



Adopted in House Comm. on Aug 01, 2007

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1 AMENDMENT TO SENATE BILL 591

2 AMENDMENT NO. _____. Amend Senate Bill 591 as follows:

3 on page 1, line 5, by replacing "4.02" with "4.02, 4.03,
4 4.04,"; and

5 on page 13, immediately below line 19, by inserting the
6 following:

7 "(20 ILCS 105/4.03) (from Ch. 23, par. 6104.03)

8 Sec. 4.03. The Department on Aging, in cooperation with the
9 Department of Human Services and any other appropriate State,
10 local or federal agency, shall, without regard to income
11 guidelines, establish a nursing home prescreening program to
12 determine whether Alzheimer's Disease and related disorders
13 victims, and persons who are deemed as blind or disabled as
14 defined by the Social Security Act and who are in need of long
15 term care, may be satisfactorily cared for in their homes

1 through the use of home and community based services. Case
2 coordination units under contract with the Department may
3 charge a fee for the prescreening provided under this Section
4 and the fee shall be no greater than the cost of such services
5 to the case coordination unit. At the time of each
6 prescreening, case coordination units shall provide
7 information regarding the Office of State Long Term Care
8 Ombudsman's Residents Right to Know database as authorized in
9 subsection (c-5) of Section 4.04.

10 (Source: P.A. 89-21, eff. 7-1-95; 89-507, eff. 7-1-97.)

11 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

12 Sec. 4.04. Long Term Care Ombudsman Program.

13 (a) Long Term Care Ombudsman Program. The Department shall
14 establish a Long Term Care Ombudsman Program, through the
15 Office of State Long Term Care Ombudsman ("the Office"), in
16 accordance with the provisions of the Older Americans Act of
17 1965, as now or hereafter amended.

18 (b) Definitions. As used in this Section, unless the
19 context requires otherwise:

20 (1) "Access" has the same meaning as in Section 1-104
21 of the Nursing Home Care Act, as now or hereafter amended;
22 that is, it means the right to:

23 (i) Enter any long term care facility or assisted
24 living or shared housing establishment or supportive
25 living facility;

1 (ii) Communicate privately and without restriction
2 with any resident who consents to the communication;

3 (iii) Seek consent to communicate privately and
4 without restriction with any resident;

5 (iv) Inspect the clinical and other records of a
6 resident with the express written consent of the
7 resident;

8 (v) Observe all areas of the long term care
9 facility or supportive living facilities, assisted
10 living or shared housing establishment except the
11 living area of any resident who protests the
12 observation.

13 (2) "Long Term Care Facility" means (i) any facility as
14 defined by Section 1-113 of the Nursing Home Care Act, as
15 now or hereafter amended; and (ii) any skilled nursing
16 facility or a nursing facility which meets the requirements
17 of Section 1819(a), (b), (c), and (d) or Section 1919(a),
18 (b), (c), and (d) of the Social Security Act, as now or
19 hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d)
20 and 42 U.S.C. 1396r(a), (b), (c), and (d)).

21 (2.5) "Assisted living establishment" and "shared
22 housing establishment" have the meanings given those terms
23 in Section 10 of the Assisted Living and Shared Housing
24 Act.

25 (2.7) "Supportive living facility" means a facility
26 established under Section 5-5.01a of the Illinois Public

1 Aid Code.

2 (3) "State Long Term Care Ombudsman" means any person
3 employed by the Department to fulfill the requirements of
4 the Office of State Long Term Care Ombudsman as required
5 under the Older Americans Act of 1965, as now or hereafter
6 amended, and Departmental policy.

7 (3.1) "Ombudsman" means any designated representative
8 of a regional long term care ombudsman program; provided
9 that the representative, whether he is paid for or
10 volunteers his ombudsman services, shall be qualified and
11 designated by the Office to perform the duties of an
12 ombudsman as specified by the Department in rules and in
13 accordance with the provisions of the Older Americans Act
14 of 1965, as now or hereafter amended.

15 (c) Ombudsman; rules. The Office of State Long Term Care
16 Ombudsman shall be composed of at least one full-time ombudsman
17 and shall include a system of designated regional long term
18 care ombudsman programs. Each regional program shall be
19 designated by the State Long Term Care Ombudsman as a
20 subdivision of the Office and any representative of a regional
21 program shall be treated as a representative of the Office.

