



Sen. Mattie Hunter

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10200HB4674sam001

LRB102 23801 CPF 37821 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, or evaluate a facility. The Department shall
18 offer continuing education opportunities at least quarterly.
19 Employees of a State agency charged with inspecting,
20 surveying, or evaluating a facility are required to complete
21 at least 10 hours of continuing education annually on topics
22 that support the survey process, including, but not limited
23 to, trauma-informed care, infection control, abuse and
24 neglect, and civil monetary penalties. Qualifying hours of
25 continuing education intended to fulfill the requirements of
26 this subsection shall only be offered by the Department.

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

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

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

1 or subsection (d) of Section 3-702, the Department shall
2 determine whether a certified facility is in compliance with
3 requirements of this Act that exceed federal certification
4 requirements. If a certified facility is found to be out of
5 compliance with federal certification requirements, the
6 results of an inspection conducted pursuant to Title XVIII or
7 XIX of the Social Security Act may be used as the basis for
8 enforcement remedies authorized and commenced, with the
9 Department's discretion to evaluate whether penalties are
10 warranted, under this Act. Enforcement of this Act against a
11 certified facility shall be commenced pursuant to the
12 requirements of this Act, unless enforcement remedies sought
13 pursuant to Title XVIII or XIX of the Social Security Act
14 exceed those authorized by this Act. As used in this
15 subsection, "enforcement remedy" means a sanction for
16 violating a federal certification requirement or this Act.

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

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

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

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

1 with federal regulations and guidelines.

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

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

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

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

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

24 (C) delays initiation of corrective training; and

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

1 This paragraph (2) does not apply to complaint
2 investigations exited within 14 working days or a
3 situation that triggers an extended survey.

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

5 (210 ILCS 45/3-702) (from Ch. 111 1/2, par. 4153-702)

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

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

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

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

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

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

17 (e) In all cases, the Department shall inform the
18 complainant of its findings within 5 calendar ~~10~~ days of its
19 determination unless otherwise indicated by the complainant,
20 and the complainant may direct the Department to send a copy of
21 such findings to another person. The Department's findings may
22 include comments or documentation provided by either the
23 complainant or the licensee pertaining to the complaint. The
24 Department shall also notify the facility of such findings
25 within 5 calendar ~~10~~ days of the determination, but the name of
26 the complainant or residents shall not be disclosed in this

1 notice to the facility. The notice or statement of deficiency
2 of such findings shall include a copy of the written
3 determination; the correction order, if any; the warning
4 notice, if any; the inspection report; or the State licensure
5 form on which the violation is listed. If a facility is found
6 to have violated any provision of this Act or rule adopted
7 under this Act, the facility shall develop a plan of
8 correction to address deficiencies indicated in a statement of
9 deficiency. The facility shall submit the plan of correction
10 to the Department for approval. The Department must approve or
11 deny the plan of correction within 72 hours after receiving
12 the plan of correction. If the facility's plan of correction
13 is denied, the Department must notify the facility within 48
14 hours after the denial determination and provide specific
15 reasons for the denial, a process to remedy the denial, and
16 requests for additional information, as needed, and complete
17 the plan of correction determination process within 48 hours
18 after receiving requested information from the facility. The
19 Department shall complete an on-site revisit or desk revisit
20 within 7 calendar days after approval of the facility's plan
21 of correction. During the on-site or desk revisit, the
22 Department must address the approved plan of correction and
23 clear any outstanding violation for which a plan of correction
24 has been approved before beginning a new complaint
25 investigation or annual review. If the Department receives an
26 abuse or neglect complaint that indicates a resident is in

1 immediate danger within the same time frame during which an
2 on-site revisit must be completed, the Department must conduct
3 the on-site revisit simultaneously with the new complaint
4 investigation. Under no circumstance may a violation remain
5 open if the Department has approved the facility's plan of
6 correction. If a facility fails to remedy the violation for
7 which an on-site revisit is being conducted, the facility must
8 correct any outstanding violation. Once the facility has
9 notified the Department that the facility is in compliance
10 with the plan of correction, the Department must complete an
11 on-site revisit within 7 calendar days. If the Department
12 fails to complete a revisit within 7 calendar days after
13 approving a facility's plan of correction, the facility shall
14 be considered to be in substantial compliance.

15 (f) A written determination, correction order, or warning
16 notice concerning a complaint, together with the facility's
17 response, shall be available for public inspection, but the
18 name of the complainant or resident shall not be disclosed
19 without his consent.

20 (g) A complainant who is dissatisfied with the
21 determination or investigation by the Department may request a
22 hearing under Section 3-703. The facility shall be given
23 notice of any such hearing and may participate in the hearing
24 as a party. If a facility requests a hearing under Section
25 3-703 which concerns a matter covered by a complaint, the
26 complainant shall be given notice and may participate in the

1 hearing as a party. A request for a hearing by either a
2 complainant or a facility shall be submitted in writing to the
3 Department within 30 days after the mailing of the
4 Department's findings as described in subsection (e) of this
5 Section. Upon receipt of the request the Department shall
6 conduct a hearing as provided under Section 3-703.

7 (g-5) The Department shall conduct an annual review of all
8 survey activity from the preceding fiscal year and make a
9 report concerning the complaint and survey process. The report
10 shall include, but not be limited to: ~~that includes~~ the total
11 number of complaints received; the breakdown of 24-hour,
12 7-day, and 30-day complaints; ~~7~~ the breakdown of anonymous and
13 non-anonymous complaints; and whether the number of complaints
14 that were substantiated versus unsubstantiated; or not, the
15 total number of substantiated complaints that were completed
16 in the time frame determined under subsection (d); the total
17 number of informal dispute resolutions requested; the total
18 number of informal dispute resolution requests approved; the
19 total number of informal dispute resolutions that were
20 overturned or reduced in severity; the total number of nurse
21 surveyors hired during the calendar year; the total number of
22 nurse surveyors who left Department employment; the average
23 length of tenure for nurse surveyors employed by the
24 Department at the time the report is created; the total number
25 of times the Department recommended a discretionary denial of
26 payment for new Medicare or Medicaid admissions and how much

1 time existed between the start of that denial and when the
2 facility was notified, with a start date for the denial of
3 payment that is (i) less than 15 days after the date of the
4 Department's notice to the facility, (ii) at least 15 days and
5 less than 31 days after the date of the Department's notice to
6 the facility, (iii) at least 31 days and less than 60 days
7 after the date of the Department's notice to the facility, and
8 (iv) at least 60 days after the date of the Department's notice
9 to the facility; and any other complaint information
10 requested by the Long-Term Care Facility Advisory Board
11 created under Section 2-204 of this Act or the Illinois
12 Long-Term Care Council created under Section 4.04a of the
13 Illinois Act on the Aging. This report shall be provided to the
14 Long-Term Care Facility Advisory Board, the Illinois Long-Term
15 Care Council, and the General Assembly. The Long-Term Care
16 Facility Advisory Board and the Illinois Long-Term Care
17 Council shall review the report and suggest any changes deemed
18 necessary to the Department for review and action, including
19 how to investigate and substantiate anonymous complaints.

20 (h) Any person who knowingly transmits a false report to
21 the Department commits the offense of disorderly conduct under
22 subsection (a)(8) of Section 26-1 of the Criminal Code of
23 2012.

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