

SB1765



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1765

Introduced 2/9/2023, by Sen. Ann Gillespie

SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-304.2

Amends the Nursing Home Care Act. Requires the Department of Public Health to adopt criteria, by rule, to identify distressed facilities and to publish a list of distressed facilities quarterly. Provides that no facility shall be identified as a distressed facility unless it has committed a violation or deficiency that has harmed a resident. Removes existing language requiring the Department of Public Health to generate and publish quarterly a list of distressed facilities based on specified criteria.

LRB103 30635 CPF 57089 b

A BILL FOR

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 Section 3-304.2 as follows:

6 (210 ILCS 45/3-304.2)

7 Sec. 3-304.2. Designation of distressed facilities.

8 (a) (Blank). ~~By May 1, 2011, and quarterly thereafter, the~~
9 ~~Department shall generate and publish quarterly a list of~~
10 ~~distressed facilities. Criteria for inclusion of certified~~
11 ~~facilities on the list shall be those used by the U.S. General~~
12 ~~Accounting Office in report 9-689, until such time as the~~
13 ~~Department by rule modifies the criteria.~~

14 (b) (Blank). ~~In deciding whether and how to modify the~~
15 ~~criteria used by the General Accounting Office, the Department~~
16 ~~shall complete a test run of any substitute criteria to~~
17 ~~determine their reliability by comparing the number of~~
18 ~~facilities identified as distressed against the number of~~
19 ~~distressed facilities generated using the criteria contained~~
20 ~~in the General Accounting Office report. The Department may~~
21 ~~not adopt substitute criteria that generate fewer facilities~~
22 ~~with a distressed designation than are produced by the General~~
23 ~~Accounting Office criteria during the test run.~~

1 (b-5) The Department shall, by rule, adopt criteria to
2 identify distressed facilities and shall publish a list of
3 distressed facilities quarterly. No facility shall be
4 identified as a distressed facility unless it has committed a
5 violation or deficiency that has harmed a resident.

6 (c) The Department shall, by rule, adopt criteria to
7 identify non-Medicaid-certified facilities that are distressed
8 and shall publish this list quarterly beginning October 1,
9 2011.

10 (d) The Department shall notify each facility of its
11 distressed designation, and of the calculation on which it is
12 based.

13 (e) A distressed facility may contract with an independent
14 consultant meeting criteria established by the Department. If
15 the distressed facility does not seek the assistance of an
16 independent consultant, the Department shall place a monitor
17 or a temporary manager in the facility, depending on the
18 Department's assessment of the condition of the facility.

19 (f) Independent consultant. A facility that has been
20 designated a distressed facility may contract with an
21 independent consultant to develop and assist in the
22 implementation of a plan of improvement to bring and keep the
23 facility in compliance with this Act and, if applicable, with
24 federal certification requirements. A facility that contracts
25 with an independent consultant shall have 90 days to develop a
26 plan of improvement and demonstrate a good faith effort at

1 implementation, and another 90 days to achieve compliance and
2 take whatever additional actions are called for in the
3 improvement plan to maintain compliance. A facility that the
4 Department determines has a plan of improvement likely to
5 bring and keep the facility in compliance and that has
6 demonstrated good faith efforts at implementation within the
7 first 90 days may be eligible to receive a grant under the
8 Equity in Long-term Care Quality Act to assist it in achieving
9 and maintaining compliance. In this subsection, "independent"
10 consultant means an individual who has no professional or
11 financial relationship with the facility, any person with a
12 reportable ownership interest in the facility, or any related
13 parties. In this subsection, "related parties" has the meaning
14 attributed to it in the instructions for completing Medicaid
15 cost reports.

16 (f-5) Monitor and temporary managers. A distressed
17 facility that does not contract with a consultant shall be
18 assigned a monitor or a temporary manager at the Department's
19 discretion. The cost of the temporary manager shall be paid by
20 the facility. The temporary manager shall have the authority
21 determined by the Department, which may grant the temporary
22 manager any or all of the authority a court may grant a
23 receiver. The temporary manager may apply to the Equity in
24 Long-term Care Quality Fund for grant funds to implement the
25 plan of improvement.

26 (g) The Department shall by rule establish a mentor

1 program for owners of distressed facilities.

2 (h) The Department shall by rule establish sanctions (in
3 addition to those authorized elsewhere in this Article)
4 against distressed facilities that are not in compliance with
5 this Act and (if applicable) with federal certification
6 requirements. Criteria for imposing sanctions shall take into
7 account a facility's actions to address the violations and
8 deficiencies that caused its designation as a distressed
9 facility, and its compliance with this Act and with federal
10 certification requirements (if applicable), subsequent to its
11 designation as a distressed facility, including mandatory
12 revocations if criteria can be agreed upon by the Department,
13 resident advocates, and representatives of the nursing home
14 profession. By February 1, 2011, the Department shall report
15 to the General Assembly on the results of negotiations about
16 creating criteria for mandatory license revocations of
17 distressed facilities and make recommendations about any
18 statutory changes it believes are appropriate to protect the
19 health, safety, and welfare of nursing home residents.

20 (i) The Department may establish by rule criteria for
21 restricting the owner of a facility on the distressed list
22 from acquiring additional skilled nursing facilities.

23 (Source: P.A. 96-1372, eff. 7-29-10; 97-813, eff. 7-13-12.)