



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5506

Introduced 2/16/2018, by Rep. Anna Moeller - Robyn Gabel

#### SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-304.2

Amends the Nursing Home Care Act. Provides that by January 1, 2019 (rather than May 1, 2011), and quarterly thereafter, the Department of Public Health shall generate and publish quarterly a list of distressed facilities. Provides that criteria for inclusion of certified facilities on the list shall be those used by the Centers for Medicare and Medicaid Services for its Special Focus Facility List (rather than U.S. General Accounting Office in report 9-689, until such time as the Department by rule modifies the criteria). Provides that there shall be no more than 10 distressed facilities at any one time using the Centers for Medicare and Medicaid Services Special Focus Facilities criteria. Provides that the Department shall, by rule, adopt criteria to identify non-Medicaid-certified facilities that are distressed and shall publish this list quarterly beginning October 1, 2019 (rather than October 1, 2011). Provides that the Department may (rather than if the distressed facility does not seek the assistance of an independent consultant, the Department shall) place a monitor in (rather than place a monitor or a temporary manager in) the facility, depending on the Department's assessment of the condition of the facility. Provides that a distressed facility shall develop (rather than may contract with an independent consultant to develop and assist in the implementation of) a plan of improvement to bring and keep the facility in compliance with the Act and, if applicable, with federal certification requirements. Provides that by February 1, 2020 (rather than February 1, 2011), the Department of Public Health shall make a specified report to the General Assembly. Makes other changes. Effective immediately.

LRB100 19569 MJP 34837 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Nursing Home Care Act is amended by changing  
5 Section 3-304.2 as follows:

6 (210 ILCS 45/3-304.2)

7 Sec. 3-304.2. Designation of distressed facilities.

8 (a) By January 1, 2019 ~~May 1, 2011~~, and quarterly  
9 thereafter, the Department shall generate and publish  
10 quarterly a list of distressed facilities. Criteria for  
11 inclusion of certified facilities on the list shall be those  
12 used by the Centers for Medicare and Medicaid Services for its  
13 Special Focus Facility List. There shall be no more than 10  
14 distressed facilities at any one time using the Centers for  
15 Medicare and Medicaid Services Special Focus Facilities  
16 criteria ~~U.S. General Accounting Office in report 9-689, until~~  
17 ~~such time as the Department by rule modifies the criteria.~~

18 (b) (Blank). ~~In deciding whether and how to modify the~~  
19 ~~criteria used by the General Accounting Office, the Department~~  
20 ~~shall complete a test run of any substitute criteria to~~  
21 ~~determine their reliability by comparing the number of~~  
22 ~~facilities identified as distressed against the number of~~  
23 ~~distressed facilities generated using the criteria contained~~

1 ~~in the General Accounting Office report. The Department may not~~  
2 ~~adopt substitute criteria that generate fewer facilities with a~~  
3 ~~distressed designation than are produced by the General~~  
4 ~~Accounting Office criteria during the test run.~~

5 (c) The Department shall, by rule, adopt criteria to  
6 identify non-Medicaid-certified facilities that are distressed  
7 and shall publish this list quarterly beginning October 1, 2019  
8 ~~2011~~.

9 (d) The Department shall notify each facility of its  
10 distressed designation, and of the calculation on which it is  
11 based.

12 (e) ~~The~~ A ~~distressed facility may contract with an~~  
13 ~~independent consultant meeting criteria established by the~~  
14 ~~Department. If the distressed facility does not seek the~~  
15 ~~assistance of an independent consultant, the Department may~~  
16 ~~shall~~ place a monitor ~~or a temporary manager~~ in the facility,  
17 depending on the Department's assessment of the condition of  
18 the facility.

19 (f) ~~Independent consultant.~~ A facility that has been  
20 designated a distressed facility shall ~~may contract with an~~  
21 ~~independent consultant to~~ develop ~~and assist in the~~  
22 ~~implementation of~~ a plan of improvement to bring and keep the  
23 facility in compliance with this Act and, if applicable, with  
24 federal certification requirements. A facility ~~that contracts~~  
25 ~~with an independent consultant~~ shall have 90 days to develop a  
26 plan of improvement and demonstrate a good faith effort at

1 implementation, and another 90 days to achieve compliance and  
2 take whatever additional actions are called for in the  
3 improvement plan to maintain compliance. A facility that the  
4 Department determines has a plan of improvement likely to bring  
5 and keep the facility in compliance and that has demonstrated  
6 good faith efforts at implementation within the first 90 days  
7 may be eligible to receive a grant under the Equity in  
8 Long-term Care Quality Act to assist it in achieving and  
9 maintaining compliance. ~~In this subsection, "independent"~~  
10 ~~consultant means an individual who has no professional or~~  
11 ~~financial relationship with the facility, any person with a~~  
12 ~~reportable ownership interest in the facility, or any related~~  
13 ~~parties. In this subsection, "related parties" has the meaning~~  
14 ~~attributed to it in the instructions for completing Medicaid~~  
15 ~~cost reports.~~

16 (f-5) (Blank). ~~Monitor and temporary managers. A~~  
17 ~~distressed facility that does not contract with a consultant~~  
18 ~~shall be assigned a monitor or a temporary manager at the~~  
19 ~~Department's discretion. The cost of the temporary manager~~  
20 ~~shall be paid by the facility. The temporary manager shall have~~  
21 ~~the authority determined by the Department, which may grant the~~  
22 ~~temporary manager any or all of the authority a court may grant~~  
23 ~~a receiver. The temporary manager may apply to the Equity in~~  
24 ~~Long-term Care Quality Fund for grant funds to implement the~~  
25 ~~plan of improvement.~~

26 (g) The Department shall by rule establish a mentor program

1 for owners of distressed facilities.

2 (h) The Department shall by rule establish sanctions (in  
3 addition to those authorized elsewhere in this Article) against  
4 distressed facilities that are not in compliance with this Act  
5 and (if applicable) with federal certification requirements.  
6 Criteria for imposing sanctions shall take into account a  
7 facility's actions to address the violations and deficiencies  
8 that caused its designation as a distressed facility, and its  
9 compliance with this Act and with federal certification  
10 requirements (if applicable), subsequent to its designation as  
11 a distressed facility, including mandatory revocations if  
12 criteria can be agreed upon by the Department, resident  
13 advocates, and representatives of the nursing home profession.  
14 By February 1, 2020 ~~February 1, 2011~~, the Department shall  
15 report to the General Assembly on the results of negotiations  
16 about creating criteria for mandatory license revocations of  
17 distressed facilities and make recommendations about any  
18 statutory changes it believes are appropriate to protect the  
19 health, safety, and welfare of nursing home residents.

20 (i) The Department may establish by rule criteria for  
21 restricting the owner of a facility on the distressed list from  
22 acquiring additional skilled nursing facilities.

23 (Source: P.A. 96-1372, eff. 7-29-10; 97-813, eff. 7-13-12.)

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.