



Rep. Maurice A. West, II

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10200HB4674ham001

LRB102 23801 CPF 36822 a

1 AMENDMENT TO HOUSE BILL 4674

2 AMENDMENT NO. _____. Amend House Bill 4674 by replacing
3 everything after the enacting clause with the following:

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,

1 survey, or evaluation, other than an inspection of financial
2 records, shall be conducted without prior notice to the
3 facility. A visit for the sole purpose of consultation may be
4 announced. The Department shall provide training to surveyors
5 about the appropriate assessment, care planning, and care of
6 persons with mental illness (other than Alzheimer's disease or
7 related disorders) to enable its surveyors to determine
8 whether a facility is complying with State and federal
9 requirements about the assessment, care planning, and care of
10 those persons.

11 (a-1) An employee of a State or unit of local government
12 agency charged with inspecting, surveying, and evaluating
13 facilities who directly or indirectly gives prior notice of an
14 inspection, survey, or evaluation, other than an inspection of
15 financial records, to a facility or to an employee of a
16 facility is guilty of a Class A misdemeanor.

17 An inspector or an employee of the Department who
18 intentionally prenotifies a facility, orally or in writing, of
19 a pending complaint investigation or inspection shall be
20 guilty of a Class A misdemeanor. Superiors of persons who have
21 prenotified a facility shall be subject to the same penalties,
22 if they have knowingly allowed the prenotification. A person
23 found guilty of prenotifying a facility shall be subject to
24 disciplinary action by his or her employer.

25 If the Department has a good faith belief, based upon
26 information that comes to its attention, that a violation of

1 this subsection has occurred, it must file a complaint with
2 the Attorney General or the State's Attorney in the county
3 where the violation took place within 30 days after discovery
4 of the information.

5 (a-2) An employee of a State or unit of local government
6 agency charged with inspecting, surveying, or evaluating
7 facilities who willfully profits from violating the
8 confidentiality of the inspection, survey, or evaluation
9 process shall be guilty of a Class 4 felony and that conduct
10 shall be deemed unprofessional conduct that may subject a
11 person to loss of his or her professional license. An action to
12 prosecute a person for violating this subsection (a-2) may be
13 brought by either the Attorney General or the State's Attorney
14 in the county where the violation took place.

15 (a-3) The Department shall by rule establish guidelines
16 for required continuing education of all employees who
17 inspect, survey, review, or evaluate a facility. The
18 Department shall offer continuing education opportunities at
19 least quarterly. Employees of a State or unit of local
20 government agency charged with inspecting, surveying,
21 reviewing, or evaluating a facility are required to complete
22 at least 10 hours of continuing education annually on topics
23 including, but not limited to, trauma-informed care, infection
24 control, abuse and neglect, and civil monetary penalties.
25 Qualifying hours of continuing education shall only be offered
26 by the Department. Content presented during the continuing

1 education shall be consistent throughout the State, regardless
2 of survey region. The continuing education required by this
3 subsection is separate from any continuing education required
4 for any license that the employee holds.

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

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

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

16 (c) Upon completion of each inspection, survey and
17 evaluation, the appropriate Department personnel who conducted
18 the inspection, survey or evaluation shall submit a physical
19 or electronic copy of their report to the licensee upon
20 exiting the facility, and shall submit the actual report to
21 the appropriate regional office of the Department. Such report
22 and any recommendations for action by the Department under
23 this Act shall be transmitted to the appropriate offices of
24 the associate director of the Department, together with
25 related comments or documentation provided by the licensee
26 which may refute findings in the report, which explain

1 extenuating circumstances that the facility could not
2 reasonably have prevented, or which indicate methods and
3 timetables for correction of deficiencies described in the
4 report. Without affecting the application of subsection (a) of
5 Section 3-303, any documentation or comments of the licensee
6 shall be provided within 10 days of receipt of the copy of the
7 report. Such report shall recommend to the Director
8 appropriate action under this Act with respect to findings
9 against a facility. The Director shall then determine whether
10 the report's findings constitute a violation or violations of
11 which the facility must be given notice. Such determination
12 shall be based upon the severity of the finding, the danger
13 posed to resident health and safety, the comments and
14 documentation provided by the facility, the diligence and
15 efforts to correct deficiencies, correction of the reported
16 deficiencies, the frequency and duration of similar findings
17 in previous reports and the facility's general inspection
18 history. Violations shall be determined under this subsection
19 no later than 75 calendar days after completion of each
20 inspection, survey and evaluation.

