considered complete when a new resident occupies the specified living unit (Section 5.1(d) of the Act).
- o) The most current pre-sale disclosure data detailed in subsection (k) shall be made available, upon request, to current residents that have refundable entry fee contracts, former residents who have not yet received refunds for their refundable entry fees, and the estates of former residents who have not yet received refunds for their refundable entry fees (Section 5.1(e) of the Act).
- p) Failure to provide the pre-sale disclosure in accordance with this Section may result in a minimum monetary penalty of \$500 at the discretion of the Department. The Department shall adopt rules to enforce this Section and provide for factors to be considered when imposing monetary penalties and for repeat violations of this Section (Section 5.1(f) of the Act).

- g) Living unit reappropriation. If an unoccupied living unit is contemplated for use for a purpose other than as a living unit, including, but not limited to, an exam room or a storage room, and if there exist beneficiaries awaiting an entry fee refund, the beneficiaries of the entry fee refund must provide a signed acknowledgment of, and agreement to, the reappropriation that may be in effect up to a specific date. The reappropriation acknowledgment shall include:
- 1) The caption, "ENTRY FEE REFUND DELAYS: CONSUMER NOTICE" in at least 28-point font and the remaining portion in at least a 12-point font;
 - 2) The caption, "Your agreement to this arrangement may result in the delayed sale of the living unit as well as the delayed return of the entry fee."; and
 - 3) A statement that the rights provided under this Section may not be waived (Section 5.2 of the Act).

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 396.60 Enforcement Provisions

- a) At any time the Director receives notice from the escrow agent that the provisions of Section 7 of the Act have not been complied with, or at any other time when the Director has reason to believe that the provider is insolvent, is in imminent danger of becoming insolvent or that its condition is such that it may be financially unable to fully perform its obligations pursuant to life care contracts, the Director ~~will~~shall, through the Attorney General, file an appropriate action on behalf of the State of Illinois and any or all residents in any court of competent jurisdiction, including the federal bankruptcy court or any other federal court (Section 9 of the Act). In making the determination under this subsection, the Director will consider factors, including, but not limited to, changes in a facility's financial condition that are reportable under Section 395.50(i)~~Factors which the Director shall consider in making the determination under this subsection shall include, but not be limited to, those changes in a facility's financial condition which are reportable under Section 396.50(i).~~
- b) The Director or ~~their~~his authorized designee may conduct an audit or other examination of the financial affairs of any provider as often as ~~they deem~~he deems it necessary for the protection of the interests of the residents and the people of this State, and for this purpose shall have access to the books, records, financial data and other documents maintained by the facility (Section 10 of the Act).

- c) *The Department ~~may~~^{shall} deny the application for permit or revoke or suspend an existing permit for violation of any provision of ~~the Act~~^{this Part} (Section 11 of the Act). Facilities ~~that~~^{which} do not comply with all provisions of this Part will not be granted ~~life care permits~~^{Life-Care Permits}. Permittees found to ~~violate~~^{be in violation of} the provisions of this Part will ~~have~~^{suffer suspension of} their ~~life care permit~~^{suspended Life-Care Permit}. Violations of the provisions of this Part ~~that are not remedied within 30 days after the facility receives the Department's notice of the violation will result in the revocation of the facility's life care permit~~^{which are not remedied within 30 days after the facility receives notice of such violation from the Department will result in the revocation of the facility's Life-Care Permit}. Proceedings for denial, revocation or suspension of a ~~life care~~^{life care} permit will be conducted in accordance with the Department's ~~Rules of Practice and Procedure in Administrative Hearings~~^(77 Ill. Adm. Code 100).*

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 396.80 Posting of Long Term Care Ombudsman Program Information

- a) *Except as provided under subsection (b), all licensed facilities shall post on the home page of the facility's website the following:*
- 1) *The Long Term Care Ombudsman Program's statewide toll-free telephone number.*
 - 2) *A link to the Long Term Care Ombudsman Program's website (Section 10.3(a) of the Act).*
- b) *A facility:*
- 1) *May comply with this Section by posting the required information on the website of the facility's parent company if the facility does not maintain a unique website;*
 - 2) *Is not required to comply with this Section if the facility and any parent company do not maintain a website; and*
 - 3) *Is not required to comply with this Section in instances where the parent company operates in multiple states and the facility does not maintain a unique website. (Section 10.3(b) of the Act)*

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 396.85 Facility Employee Assistance Programs

