

# HB2433



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

**HB2433**

Introduced 2/19/2021, by Rep. Suzanne Ness

#### SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-702

from Ch. 111 1/2, par. 4153-702

Amends the Nursing Home Care Act. Provides that, notwithstanding any other provision of law, a local health department may investigate a complaint against a facility within the local health department's jurisdiction.

LRB102 12728 CPF 18067 b

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  
5 changing Section 3-702 as follows:

6 (210 ILCS 45/3-702) (from Ch. 111 1/2, par. 4153-702)

7 Sec. 3-702. (a) A person who believes that this Act or a  
8 rule promulgated under this Act may have been violated may  
9 request an investigation. The request may be submitted to the  
10 Department in writing, by telephone, by electronic means, or  
11 by personal visit. An oral complaint shall be reduced to  
12 writing by the Department. The Department shall make  
13 available, through its website and upon request, information  
14 regarding the oral and phone intake processes and the list of  
15 questions that will be asked of the complainant. The  
16 Department shall request information identifying the  
17 complainant, including the name, address and telephone number,  
18 to help enable appropriate follow-up. The Department shall act  
19 on such complaints via on-site visits or other methods deemed  
20 appropriate to handle the complaints with or without such  
21 identifying information, as otherwise provided under this  
22 Section. The complainant shall be informed that compliance  
23 with such request is not required to satisfy the procedures

1 for filing a complaint under this Act. The Department must  
2 notify complainants that complaints with less information  
3 provided are far more difficult to respond to and investigate.

4 (b) The substance of the complaint shall be provided in  
5 writing to the licensee, owner, or administrator no earlier  
6 than at the commencement of an on-site inspection of the  
7 facility which takes place pursuant to the complaint.

8 (c) The Department shall not disclose the name of the  
9 complainant unless the complainant consents in writing to the  
10 disclosure or the investigation results in a judicial  
11 proceeding, or unless disclosure is essential to the  
12 investigation. The complainant shall be given the opportunity  
13 to withdraw the complaint before disclosure. Upon the request  
14 of the complainant, the Department may permit the complainant  
15 or a representative of the complainant to accompany the person  
16 making the on-site inspection of the facility.

17 (d) Upon receipt of a complaint, the Department shall  
18 determine whether this Act or a rule promulgated under this  
19 Act has been or is being violated. The Department shall  
20 investigate all complaints alleging abuse or neglect within 7  
21 days after the receipt of the complaint except that complaints  
22 of abuse or neglect which indicate that a resident's life or  
23 safety is in imminent danger shall be investigated within 24  
24 hours after receipt of the complaint. All other complaints  
25 shall be investigated within 30 days after the receipt of the  
26 complaint. The Department employees investigating a complaint

1 shall conduct a brief, informal exit conference with the  
2 facility to alert its administration of any suspected serious  
3 deficiency that poses a direct threat to the health, safety or  
4 welfare of a resident to enable an immediate correction for  
5 the alleviation or elimination of such threat. Such  
6 information and findings discussed in the brief exit  
7 conference shall become a part of the investigating record but  
8 shall not in any way constitute an official or final notice of  
9 violation as provided under Section 3-301. All complaints  
10 shall be classified as "an invalid report", "a valid report",  
11 or "an undetermined report". For any complaint classified as  
12 "a valid report", the Department must determine within 30  
13 working days if any rule or provision of this Act has been or  
14 is being violated.

15 (d-1) The Department shall, whenever possible, combine an  
16 on-site investigation of a complaint in a facility with other  
17 inspections in order to avoid duplication of inspections.

18 (d-5) Notwithstanding any other provision of law, a local  
19 health department may investigate a complaint against a  
20 facility within the local health department's jurisdiction.

21 (e) In all cases, the Department shall inform the  
22 complainant of its findings within 10 days of its  
23 determination unless otherwise indicated by the complainant,  
24 and the complainant may direct the Department to send a copy of  
25 such findings to another person. The Department's findings may  
26 include comments or documentation provided by either the

1 complainant or the licensee pertaining to the complaint. The  
2 Department shall also notify the facility of such findings  
3 within 10 days of the determination, but the name of the  
4 complainant or residents shall not be disclosed in this notice  
5 to the facility. The notice of such findings shall include a  
6 copy of the written determination; the correction order, if  
7 any; the warning notice, if any; the inspection report; or the  
8 State licensure form on which the violation is listed.

9 (f) A written determination, correction order, or warning  
10 notice concerning a complaint, together with the facility's  
11 response, shall be available for public inspection, but the  
12 name of the complainant or resident shall not be disclosed  
13 without his consent.

14 (g) A complainant who is dissatisfied with the  
15 determination or investigation by the Department may request a  
16 hearing under Section 3-703. The facility shall be given  
17 notice of any such hearing and may participate in the hearing  
18 as a party. If a facility requests a hearing under Section  
19 3-703 which concerns a matter covered by a complaint, the  
20 complainant shall be given notice and may participate in the  
21 hearing as a party. A request for a hearing by either a  
22 complainant or a facility shall be submitted in writing to the  
23 Department within 30 days after the mailing of the  
24 Department's findings as described in subsection (e) of this  
25 Section. Upon receipt of the request the Department shall  
26 conduct a hearing as provided under Section 3-703.

1 (g-5) The Department shall conduct an annual review and  
2 make a report concerning the complaint process that includes  
3 the number of complaints received, the breakdown of anonymous  
4 and non-anonymous complaints and whether the complaints were  
5 substantiated or not, the total number of substantiated  
6 complaints, and any other complaint information requested by  
7 the Long-Term Care Facility Advisory Board created under  
8 Section 2-204 of this Act or the Illinois Long-Term Care  
9 Council created under Section 4.04a of the Illinois Act on the  
10 Aging. This report shall be provided to the Long-Term Care  
11 Facility Advisory Board and the Illinois Long-Term Care  
12 Council. The Long-Term Care Facility Advisory Board and the  
13 Illinois Long-Term Care Council shall review the report and  
14 suggest any changes deemed necessary to the Department for  
15 review and action, including how to investigate and  
16 substantiate anonymous complaints.

17 (h) Any person who knowingly transmits a false report to  
18 the Department commits the offense of disorderly conduct under  
19 subsection (a)(8) of Section 26-1 of the Criminal Code of  
20 2012.

21 (Source: P.A. 98-988, eff. 8-18-14; 99-642, eff. 7-28-16.)