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

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

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

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

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

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

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

23 (C) delays initiation of corrective training; and

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

26 This paragraph (2) does not apply to complaint

1 investigations exited within 14 working days or a
2 situation that triggers an extended survey.

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

4 (210 ILCS 45/3-702) (from Ch. 111 1/2, par. 4153-702)

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

25 (b) The substance of the complaint shall be provided in

1 writing to the licensee, owner, or administrator upon ~~no~~
2 ~~earlier than at~~ the commencement of an on-site inspection of
3 the facility which takes place pursuant to the complaint.

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

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

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

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

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

1 any; the warning notice, if any; the inspection report; or the
2 State licensure form on which the violation is listed.

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

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

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

1 non-anonymous complaints; ~~and whether~~ the number of complaints
2 that were substantiated versus unsubstantiated; or not, the
3 total number of substantiated complaints that were completed
4 in the time frame determined under subsection (d); the total
5 number of informal dispute resolutions requested; the total
6 number of informal dispute resolution requests approved; the
7 total number of informal dispute resolutions that were
8 overturned or reduced in severity; the total number of
9 independent informal dispute resolutions requested; the total
10 number of independent informal dispute resolution requests
11 approved; the total number of independent informal dispute
12 resolutions that were overturned or reduced in severity; the
13 total number of revisits not completed within the statutorily
14 mandated time frames; the total number of nurse surveyors
15 hired during the calendar year; the total number of nurse
16 surveyors who left Department employment; the total number of
17 times the Department recommended a discretionary denial of
18 payment for new Medicare or Medicaid admissions with an
19 effective date that is (i) less than 15 days after the date of
20 the Department's notice to the facility, (ii) at least 15 days
21 and less than 31 days after the date of the Department's notice
22 to the facility, (iii) at least 31 days and less than 60 days
23 after the date of the Department's notice to the facility, and
24 (iv) at least 60 days after the date of the Department's notice
25 to the facility; the total number of Department employees who
26 entered long-term care facilities for any reason who were

1 fully vaccinated for influenza and COVID-19; the total number
2 of Department employees who entered long-term care facilities
3 for any reason who were not fully vaccinated for influenza and
4 COVID-19 and the number of instances in which Department
5 employees not fully vaccinated against influenza and COVID-19
6 entered a long-term care facility; the total number of
7 Department employees who entered long-term care facilities and
8 who tested positive for COVID-19 within 7 calendar days after
9 entering a long-term care facility and the number of instances
10 in which a Department employee entered a long-term care
11 facility within 7 calendar days after testing positive for
12 COVID-19; and any other complaint information requested by
13 the Long-Term Care Facility Advisory Board created under
14 Section 2-204 of this Act or the Illinois Long-Term Care
15 Council created under Section 4.04a of the Illinois Act on the
16 Aging. All of the listed reporting criteria in this subsection
17 and additional complaint information requested by the
18 Long-Term Care Facility Advisory Board, the Illinois Long-Term
19 Care Council, or the General Assembly shall be provided in
20 aggregate and broken down by Office of Health Care Regulation
21 region. In addition, the Department shall provide health
22 vaccine and health equity report findings, information about
23 continued progress toward correcting identified deficiencies,
24 and annual Centers for Medicare and Medicaid Services' State
25 Performance Standards System results for the State of
26 Illinois. This report shall be provided to the Long-Term Care

1 Facility Advisory Board, the Illinois Long-Term Care Council,
2 and the General Assembly. The Long-Term Care Facility Advisory
3 Board and the Illinois Long-Term Care Council shall review the
4 report and suggest any changes deemed necessary to the
5 Department for review and action, including how to investigate
6 and substantiate anonymous complaints.

7 (h) Any person who knowingly transmits a false report to
8 the Department commits the offense of disorderly conduct under
9 subsection (a)(8) of Section 26-1 of the Criminal Code of
10 2012.

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