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### CERTIFICATE OF EMERGENCY AMENDMENTS

The Department of Public Health, State of Illinois, certifies that the attached hereto is a true and correct copy of:

Heading for the Part: Assisted Living and Shared Housing Establishment Code

Code Citation: 77 Ill. Adm. Code 295

Sections Involved:

295.300  
295.4045  
295.4047

which was duly amended by emergency action by this Agency.

Reason for Emergency: These emergency amendments are adopted in response to Governor JB Pritzker's Gubernatorial Disaster Proclamations 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 amendments.

Statutory Authority: Implementing and authorized by the Assisted Living and Shared Housing Act [210 ILCS 9]

Amaal V. E. Tokars  
Acting Director

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

PART 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 Reg. 8515, effective May 5, 2020, for a maximum of 150 days; emergency rule repealed at 44 Ill.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; emergency rule expired April 17, 2021; emergency amendment at 45 Ill. Reg. 384, effective December 18, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 45 Ill. Reg. 2076, effective January 27, 2021, for the remainder of the 150 days; emergency rule as amended expired May 16, 2021; emergency amendment at 45 Ill. Reg. 5541, effective April 18, 2021, for a maximum of 150 days; emergency rule expired September 14, 2021; emergency amendment at 45 Ill. Reg. 6696, effective May 17, 2021, for a maximum of 150 days; emergency expired October 13, 2021; emergency amendment at 45 Ill. Reg. 11924, effective September 15, 2021, for a maximum of 150 days; emergency amendment to emergency rule at 45 Ill. Reg. 14532, effective November 5, 2021, for the remainder of the 150 days;

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emergency expired February 11, 2022; emergency amendment at 45 Ill. Reg. 13702, effective October 14, 2021, for a maximum of 150 days; emergency expired March 12, 2022; emergency amendment at 46 Ill. Reg. 3225, effective February 12, 2022, for a maximum of 150 days; emergency expired July 11, 2022; emergency amendment at 46 Ill. Reg. 5333, effective March 13, 2022, for a maximum of 150 days; emergency amendment at 46 Ill. Reg. \_\_\_\_\_, effective JUL 15 2022, for a maximum of 150 days.

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**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, which can be found at <https://www.cdc.gov/infectioncontrol/pdf/guidelines/cauti-guidelines-H.pdf> (June 6, 2019)
  - 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 (May 2022), 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 (October 25, 2019) available in two parts at <https://www.cdc.gov/infectioncontrol/pdf/guidelines/infectioncontrol-HCP-H.pdf> and <https://www.cdc.gov/infectioncontrol/guidelines/healthcarepersonnel/index.html>

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- 6) Interim Infection Prevention and Control Recommendations to Prevent SARS-CoV-2 Spread in Nursing Homes (February 2, 2022) available at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html>
  - 7) Interim Guidance for Managing Healthcare Personnel with SARSCoV-2 Infection or Exposure to SARS-CoV-2, available at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-riskassessment-hcp.html> (February 2, 2022)
  - 8) Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic, available at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html> (February 2, 2022)
- 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) ID/DD Community Care Act [210 ILCS 47]
    - G) Probate Act of 1975 [755 ILCS 5]
    - H) Illinois Public Aid Code [305 ILCS 5]
    - I) Illinois Administrative Procedure Act [5 ILCS 100]

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- 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) Dietitian Nutritionist 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) Illinois Accessibility Code (71 Ill. Adm. Code 400)
  - B) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
  - C) Food Code (77 Ill. Adm. Code 750)
  - D) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
  - E) Drinking Water Systems Code (77 Ill. Adm. Code 900)
  - F) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

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- G) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)
- H) Control of Tuberculosis Code (77 Ill. Adm. Code 696)
- I) Health Care Worker Background Check Code (77 Ill. Adm. Code 955)

(Source: Emergency amendment at 46 Ill. Reg. \_\_\_\_\_, effective JUL 15 2022, for a maximum of 150 days)

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**Section 295.4045 Infection Control  
EMERGENCY**

- a) Each establishment shall establish and follow policies and procedures for investigating, controlling, preventing, and testing for infections in the establishment. The policies and procedures shall be consistent with and include the requirements of the Control of Communicable Diseases Code and the Control of Sexually Transmissible Infections Code. All staff shall be trained on the policies and procedures, and training records 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 establishment staff, the resident and the resident's family or resident's representative, the Department, and the certified local health department.
- b) Each establishment shall adhere to the following guidelines and toolkits of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, and Agency for Healthcare Research and Quality (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) Interim Infection Prevention and Control Recommendations to Prevent SARS-CoV-2 Spread in Nursing Homes
  - 6) Interim Guidance for Managing Healthcare Personnel with SARSCoV-2 Infection or Exposure to SARS-CoV-2
  - 7) Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic
- c) Each establishment shall conduct testing of residents and staff, including individuals providing services under arrangement and volunteers, for the control or detection of communicable diseases when:

