

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 Sections 2-204 and 3-702 as follows:

6 (210 ILCS 45/2-204) (from Ch. 111 1/2, par. 4152-204)

7 Sec. 2-204. The Director shall appoint a Long-Term Care  
8 Facility Advisory Board to consult with the Department and the  
9 residents' advisory councils created under Section 2-203.

10 (a) The Board shall be comprised of the following persons:

11 (1) The Director who shall serve as chairman, ex  
12 officio and nonvoting; and

13 (2) One representative each of the Department of  
14 Healthcare and Family Services, the Department of Human  
15 Services, the Department on Aging, and the Office of the  
16 State Fire Marshal, all nonvoting members;

17 (2.5) One member who represents local health  
18 departments who is a nonvoting member;

19 (3) One member who shall be a physician licensed to  
20 practice medicine in all its branches;

21 (4) One member who shall be a registered nurse  
22 selected from the recommendations of professional nursing  
23 associations;

1           (5) Four members who shall be selected from the  
2           recommendations by organizations whose membership consists  
3           of facilities;

4           (6) Two members who shall represent the general public  
5           who are not members of a residents' advisory council  
6           established under Section 2-203 and who have no  
7           responsibility for management or formation of policy or  
8           financial interest in a facility;

9           (7) One member who is a member of a residents'  
10          advisory council established under Section 2-203 and is  
11          capable of actively participating on the Board; and

12          (8) One member who shall be selected from the  
13          recommendations of consumer organizations which engage  
14          solely in advocacy or legal representation on behalf of  
15          residents and their immediate families.

16          (b) The terms of those members of the Board appointed  
17          prior to the effective date of this amendatory Act of 1988  
18          shall expire on December 31, 1988. Members of the Board  
19          created by this amendatory Act of 1988 shall be appointed to  
20          serve for terms as follows: 3 for 2 years, 3 for 3 years and 3  
21          for 4 years. The member of the Board added by this amendatory  
22          Act of 1989 shall be appointed to serve for a term of 4 years.  
23          Each successor member shall be appointed for a term of 4 years.  
24          Any member appointed to fill a vacancy occurring prior to the  
25          expiration of the term for which his predecessor was appointed  
26          shall be appointed for the remainder of such term. The Board

1 shall meet as frequently as the chairman deems necessary, but  
2 not less than 4 times each year. Upon request by 4 or more  
3 members the chairman shall call a meeting of the Board. The  
4 affirmative vote of 6 members of the Board shall be necessary  
5 for Board action. A member of the Board can designate a  
6 replacement to serve at the Board meeting and vote in place of  
7 the member by submitting a letter of designation to the  
8 chairman prior to or at the Board meeting. The Board members  
9 shall be reimbursed for their actual expenses incurred in the  
10 performance of their duties.

11 (c) The Advisory Board shall advise the Department of  
12 Public Health on all aspects of its responsibilities under  
13 this Act and the Specialized Mental Health Rehabilitation Act  
14 of 2013, including the format and content of any rules  
15 promulgated by the Department of Public Health. Any such  
16 rules, except emergency rules promulgated pursuant to Section  
17 5-45 of the Illinois Administrative Procedure Act, promulgated  
18 without obtaining the advice of the Advisory Board are null  
19 and void. In the event that the Department fails to follow the  
20 advice of the Board, the Department shall, prior to the  
21 promulgation of such rules, transmit a written explanation of  
22 the reason thereof to the Board. During its review of rules,  
23 the Board shall analyze the economic and regulatory impact of  
24 those rules. If the Advisory Board, having been asked for its  
25 advice, fails to advise the Department within 90 days, the  
26 rules shall be considered acted upon.

1 (Source: P.A. 97-38, eff. 6-28-11; 98-104, eff. 7-22-13;  
2 98-463, eff. 8-16-13.)

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

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

24 (b) The substance of the complaint shall be provided in  
25 writing to the licensee, owner, or administrator no earlier

1 than at the commencement of an on-site inspection of the  
2 facility which takes place pursuant to the complaint.

