

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 3-212 and 3-702 as follows:

6 (210 ILCS 45/3-212) (from Ch. 111 1/2, par. 4153-212)

7 Sec. 3-212. Inspection.

8 (a) The Department, whenever it deems necessary in  
9 accordance with subsection (b), shall inspect, survey and  
10 evaluate every facility to determine compliance with  
11 applicable licensure requirements and standards. Submission of  
12 a facility's current Consumer Choice Information Report  
13 required by Section 2-214 shall be verified at time of  
14 inspection. An inspection should occur within 120 days prior  
15 to license renewal. The Department may periodically visit a  
16 facility for the purpose of consultation. An inspection,  
17 survey, or evaluation, other than an inspection of financial  
18 records, shall be conducted without prior notice to the  
19 facility. A visit for the sole purpose of consultation may be  
20 announced. The Department shall provide training to surveyors  
21 about the appropriate assessment, care planning, and care of  
22 persons with mental illness (other than Alzheimer's disease or  
23 related disorders) to enable its surveyors to determine

1 whether a facility is complying with State and federal  
2 requirements about the assessment, care planning, and care of  
3 those persons.

4 (a-1) An employee of a State or unit of local government  
5 agency charged with inspecting, surveying, and evaluating  
6 facilities who directly or indirectly gives prior notice of an  
7 inspection, survey, or evaluation, other than an inspection of  
8 financial records, to a facility or to an employee of a  
9 facility is guilty of a Class A misdemeanor.

10 An inspector or an employee of the Department who  
11 intentionally prenotifies a facility, orally or in writing, of  
12 a pending complaint investigation or inspection shall be  
13 guilty of a Class A misdemeanor. Superiors of persons who have  
14 prenotified a facility shall be subject to the same penalties,  
15 if they have knowingly allowed the prenotification. A person  
16 found guilty of prenotifying a facility shall be subject to  
17 disciplinary action by his or her employer.

18 If the Department has a good faith belief, based upon  
19 information that comes to its attention, that a violation of  
20 this subsection has occurred, it must file a complaint with  
21 the Attorney General or the State's Attorney in the county  
22 where the violation took place within 30 days after discovery  
23 of the information.

24 (a-2) An employee of a State or unit of local government  
25 agency charged with inspecting, surveying, or evaluating  
26 facilities who willfully profits from violating the

1 confidentiality of the inspection, survey, or evaluation  
2 process shall be guilty of a Class 4 felony and that conduct  
3 shall be deemed unprofessional conduct that may subject a  
4 person to loss of his or her professional license. An action to  
5 prosecute a person for violating this subsection (a-2) may be  
6 brought by either the Attorney General or the State's Attorney  
7 in the county where the violation took place.

8 (a-3) The Department shall, by rule, establish guidelines  
9 for required continuing education of all employees who  
10 inspect, survey, or evaluate a facility. The Department shall  
11 offer continuing education opportunities at least quarterly.  
12 Employees of a State agency charged with inspecting,  
13 surveying, or evaluating a facility are required to complete  
14 at least 10 hours of continuing education annually on topics  
15 that support the survey process, including, but not limited  
16 to, trauma-informed care, infection control, abuse and  
17 neglect, and civil monetary penalties. Qualifying hours of  
18 continuing education intended to fulfill the requirements of  
19 this subsection shall only be offered by the Department.  
20 Content presented during the continuing education shall be  
21 consistent throughout the State, regardless of survey region.  
22 At least 5 of the 10 hours of continuing education required  
23 under this subsection shall be separate and distinct from any  
24 continuing education hours required for any license that the  
25 employee holds. Any continuing education hours provided by the  
26 Department in addition to the 10 hours of continuing education

1 required under this subsection may count towards continuing  
2 education hours required for any license that the employee  
3 holds.

4 (b) In determining whether to make more than the required  
5 number of unannounced inspections, surveys and evaluations of  
6 a facility the Department shall consider one or more of the  
7 following: previous inspection reports; the facility's history  
8 of compliance with standards, rules and regulations  
9 promulgated under this Act and correction of violations,  
10 penalties or other enforcement actions; the number and  
11 severity of complaints received about the facility; any  
12 allegations of resident abuse or neglect; weather conditions;  
13 health emergencies; other reasonable belief that deficiencies  
14 exist.

15 (b-1) The Department shall not be required to determine  
16 whether a facility certified to participate in the Medicare  
17 program under Title XVIII of the Social Security Act, or the  
18 Medicaid program under Title XIX of the Social Security Act,  
19 and which the Department determines by inspection under this  
20 Section or under Section 3-702 of this Act to be in compliance  
21 with the certification requirements of Title XVIII or XIX, is  
22 in compliance with any requirement of this Act that is less  
23 stringent than or duplicates a federal certification  
24 requirement. In accordance with subsection (a) of this Section  
25 or subsection (d) of Section 3-702, the Department shall  
26 determine whether a certified facility is in compliance with

1 requirements of this Act that exceed federal certification  
2 requirements. If a certified facility is found to be out of  
3 compliance with federal certification requirements, the  
4 results of an inspection conducted pursuant to Title XVIII or  
5 XIX of the Social Security Act may be used as the basis for  
6 enforcement remedies authorized and commenced, with the  
7 Department's discretion to evaluate whether penalties are  
8 warranted, under this Act. Enforcement of this Act against a  
9 certified facility shall be commenced pursuant to the  
10 requirements of this Act, unless enforcement remedies sought  
11 pursuant to Title XVIII or XIX of the Social Security Act  
12 exceed those authorized by this Act. As used in this  
13 subsection, "enforcement remedy" means a sanction for  
14 violating a federal certification requirement or this Act.

