



## Alerts

### Illinois Authorized Electronic Monitoring in Long-Term Care Facilities Act: Proposed Amendments

August 2, 2016

*Hinshaw Alert*

Effective January 1, 2016, Illinois now permits residents or families of residents in long-term care facilities to install cameras or other electronic monitoring devices (audio and visual) in resident rooms. Illinois' Authorized Electronic Monitoring in Long-Term Care Facilities Act (Public Act 099-0430)(hereinafter "The Act") has been in effect now for approximately half of the current 2016 calendar year. As expected, given some of the ambiguities of the Act, and the logistical issues such ambiguities have already posed for facility owners and operators, we have recently began seeing proposed amendments to both clear up some of the confusion and also to provide clearer language on actual facility responsibilities.

Those amendments which, at this time, appear the closest to being put up for final vote and likely passed, can be found within Illinois Senate Bill 2519 (hereinafter "S.B. 2519"). S.B. 2519, sponsored by Terry Link (D-30<sup>th</sup>), which has already been read twice on the floor, can be set out for a final reading during the fall veto session as early as this November, 2016.

#### Consent

Currently, S.B. 2519 addresses the privacy concerns of roommates who may not consent to being electronically monitored. Under the current Act, "If a roommate does not consent to authorized electronic monitoring and the resident conducting the authorized electronic monitoring does not remove or disable the electronic monitoring device, the facility *may* turn off the device." The Bill amends the Act to read that "the facility *shall* turn off the device."

Of course, should this S.B. 2519 pass, facilities must update their policies and procedures and offer additional training for staff to advise that where a roommate withdraws consent the facility is now directly responsible (in the event the consenting roommate does not do so themselves) for turning off the consenting roommates electronic monitoring device.

#### Installation Requirements

Second, S.B. 2519 addresses the electronic monitoring device installations and supporting services requirements to comply with the National Fire Protection Association 101 Life Safety Code. Currently, The Act provides that such installations and services must comply with the 2000 edition of the Safety Code. As amended, S.B. 2519 requires such installations and services to comply with

#### Attorneys

David J. Alfini

Adam S. Guetzow

#### Service Areas

Complex Tort & General  
Casualty



the Safety Code edition that was in force at the time the device was installed and remain in compliance with that or any subsequent edition of the code pursuant to specific federal regulations.

From a risk management perspective, The Authorized Electronic Monitoring in Long-Term Care Facilities Act was one of the most critical laws to impact the long-term care industry in recent years. Being informed of the current requirements of The Act and staying abreast of proposed changes like these can greatly help all facilities guide the development of policies and procedures, update when necessary, and offer the most up-to date training for staff to ensure complete compliance, particularly as compliance with The Act becomes more of a focus in State Surveys going forward.

For guidance and training to ensure your facility's compliance, please contact [David J. Alfini](#) or [Adam S. Guetzow](#).

*This alert has been prepared by Hinshaw & Culbertson LLP to provide information on recent legal developments of interest to our readers. It is not intended to provide legal advice for a specific situation or to create an attorney-client relationship.*

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[1] 210 ILCS 32/15(c-7) [emphasis added]

[2] Amendment No. 1 was adopted on April 5, 2016.