



Sen. Mattie Hunter

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10200HB4674sam002

LRB102 23801 CPF 37864 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 days after the receipt of the complaint except that complaints  
19 of abuse or neglect which indicate that a resident's life or  
20 safety is in imminent danger shall be investigated within 24  
21 hours after receipt of the complaint. All other complaints  
22 shall be investigated within 30 days after the receipt of the  
23 complaint. The Department employees investigating a complaint  
24 shall conduct a brief, informal exit conference with the  
25 facility to alert its administration of any suspected serious  
26 deficiency that poses a direct threat to the health, safety or

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

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

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

1 copy of the written determination; the correction order, if  
2 any; the warning notice, if any; the inspection report; or the  
3 State licensure form on which the violation is listed.

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

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

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

1 7-day, and 30-day complaints;~~7~~ the breakdown of anonymous and  
2 non-anonymous complaints; ~~and whether~~ the number of complaints  
3 that were substantiated versus unsubstantiated; ~~or not,~~ the  
4 total number of substantiated complaints that were completed  
5 in the time frame determined under subsection (d); the total  
6 number of informal dispute resolutions requested; the total  
7 number of informal dispute resolution requests approved; the  
8 total number of informal dispute resolutions that were  
9 overturned or reduced in severity; the total number of nurse  
10 surveyors hired during the calendar year; the total number of  
11 nurse surveyors who left Department employment; the average  
12 length of tenure for nurse surveyors employed by the  
13 Department at the time the report is created; the total number  
14 of times the Department recommended a discretionary denial of  
15 payment for new Medicare or Medicaid admissions and how much  
16 time existed between the start of that denial and when the  
17 facility was notified, with a start date for the denial of  
18 payment that is (i) less than 15 days after the date of the  
19 Department's notice to the facility, (ii) at least 15 days and  
20 less than 31 days after the date of the Department's notice to  
21 the facility, (iii) at least 31 days and less than 60 days  
22 after the date of the Department's notice to the facility, and  
23 (iv) at least 60 days after the date of the Department's notice  
24 to the facility;~~7~~ and any other complaint information  
25 requested by the Long-Term Care Facility Advisory Board  
26 created under Section 2-204 of this Act or the Illinois

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

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

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