15 (c) Upon completion of each inspection, survey and  
16 evaluation, the appropriate Department personnel who conducted  
17 the inspection, survey or evaluation shall submit a physical  
18 or electronic copy of their report to the licensee upon  
19 exiting the facility, and shall submit the actual report to  
20 the appropriate regional office of the Department. Such report  
21 and any recommendations for action by the Department under  
22 this Act shall be transmitted to the appropriate offices of  
23 the associate director of the Department, together with  
24 related comments or documentation provided by the licensee  
25 which may refute findings in the report, which explain  
26 extenuating circumstances that the facility could not

1 reasonably have prevented, or which indicate methods and  
2 timetables for correction of deficiencies described in the  
3 report. Without affecting the application of subsection (a) of  
4 Section 3-303, any documentation or comments of the licensee  
5 shall be provided within 10 days of receipt of the copy of the  
6 report. Such report shall recommend to the Director  
7 appropriate action under this Act with respect to findings  
8 against a facility. The Director shall then determine whether  
9 the report's findings constitute a violation or violations of  
10 which the facility must be given notice. Such determination  
11 shall be based upon the severity of the finding, the danger  
12 posed to resident health and safety, the comments and  
13 documentation provided by the facility, the diligence and  
14 efforts to correct deficiencies, correction of the reported  
15 deficiencies, the frequency and duration of similar findings  
16 in previous reports and the facility's general inspection  
17 history. Violations shall be determined under this subsection  
18 no later than 75 days after completion of each inspection,  
19 survey and evaluation.

20 (d) The Department shall maintain all inspection, survey  
21 and evaluation reports for at least 5 years in a manner  
22 accessible to and understandable by the public.

23 (e) Revisit surveys. The Department shall conduct a  
24 revisit to its licensure and certification surveys, consistent  
25 with federal regulations and guidelines.

26 (f) Notwithstanding any other provision of this Act, the

1 Department shall, no later than 180 days after the effective  
2 date of this amendatory Act of the 98th General Assembly,  
3 implement a single survey process that encompasses federal  
4 certification and State licensure requirements, health and  
5 life safety requirements, and an enhanced complaint  
6 investigation initiative.

7 (1) To meet the requirement of a single survey  
8 process, the portions of the health and life safety survey  
9 associated with federal certification and State licensure  
10 surveys must be started within 7 working days of each  
11 other. Nothing in this paragraph (1) of subsection (f) of  
12 this Section applies to a complaint investigation.

13 (2) The enhanced complaint and incident report  
14 investigation initiative shall permit the facility to  
15 challenge the amount of the fine due to the excessive  
16 length of the investigation which results in one or more  
17 of the following conditions:

18 (A) prohibits the timely development and  
19 implementation of a plan of correction;

20 (B) creates undue financial hardship impacting the  
21 quality of care delivered to the resident;

22 (C) delays initiation of corrective training; and

23 (D) negatively impacts quality assurance and  
24 patient improvement standards.

25 This paragraph (2) does not apply to complaint  
26 investigations exited within 14 working days or a

1 situation that triggers an extended survey.

2 (Source: P.A. 98-104, eff. 7-22-13.)

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 after any Department employee enters a facility  
9 to begin an on-site inspection if any rule or provision of this  
10 Act has been or is being violated.

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

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

1 State licensure form on which the violation is listed.

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

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

20 (g-5) The Department shall conduct an annual review of all  
21 survey activity from the preceding fiscal year and make a  
22 report concerning the complaint and survey process. The report  
23 shall include, but not be limited to: ~~that includes~~ the total  
24 number of complaints received; the breakdown of 24-hour,  
25 7-day, and 30-day complaints; ~~7~~ the breakdown of anonymous and  
26 non-anonymous complaints; ~~and whether~~ the number of complaints

1 that were substantiated versus unsubstantiated; or not, the  
2 total number of substantiated complaints that were completed  
3 in the time frame determined under subsection (d); the total  
4 number of informal dispute resolutions requested; the total  
5 number of informal dispute resolution requests approved; the  
6 total number of informal dispute resolutions that were  
7 overturned or reduced in severity; the total number of nurse  
8 surveyors hired during the calendar year; the total number of  
9 nurse surveyors who left Department employment; the average  
10 length of tenure for nurse surveyors employed by the  
11 Department at the time the report is created; the total number  
12 of times the Department imposed discretionary denial of  
13 payment within 15 days of notice and within 2 days of notice as  
14 well as the number of times the discretionary denial of  
15 payment took effect; and any other complaint information  
16 requested by the Long-Term Care Facility Advisory Board  
17 created under Section 2-204 of this Act or the Illinois  
18 Long-Term Care Council created under Section 4.04a of the  
19 Illinois Act on the Aging. This report shall be provided to the  
20 Long-Term Care Facility Advisory Board, the Illinois Long-Term  
21 Care Council, and the General Assembly. The Long-Term Care  
22 Facility Advisory Board and the Illinois Long-Term Care  
23 Council shall review the report and suggest any changes deemed  
24 necessary to the Department for review and action, including  
25 how to investigate and substantiate anonymous complaints.

26 (h) Any person who knowingly transmits a false report to

1 the Department commits the offense of disorderly conduct under  
2 subsection (a)(8) of Section 26-1 of the Criminal Code of  
3 2012.

4 (Source: P.A. 102-432, eff. 8-20-21.)