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- 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 and Documentation**  
The establishment shall test residents and staff, which includes any person who is employed by, volunteers for, or is contracted to provide services for an establishment, or is employed by an entity that is contracted to provide services to an establishment, for COVID-19. At a minimum, the establishment shall:
- 1) Prioritize and conduct immediate testing of residents or staff with symptoms of COVID-19;
  - 2) If a resident or staff in the establishment tests positive for COVID-19, follow either a unit-based or broad-based approach for testing residents and staff, regardless of vaccination status. Testing shall include all residents and staff who have not tested positive in the past 90 days.
    - A) If a unit-based approach is used, the establishment shall test all residents and staff immediately (but not earlier than two days after the exposure) in the unit (or department) where the staff worked, or the resident resided. Facilities shall continue to test every three to seven days until there are no more positive cases for 14 days.
    - B) If a broad-based approach is used, the establishment shall test all residents and establishment staff immediately (but not earlier than two days after the exposure). Facilities shall continue to test every three to seven days until there are no more positive cases for 14 days.
  - 3) **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 an 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)
- D) Facilities that are not required to report COVID-19 aggregate testing data into the National Healthcare Safety Network (NHSN) shall report this data to the Department weekly utilizing the online form available at <https://app.smartsheet.com/b/form/fa2d7abfb102490b9d2622a2ba490744>.
- 4) Upon confirmation that a resident or staff member tests positive with COVID-19, or if a resident or staff member displays symptoms consistent with COVID-19, take immediate steps to prevent the transmission of COVID-19, including but not limited to cohorting, isolation and quarantine, environmental cleaning and disinfecting, hand hygiene, and use of appropriate personal protective equipment.
- 5) Have written procedures for addressing residents and staff, including individuals providing services under arrangement and volunteers, 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.
- f) Each establishment shall keep a record of testing done under subsections (c) and (d), available to the Department upon request.

(Source: Emergency rule added at 46 Ill. Reg. \_\_\_\_\_, effective JUL 15 2022, for a maximum of 150 days)

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**Section 295.4047 COVID-19 Vaccination of Establishment Staff  
EMERGENCY**

- a) For the purposes of this Section:
- 1) "Staff" or "staff person" means any person who is employed by, volunteers for, or is contracted to provide services for an establishment, or is employed by an entity that is contracted to provide services to an establishment, and is in close contact (fewer than 6 feet) with other persons in the establishment for more than 15 minutes at least once a week on a regular basis as determined by the establishment. The term "staff" or "staff person" does not include any person who is present at the establishment for only a short period of time and whose moments of close physical proximity to others on-site are fleeting (e.g., contractors making deliveries to a site where they remain physically distanced from others or briefly entering a site to pick up a shipment).
  - 2) "COVID-19 vaccine" means a vaccine for COVID-19 that has been authorized for emergency use, licensed, or otherwise approved by the U.S. Food and Drug Administration (FDA).
  - 3) An individual is "fully vaccinated against COVID-19" two weeks after receiving the second dose in a two-dose series of a COVID-19 vaccine authorized for emergency use, licensed, or otherwise approved by the FDA, or two weeks after receiving a single-dose COVID-19 vaccine authorized for emergency use, licensed, or otherwise approved by the FDA.
- b) Each establishment shall require all staff to be fully vaccinated against COVID-19 or be tested in a manner consistent with the requirements of subsection (c).
- 1) New establishment staff shall receive or have received, at a minimum, the first dose of a two-dose vaccine series or a single dose vaccine no later than 10 days after their start date at the facility, and if applicable, the second dose of a two-dose COVID-19 vaccine series within 30 days after administration of their first dose, or be tested consistent with the requirements of subsection (c).
  - 2) Each establishment shall require staff who are fully vaccinated against COVID-19 to submit proof of full vaccination against COVID-19. Proof of vaccination may be met by providing to the establishment one of the following:

