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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: Community Living Facilities Code

Code Citation: 77 Ill. Adm. Code 370

Sections Involved:

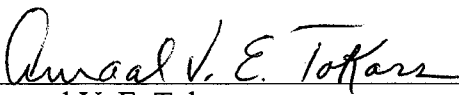
370.1
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which was duly amended by emergency action by this Agency.

Reason for Emergency: These emergency rules 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 Community Living Facilities Act [210 ILCS 35].



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 370
COMMUNITY LIVING FACILITIES CODE

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AUTHORITY: Implementing and authorized by the Community Living Facilities Act [210 ILCS 35].

SOURCE: Emergency rules adopted at 6 Ill. Reg. 379, effective January 1, 1982, for a maximum of 150 days; adopted at 6 Ill. Reg. 6226, effective May 19, 1982; codified at 8 Ill. Reg. 19476; amended at 8 Ill. Reg. 24706, effective December 7, 1984; emergency amendment at 17 Ill. Reg. 9117, effective June 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19509, effective November 1, 1993; emergency amendments at 20 Ill. Reg. 456, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 9982, effective July 15, 1996; amended at 22 Ill. Reg. 3919, effective February 13, 1998; amended at 23 Ill. Reg. 993, effective January 15, 1999; amended at 24 Ill. Reg. 17182, effective November 1, 2000; amended at 26 Ill. Reg. 11982, effective July 31, 2002; emergency amendment at 27 Ill. Reg. 7953, effective April 30, 2003, for a maximum of 150 days; emergency expired September 26, 2003; amended at 27 Ill. Reg. 18183, effective November 12, 2003; amended at 31 Ill. Reg. 192, effective December 21, 2006 ; emergency amendment at 44 Ill. Reg. 19038, effective November 19, 2020, for a maximum of 150 days; emergency rule expired April 17, 2021; emergency amendment at 45 Ill. Reg. 450, effective December 18, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 45 Ill. Reg. 2123, 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. 5619, effective April 18, 2021, for a maximum of 150 days; emergency expired September 14, 2021; emergency amendment at 45 Ill. Reg. 6744, effective May 17, 2021, for a maximum of 150 days; emergency expired October 13, 2021; emergency amendment at 45 Ill. Reg. 12041, effective September 15, 2021, for a maximum of 150 days; emergency amendment to emergency rule at 45 Ill. Reg. 14647, effective November 5, 2021, for the remainder of the 150 days; emergency expired February 11, 2022; emergency amendment at 45 Ill. Reg. 13750, effective October 14, 2021, for a maximum of 150 days; emergency expired March 12, 2022; emergency amendment at 46 Ill. Reg. 3347, effective February 12, 2022, for a maximum of 150 days; emergency expired July 11, 2022; emergency amendment at 46 Ill. Reg. 5384, 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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SUBPART A: GENERAL PROVISIONS

Section 370.1 Incorporated and Referenced Materials**EMERGENCY**

- a) The following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, which may be obtained from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161:
- 1) Guideline for Prevention of Catheter-Associated Urinary Tract Infections available at: <https://www.cdc.gov/infectioncontrol/pdf/guidelines/cauti-guidelines-H.pdf> (June 6, 2019)
 - 2) Guideline for Hand Hygiene in Health-Care Settings available at: <https://www.cdc.gov/infectioncontrol/guidelines/hand-hygiene/index.html> (October 2002)
 - 3) Guidelines for Prevention of Intravascular Catheter-Related Infections (2011), which can be found at <https://www.cdc.gov/hai/pdfs/bsi-guidelines-2011.pdf>
 - 4) Guideline for Prevention of Surgical Site Infection (2017), which can be found at <https://jamanetwork.com/journals/jamasurgery/fullarticle/2623725>
 - 5) Guidelines for Preventing Healthcare-Associated Pneumonia (2003), which can be found at <https://www.cdc.gov/infectioncontrol/pdf/guidelines/healthcare-associated-pneumonia-H.pdf>
 - 6) 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>
 - 7) 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/healthcare-personnel/index.html>

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- 8) Interim Infection Prevention and Control Recommendations to Prevent SARS-CoV-2 Spread in Nursing Homes available at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html> (February 2, 2022)
 - 9) Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2, available at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html> (February 2, 2022)
 - 10) 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)
- b) The following administrative rule is incorporated in this Part:
Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

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

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**Section 370.2 Infection Control
EMERGENCY**

