

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.