- a) For the purposes of this Section, an "employee assistance program" is a program that supports individual physical and mental well-being and that is provided by the facility through an insurance or employee benefits program offered by the facility. Employee assistance programs may include, but are not limited to, programs that offer professional counseling, stress management, mental wellness support, smoking cessation, and other support services.
- b) A facility shall ensure that nurses employed by the facility are aware of employee assistance programs or other like programs available for the physical and mental well-being of the employee.
- c) The facility shall provide information on these programs, no less than at the time of employment and during any benefit open enrollment period, by an information form about the respective programs that the nurse must sign during onboarding at the facility. The signed information form shall be added to the nurse's personnel file.
- d) The facility may provide this information to nurses electronically. (Section 10.2 of the Act)

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 396.90 Vaccinations

- a) A facility shall annually administer a vaccination against influenza to each resident, unless the vaccination is medically contraindicated or the resident has refused the vaccine. Influenza vaccinations for all residents age 65 and over shall be completed by November 30 of each year or as soon as practicable if vaccine supplies are not available before November 1. Residents admitted after November 30, during the flu season, and until February 1 shall, as medically appropriate, receive an influenza vaccination prior to or upon admission or as soon as practicable if vaccine supplies are not available at the time of the admission, unless the vaccine is medically contraindicated or the resident has refused the vaccine. The Department is authorized to develop rules to mandate vaccinations at those times rather than the times stated in this Section. A facility shall document in the resident's medical record that an annual vaccination against influenza was administered, refused or medically contraindicated. (Section 10.1(a) of the Act)
- b) A facility shall provide or arrange for administration of a pneumococcal vaccination to each resident who is age 65 and over who has not received this

immunization prior to or upon admission to the facility, unless the resident refuses the offer for vaccination or the vaccination is medically contraindicated. A facility shall document in each resident's medical record that a vaccination against pneumococcal pneumonia was offered and administered, refused, or medically contraindicated. (Section 10.1(b) of the Act)

(Source: Added at 50 Ill. Reg. _____, effective _____)

SUBPART B: AT-HOME LIFE CARE

Section 396.100 Eligibility and Application for a Certificate of Registration

- a) The Department shall certify and register a person as a provider of at-home continuing care services under this Section if the Department determines that:
 - 1) A reasonable financial plan has been developed to provide at-home continuing care services, including a plan for the number of agreements to be executed before beginning operation;
 - 2) A market for the at-home continuing care program exists, demonstrated in the submission of a marketing plan;
 - 3) The provider has submitted all proposed advertisements, advertising campaigns, and other promotional materials for the program, such that the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead; and
 - 4) An actuarial forecast supports the market for the program (Section 10.4(b) of the Act).
- b) An application for a certificate of registration shall:
 - 1) Be filed in a form determined by the Department; and
 - 2) Include the following documentation:
 - A) Verification that the required number of agreements has been executed;
 - B) The form and substance of any proposed advertisements, advertising campaigns, or other promotional materials for the

program that are available at the time of filing and that have not been filed previously with the Department; and

- C) Verification that any other license or certificate required by other appropriate State units has been issued to the provider (Section 10.4(e) of the Act).

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 396.110 Preliminary Certificate of Registration

A provider may not enter into an agreement to provide at-home continuing care services until the Department issues a preliminary certificate of registration to the provider. (Section 10.4(c) of the Act)

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 396.120 Application for a Preliminary Certificate of Registration

- a) An application for a preliminary certificate of registration shall:

1) Be filed in a form determined by the Department;

2) Include a copy of the proposed at-home continuing care agreement that contains the following provisions:

A) Subscriber has 14 days from date of execution to rescind the contract for whatever reason and be refunded any entry fees, deposits or monies paid toward fees;

B) The subscriber can terminate the contract for any reason by giving 30 days' written notice to the provider with the understanding that the subscriber will only be entitled to a refund of entry fees remaining after amounts necessary to cover the costs incurred and services provided to date to the subscriber are deducted;

C) The provider can terminate the contract with the subscriber with cause by giving 30 days written notice to the subscriber and the subscriber's emergency contact, Power of Attorney for Healthcare, or other legal representative. The notice must specify the reason for the termination, provide the subscriber with an opportunity to appeal the decision and describe the process for doing so. The provider shall include in the contract how entry fees will be

refunded when a contract with a subscriber is terminated for cause;
and

D) Language outlining the responsibilities of each party when a contract is terminated by either party, including, but not limited to, whether, how, when, and what amount/percentage of entry fees are eligible to be refunded to subscribers and how that amount will be determined.

3) Include the form and substance of any proposed advertisements, advertising campaigns, or other promotional materials for the program that are available at the time of filing the application and that have not been filed previously with the Department (Section 10.4(c) of the Act); and

4) A copy of the provider's permit to issue life care contracts.

b) The provider shall include an attestation of compliance with all requirements outlined in Subpart A.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 396.130 Issuance of Preliminary Certificate of Registration

a) The Department shall issue a preliminary certificate of registration to a provider if the following conditions are met:

1) The proposed at-home continuing care agreement is deemed satisfactory;

2) The provider has submitted all proposed advertisements, advertising campaigns, and other promotional materials for the program; and

3) The form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead (Section 10.4(d) of the Act).

b) The Department will issue a preliminary certificate of registration to a provider or inform the provider of the Department's decision to deny the preliminary certificate of registration no later than 30 days after receipt of a completed application.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 396.140 Certificate of Registration

No provider may provide at-home continuing care services until the Department issues a certificate of registration to the provider (Section 10.4(e) of the Act).