- a) Policies and procedures for investigating, controlling, preventing, and testing for infections in the facility shall be established and followed. The policies and procedures shall be consistent with, and include, the requirements of the Control of Communicable Diseases Code. All staff 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 facility and made available upon request to facility staff, the resident and the resident's family or resident's representative, the Department, and the certified local health department.
- b) A group, e.g., an infection control committee, quality assurance committee, or other facility entity, shall periodically, but no less than annually, review the results of investigations and activities to control infections. Upon request, the facility shall provide the Department with the group's recommendations to control infections within the facility.
- c) Each facility shall adhere to the following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services (see Section 370.1):
 - 1) Guideline for Prevention of Catheter-Associated Urinary Tract Infections
 - 2) Guideline for Hand Hygiene in Health-Care Settings
 - 3) Guidelines for Prevention of Intravascular Catheter-Related Infections
 - 4) Guideline for Prevention of Surgical Site Infection
 - 5) Guidelines for Preventing Healthcare-Associated Pneumonia
 - 6) 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings
 - 7) Infection Control in Healthcare Personnel: Infrastructure and Routine Practices for Occupational Infection Prevention and Control Services
 - 8) Interim Infection Prevention and Control Recommendations to Prevent SARS-CoV-2 Spread in Nursing Homes

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- 9) Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2
 - 10) Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic
- d) Each facility shall conduct testing of residents and staff, including individuals providing services under arrangement and volunteers, for the control or detection of communicable diseases when:
- 1) The facility is experiencing an outbreak; or
 - 2) Directed by the Department or the certified local health department where the chance of transmission is high, including, but not limited to, regional outbreaks, epidemics, or pandemics
- e) COVID-19 Testing and Documentation
The facility shall test residents and facility staff, which includes any person who is employed by, volunteers for, or is contracted to provide services for a facility, or is employed by an entity that is contracted to provide services to a facility, for COVID-19. At a minimum, the facility shall:
- 1) Prioritize and conduct immediate testing of residents or staff with symptoms of COVID-19;
 - 2) If a resident or staff in the facility 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 facility 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 facility shall test all residents and facility 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

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- A) For residents, document in each resident's record any time a test was completed, including the result of the test, or whether testing was refused or contraindicated;
 - B) For staff members, document in each staff member's confidential medical file (as distinct from the staff member's personnel file) any time a test was completed, including the result of the test, or whether testing was refused or contraindicated;
 - C) For volunteers and individuals providing services under 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,
- f) Each facility shall make arrangements with a testing laboratory to process any specimens collected under subsections (d) and (e) and ensure that complete information is submitted with each specimen, including name, address, date of birth, sex, race, and ethnicity.

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- g) Each facility shall keep a record of testing done under subsections (d) and (e), 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 370.4 COVID-19 Vaccination of Facility 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 a facility, or is employed by an entity that is contracted to provide services to a facility, and is in close contact (fewer than 6 feet) with other persons in the facility for more than 15 minutes at least once a week on a regular basis as determined by the facility. The term "staff" or "staff person" does not include any person who is present at the facility 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 facility 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 facility 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 facility 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 facility 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 facility shall make available opportunities for staff to be fully vaccinated against COVID-19, either directly at the facility or indirectly, such as through an arrangement with a pharmacy partner, local health department, or other appropriate health entity.
- 4) Each facility 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 facility to take effect.
- c) Except as provided in subsection (c)(7), each facility shall require its staff who are not fully vaccinated against COVID-19 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 facility.
- 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 facility shall exclude the staff person from the facility, and the staff person shall be subject to all applicable isolation and quarantine rules and facility 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 facility while they are waiting to receive the results of their weekly test.
 - 7) When the facility 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 facility 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 facility is located remains in a high or substantial transmission status.
- d) Each facility shall ensure that all individuals who administer the COVID-19 vaccine 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 facility shall post conspicuous signage throughout the facility notifying staff that the facility 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 facility shall provide its unvaccinated staff a minimum of 90 minutes of clear and accurate instruction covering vaccine education, effectiveness, benefits, risks, common reactions, hesitancy, and misinformation. Records of training shall be made available to the Department upon request. Examples of Department-

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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 facility 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 facility 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 facility.
- i) Nothing in this emergency amendment prohibits any facility 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 may constitute a violation of Section 370.170(a)(4) of this Part and of Section 11(3) of the Act, and may result in revocation of the facility's license.

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

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