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

12 (d) Upon receipt of a complaint, the Department shall  
13 determine whether this Act or a rule promulgated under this  
14 Act has been or is being violated. The Department shall  
15 investigate all complaints alleging abuse or neglect within 7  
16 days after the receipt of the complaint except that complaints  
17 of abuse or neglect which indicate that a resident's life or  
18 safety is in imminent danger shall be investigated within 24  
19 hours after receipt of the complaint. All other complaints  
20 shall be investigated within 30 days after the receipt of the  
21 complaint. The Department employees investigating a complaint  
22 shall conduct a brief, informal exit conference with the  
23 facility to alert its administration of any suspected serious  
24 deficiency that poses a direct threat to the health, safety or  
25 welfare of a resident to enable an immediate correction for  
26 the alleviation or elimination of such threat. Such

1 information and findings discussed in the brief exit  
2 conference shall become a part of the investigating record but  
3 shall not in any way constitute an official or final notice of  
4 violation as provided under Section 3-301. All complaints  
5 shall be classified as "an invalid report", "a valid report",  
6 or "an undetermined report". For any complaint classified as  
7 "a valid report", the Department must determine within 30  
8 working days if any rule or provision of this Act has been or  
9 is being violated.

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

13 (e) In all cases, the Department shall inform the  
14 complainant of its findings within 10 days of its  
15 determination unless otherwise indicated by the complainant,  
16 and the complainant may direct the Department to send a copy of  
17 such findings to another person. The Department's findings may  
18 include comments or documentation provided by either the  
19 complainant or the licensee pertaining to the complaint. The  
20 Department shall also notify the facility of such findings  
21 within 10 days of the determination, but the name of the  
22 complainant or residents shall not be disclosed in this notice  
23 to the facility. The notice of such findings shall include a  
24 copy of the written determination; the correction order, if  
25 any; the warning notice, if any; the inspection report; or the  
26 State licensure form on which the violation is listed.

1           (f) A written determination, correction order, or warning  
2 notice concerning a complaint, together with the facility's  
3 response, shall be available for public inspection, but the  
4 name of the complainant or resident shall not be disclosed  
5 without his consent.

6           (g) A complainant who is dissatisfied with the  
7 determination or investigation by the Department may request a  
8 hearing under Section 3-703. The facility shall be given  
9 notice of any such hearing and may participate in the hearing  
10 as a party. If a facility requests a hearing under Section  
11 3-703 which concerns a matter covered by a complaint, the  
12 complainant shall be given notice and may participate in the  
13 hearing as a party. A request for a hearing by either a  
14 complainant or a facility shall be submitted in writing to the  
15 Department within 30 days after the mailing of the  
16 Department's findings as described in subsection (e) of this  
17 Section. Upon receipt of the request the Department shall  
18 conduct a hearing as provided under Section 3-703.

19           (g-5) The Department shall conduct an annual review and  
20 make a report concerning the complaint process that includes  
21 the number of complaints received, the breakdown of anonymous  
22 and non-anonymous complaints and whether the complaints were  
23 substantiated or not, the total number of substantiated  
24 complaints that were completed in the time frame determined  
25 under subsection (d), and any other complaint information  
26 requested by the Long-Term Care Facility Advisory Board

1 created under Section 2-204 of this Act or the Illinois  
2 Long-Term Care Council created under Section 4.04a of the  
3 Illinois Act on the Aging. This report shall be provided to the  
4 Long-Term Care Facility Advisory Board, ~~and~~ the Illinois  
5 Long-Term Care Council, and the General Assembly. The  
6 Long-Term Care Facility Advisory Board and the Illinois  
7 Long-Term Care Council shall review the report and suggest any  
8 changes deemed necessary to the Department for review and  
9 action, including how to investigate and substantiate  
10 anonymous complaints.

11 (h) Any person who knowingly transmits a false report to  
12 the Department commits the offense of disorderly conduct under  
13 subsection (a)(8) of Section 26-1 of the Criminal Code of  
14 2012.

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

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.