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- A) A Centers for Disease Control and Prevention (CDC) COVID-19 vaccination record card or photo of the card;
  - B) Documentation of vaccination from a health care provider or electronic health record; or
  - C) State immunization records.
- 3) Each establishment shall make available opportunities for staff to be fully vaccinated against COVID-19, either directly at the establishment or indirectly, such as through an arrangement with a pharmacy partner, local health department, or other appropriate health entity.
  - 4) Each establishment shall exempt individual staff members from the requirement that all staff be fully vaccinated against COVID-19 if:
    - A) Vaccination is medically contraindicated, including any individual staff member who is entitled to an accommodation under the Americans with Disabilities Act or any other law applicable to a disability-related reasonable accommodation; or
    - B) Vaccination would require the individual staff member to violate or forgo a sincerely held religious belief, practice, or observance.
  - 5) Staff that fall within the exemption in subsection (b)(4) shall undergo the testing requirements set forth in subsection (c).
  - 6) Facilities may adopt more stringent policies requiring all staff to be vaccinated. Nothing in the Section supersedes or modifies the date such policies are designated by the establishment to take effect.
- c) Except as provided in subsection (c)(7), each establishment shall require its staff who are not fully vaccinated against COVID19 to undergo testing for COVID-19, weekly, at a minimum. Staff who are not fully vaccinated against COVID-19 and not tested as required by this subsection shall not be permitted to enter or work at the establishment.
- 1) The COVID-19 test shall either have Emergency Use Authorization by the FDA or be operated pursuant to the Laboratory Developed Test requirements of the U.S. Centers for Medicare and Medicaid Services.
  - 2) Testing for staff who are not fully vaccinated against COVID-19 must be conducted on-site at the facility, or the facility must obtain ~~proof of~~

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- confirmation from the staff member of a negative test result obtained elsewhere.
- 3) A laboratory RT-PCR test is the preferred test for COVID-19 infection; however, point-of-care (POC) antigen testing is acceptable. For a facility to conduct these tests with their own staff and equipment, the facility must have, at a minimum, a Clinical Laboratory Improvement Amendments (CLIA) Certificate of Waiver.
  - 4) If a staff person tests positive for COVID-19, the establishment shall exclude the staff person from the establishment, and the staff person shall be subject to all applicable isolation and quarantine rules and establishment policies.
  - 5) In the event COVID-19 RT-PCR or POC antigen testing is not available, staff may use at-home or self-tests if the tests are observed and verified by a health care provider, and reportable as required in subsection (g).
  - 6) Staff who are not fully vaccinated may be permitted to enter or work at the establishment while they are waiting to receive the results of their weekly test.
  - 7) When the establishment is located in a county of high or substantial transmission, as indicated by the CDC COVID 19 Integrated County View, available at <https://covid.cdc.gov/covid-data-tracker/#county-view>, the establishment shall require its staff who are not fully vaccinated against COVID-19 to undergo testing for COVID-19, twice weekly, with tests administered at least two days apart as long as the county in which the establishment is located remains in a high or substantial transmission status.
- d) Each establishment shall ensure that all individuals who administer the COVID-19 vaccines on site for staff pursuant to this Section are qualified and trained to administer the vaccine in accordance with all applicable federal and State laws and rules.
  - e) Each establishment shall post conspicuous signage throughout the establishment notifying staff that the establishment makes available opportunities for staff to be fully vaccinated against COVID-19. The signs shall be on 8.5 by 11-inch white paper, with text in Calibri (body) font and 26-point type in black letters.
  - f) Each establishment shall provide its unvaccinated staff a minimum of 90 minutes of clear and accurate instruction covering vaccine education, effectiveness,

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benefits, risks, common reactions, hesitancy, and misinformation. Records of training shall be made available to the Department upon request. Examples of Department-approved training and educational resources include those offered for health care professionals by the:

- 1) Illinois Department of Public Health WebEx webinar recording: Vaccine Protection: Caring Communities Working Together available at: <https://illinois.webex.com/illinois/lsr.php?RCID=45ae739d9a0b1c34e884c1608fef2fd9>;
  - 2) CDC, available at <https://www2.cdc.gov/vaccines/ed/covid19/>; and
  - 3) Immunization Action Coalition (IAC), available at <https://www.immunize.org/covid-19/>.
- g) Each establishment shall maintain a record of fully vaccinated staff, unvaccinated staff, and weekly testing. Facilities that are not required to report COVID-19 aggregate vaccination and testing data into the National Healthcare Safety Network (NHSN) shall report this data to the Department weekly utilizing the online form available at <https://app.smartsheet.com/b/form/fa2d7abfb102490b9d2622a2ba490744>.
- h) The establishment shall maintain documentation in each staff person's confidential medical file, in accordance with federal and State privacy laws, regarding COVID-19 vaccinations and tests, including the following:
- 1) Proof of vaccination for the staff person;
  - 2) The results of COVID-19 tests for each staff person; and
  - 3) Written declination of the vaccination if offered by the establishment.
- i) Nothing in this emergency amendment prohibits any establishment from implementing vaccination or testing requirements for staff, residents, and visitors that exceed the requirements of this Section.
- j) Failure to comply with any of the requirements set forth in this Section constitutes an act or omission by the establishment or its staff that may cause severe harm or the death of a resident and shall result in a Type 1 violation as defined in Section 295.1050. The Department will impose penalties pursuant to Section 295.1060(a)(6)(C) and (D).

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(Source: Emergency rule added at 46 Ill. Reg. \_\_\_\_\_, effective JUL 15 2022, for a maximum of 150 days)

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