



Sen. Mattie Hunter

**Filed: 3/24/2022**

10200HB4674sam003

LRB102 23801 CPF 37982 a

1 AMENDMENT TO HOUSE BILL 4674

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4674, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Nursing Home Care Act is amended by  
6 changing Sections 3-212 and 3-702 as follows:

7 (210 ILCS 45/3-212) (from Ch. 111 1/2, par. 4153-212)

8 Sec. 3-212. Inspection.

9 (a) The Department, whenever it deems necessary in  
10 accordance with subsection (b), shall inspect, survey and  
11 evaluate every facility to determine compliance with  
12 applicable licensure requirements and standards. Submission of  
13 a facility's current Consumer Choice Information Report  
14 required by Section 2-214 shall be verified at time of  
15 inspection. An inspection should occur within 120 days prior  
16 to license renewal. The Department may periodically visit a

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

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

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

26 If the Department has a good faith belief, based upon

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

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

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

1 this subsection shall only be offered by the Department.  
2 Content presented during the continuing education shall be  
3 consistent throughout the State, regardless of survey region.  
4 At least 5 of the 10 hours of continuing education required  
5 under this subsection shall be separate and distinct from any  
6 continuing education hours required for any license that the  
7 employee holds. Any continuing education hours provided by the  
8 Department in addition to the 10 hours of continuing education  
9 required under this subsection may count towards continuing  
10 education hours required for any license that the employee  
11 holds.

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

23 (b-1) The Department shall not be required to determine  
24 whether a facility certified to participate in the Medicare  
25 program under Title XVIII of the Social Security Act, or the  
26 Medicaid program under Title XIX of the Social Security Act,

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

23 (c) Upon completion of each inspection, survey and  
24 evaluation, the appropriate Department personnel who conducted  
25 the inspection, survey or evaluation shall submit a physical  
26 or electronic copy of their report to the licensee upon

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

1 survey and evaluation.

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

5 (e) Revisit surveys. The Department shall conduct a  
6 revisit to its licensure and certification surveys, consistent  
7 with federal regulations and guidelines.

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

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

21 (2) The enhanced complaint and incident report  
22 investigation initiative shall permit the facility to  
23 challenge the amount of the fine due to the excessive  
24 length of the investigation which results in one or more  
25 of the following conditions:

26 (A) prohibits the timely development and

1 implementation of a plan of correction;

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

4 (C) delays initiation of corrective training; and

5 (D) negatively impacts quality assurance and  
6 patient improvement standards.

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

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

11 (210 ILCS 45/3-702) (from Ch. 111 1/2, par. 4153-702)

12 Sec. 3-702. (a) A person who believes that this Act or a  
13 rule promulgated under this Act may have been violated may  
14 request an investigation. The request may be submitted to the  
15 Department in writing, by telephone, by electronic means, or  
16 by personal visit. An oral complaint shall be reduced to  
17 writing by the Department. The Department shall make  
18 available, through its website and upon request, information  
19 regarding the oral and phone intake processes and the list of  
20 questions that will be asked of the complainant. The  
21 Department shall request information identifying the  
22 complainant, including the name, address and telephone number,  
23 to help enable appropriate follow-up. The Department shall act  
24 on such complaints via on-site visits or other methods deemed  
25 appropriate to handle the complaints with or without such



1 identifying information, as otherwise provided under this  
2 Section. The complainant shall be informed that compliance  
3 with such request is not required to satisfy the procedures  
4 for filing a complaint under this Act. The Department must  
5 notify complainants that complaints with less information  
6 provided are far more difficult to respond to and investigate.

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

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

20 (d) Upon receipt of a complaint, the Department shall  
21 determine whether this Act or a rule promulgated under this  
22 Act has been or is being violated. The Department shall  
23 investigate all complaints alleging abuse or neglect within 7  
24 days after the receipt of the complaint except that complaints  
25 of abuse or neglect which indicate that a resident's life or  
26 safety is in imminent danger shall be investigated within 24

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

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

22 (e) In all cases, the Department shall inform the  
23 complainant of its findings within 10 days of its  
24 determination unless otherwise indicated by the complainant,  
25 and the complainant may direct the Department to send a copy of  
26 such findings to another person. The Department's findings may

1 include comments or documentation provided by either the  
2 complainant or the licensee pertaining to the complaint. The  
3 Department shall also notify the facility of such findings  
4 within 10 days of the determination, but the name of the  
5 complainant or residents shall not be disclosed in this notice  
6 to the facility. The notice of such findings shall include a  
7 copy of the written determination; the correction order, if  
8 any; the warning notice, if any; the inspection report; or the  
9 State licensure form on which the violation is listed.

10 (f) A written determination, correction order, or warning  
11 notice concerning a complaint, together with the facility's  
12 response, shall be available for public inspection, but the  
13 name of the complainant or resident shall not be disclosed  
14 without his consent.

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

1 conduct a hearing as provided under Section 3-703.

2 (g-5) The Department shall conduct an annual review of all  
3 survey activity from the preceding fiscal year and make a  
4 report concerning the complaint and survey process. The report  
5 shall include, but not be limited to: ~~that includes~~ the total  
6 number of complaints received; the breakdown of 24-hour,  
7 7-day, and 30-day complaints; ~~the breakdown of anonymous and~~  
8 non-anonymous complaints; and whether the number of complaints  
9 that were substantiated versus unsubstantiated; or not, the  
10 total number of substantiated complaints that were completed  
11 in the time frame determined under subsection (d); the total  
12 number of informal dispute resolutions requested; the total  
13 number of informal dispute resolution requests approved; the  
14 total number of informal dispute resolutions that were  
15 overturned or reduced in severity; the total number of nurse  
16 surveyors hired during the calendar year; the total number of  
17 nurse surveyors who left Department employment; the average  
18 length of tenure for nurse surveyors employed by the  
19 Department at the time the report is created; the total number  
20 of times the Department imposed discretionary denial of  
21 payment within 15 days of notice and within 2 days of notice as  
22 well as the number of times the discretionary denial of  
23 payment took effect; ~~and any other complaint information~~  
24 requested by the Long-Term Care Facility Advisory Board  
25 created under Section 2-204 of this Act or the Illinois  
26 Long-Term Care Council created under Section 4.04a of the

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

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

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