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 396.150 Issuance of Certificate of Registration

a) The Department shall issue a certificate of registration to a provider if the Department determines that:

- 1) The information and documents submitted and application for a preliminary certificate of registration are current and accurate or have been updated to make them accurate;
- 2) Provider has executed at-home continuing contracts necessary to meet 25% or more of the year-one actuarial forecast for the mark to support the program;
- 3) The provider has obtained all the licenses or certificates required by other appropriate State units to provide the at-home care continuing care services to its subscribers;
- 4) The provider has submitted all proposed advertisements, advertising campaigns, and other promotional materials for the program; and
- 5) The material submitted is not an advertisement, advertising campaign, or other promotional material that is deceptive, misleading, or likely to mislead (Section 10.4(f) of the Act).

b) The Department will issue the certificate of registration to a provider, or inform the provider of the Department's decision to deny the certificate of registration, no later than 45 days after the Department receives a completed application.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 396.160 Renewal of Certificate of Registration

a) Every 2 years, within 120 days after the end of a providers fiscal year, a provider shall file an application for a renewal certificate of registration with the Department (Section 10.4(g) of the Act).

- b) The application for renewal of the certificate of registration shall:
- 1) Be filed in a form determined by the Department;
 - 2) Contain any reasonable and pertinent information that the Department requires (Section 10.4(g) of the Act); and
 - 3) Contain an attestation that the applicant remains in compliance with all requirements for a life care facility as outlined in Subpart A.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 396.170 Issuance of Renewal of Certificate of Registration

- a) The Department will issue a renewal certificate of registration if the Department determines that:
- 1) All required documents have been filed and are satisfactory;
 - 2) Any revised agreements for at-home continuing care services meet the Department's requirements;
 - 3) The provider has submitted all proposed advertisements, advertising campaigns, and other promotional materials for the program; and
 - 4) The form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead (Section 10.4(h) of the Act).
- b) The Department will issue the renewal certificate of registration to a provider or inform the provider of the Department's decision to deny the renewal certificate of registration no later than 45 days after the Department receives a completed application.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 396.180 At-Home Continuing Care Personnel

- a) Each person employed by or under a contract with a provider to provide at-home continuing care shall meet each of the following requirements:
- 1) Be at least 18 years of age and legally authorized to work in the State;

- 2) Have completed the minimum required education and training for the level of at-home continuing care being provided to assigned subscribers; and
- 3) Have a signed mandated reporter form within the individual's personnel file and training to identify potential neglect and abuse of subscribers;
- b) A provider shall comply with the Health Care Worker Background Check Act and the Health Care Worker Background Check Code for each person employed by or under a contract with a provider and who will enter a subscriber's home to provide at-home continuing care services (Section 10.4(a)(4) of the Act).
- c) A provider who employs certified nursing assistants shall check the status of all personnel applicants with the Health Care Worker Registry prior to hiring and shall not hire any individual who has a finding of abuse, neglect, or misappropriation of property on the Health Care Worker Registry.
- d) Prior to employing or contracting with any individual in a position that requires a State professional license in the health care field, the provider shall check the status of the individual's license with the Illinois Department of Financial and Professional Regulation to verify that the individual's license is active and indicates no disciplinary action.
- e) Prior to contracting with home health or home service provider or nursing agency to provide at-home continuing care services to a subscriber, the provider shall check the home health or home care service provider or agency's license with the Illinois Department of Public Health to verify the license is active and indicates no disciplinary action.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 396.190 Denial, Suspension, or Revocation

- a) The Department may deny, suspend, or revoke a preliminary, initial, or renewal certificate of registration for cause.
- b) The Department will set forth in writing its reasons for a denial, suspension, or revocation.
- c) A provider may appeal a denial in writing (Section 10.4(i) of the Act) no later than 10 business days from receipt of a letter of denial, suspension, or revocation;
- d) Grounds for a denial, suspension, or revocation include, but are not limited to:

- 1) Failure to comply with the requirements of Subpart A resulting in the suspension or revocation of provider's permit to issue life care contracts;
- 2) Violation of Section 10.4 of the Act;
- 3) Violation of this Part;
- 4) Misrepresentation; or
- 5) Submission of false information (Section 10.4(a) of the Act).

(Source: Added at 50 Ill. Reg. _____, effective _____)