22 The Department, in consultation with the Office, shall
23 promulgate administrative rules in accordance with the
24 provisions of the Older Americans Act of 1965, as now or
25 hereafter amended, to establish the responsibilities of the
26 Department and the Office of State Long Term Care Ombudsman and

1 the designated regional Ombudsman programs. The administrative
2 rules shall include the responsibility of the Office and
3 designated regional programs to investigate and resolve
4 complaints made by or on behalf of residents of long term care
5 facilities, supportive living facilities, and assisted living
6 and shared housing establishments relating to actions,
7 inaction, or decisions of providers, or their representatives,
8 of long term care facilities, of supported living facilities,
9 of assisted living and shared housing establishments, of public
10 agencies, or of social services agencies, which may adversely
11 affect the health, safety, welfare, or rights of such
12 residents. When necessary and appropriate, representatives of
13 the Office shall refer complaints to the appropriate regulatory
14 State agency. The Department, in consultation with the Office,
15 shall cooperate with the Department of Human Services in
16 providing information and training to designated regional long
17 term care ombudsman programs about the appropriate assessment
18 and treatment (including information about appropriate
19 supportive services, treatment options, and assessment of
20 rehabilitation potential) of persons with mental illness
21 (other than Alzheimer's disease and related disorders).

22 The State Long Term Care Ombudsman and all other ombudsmen,
23 as defined in paragraph (3.1) of subsection (b) must submit to
24 background checks under the Health Care Worker Background Check
25 Act and receive training, as prescribed by the Illinois
26 Department on Aging, before visiting facilities. The training

1 must include information specific to assisted living
2 establishments, supportive living facilities, and shared
3 housing establishments and to the rights of residents
4 guaranteed under the corresponding Acts and administrative
5 rules.

6 (c-5) Consumer Choice Information Reports. The Office
7 shall:

8 (1) In collaboration with the Attorney General, create
9 a Consumer Choice Information Report form to be completed
10 by all licensed long term care facilities and assisted
11 living or shared housing establishments to aid Illinoisans
12 and their families in making informed choices about long
13 term care. The Office shall create a Consumer Choice
14 Information Report for each type of licensed long term care
15 facility and assisted living or shared housing
16 establishment.

17 (2) Develop a database of Consumer Choice Information
18 Reports completed by licensed long term care facilities and
19 assisted living or shared housing establishments that
20 includes information in the following consumer categories:

21 (A) Medical Care, Services, and Treatment.

22 (B) Special Services and Amenities.

23 (C) Staffing.

24 (D) Facility Statistics and Resident Demographics.

25 (E) Ownership and Administration.

26 (F) Safety and Security.

1 (G) Meals and Nutrition.

2 (H) Rooms, Furnishings, and Equipment.

3 (I) Family, Volunteer, and Visitation Provisions.

4 (3) Make this information accessible to the public,
5 including on the Internet by means of a hyperlink labeled
6 "Resident's Right to Know" on the Office's World Wide Web
7 home page.

8 (4) Have the authority, with the Attorney General, to
9 verify that information provided by a facility or
10 establishment is accurate.

11 (5) Request a new report from any licensed facility or
12 establishment whenever it deems necessary.

13 (d) Access and visitation rights.

14 (1) In accordance with subparagraphs (A) and (E) of
15 paragraph (3) of subsection (c) of Section 1819 and
16 subparagraphs (A) and (E) of paragraph (3) of subsection
17 (c) of Section 1919 of the Social Security Act, as now or
18 hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and
19 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the
20 Older Americans Act of 1965, as now or hereafter amended
21 (42 U.S.C. 3058f), a long term care facility, supportive
22 living facility, assisted living establishment, and shared
23 housing establishment must:

24 (i) permit immediate access to any resident by a
25 designated ombudsman; and

26 (ii) permit representatives of the Office, with

1 the permission of the resident's legal representative
2 or legal guardian, to examine a resident's clinical and
3 other records, and if a resident is unable to consent
4 to such review, and has no legal guardian, permit
5 representatives of the Office appropriate access, as
6 defined by the Department, in consultation with the
7 Office, in administrative rules, to the resident's
8 records.

9 (2) Each long term care facility, supportive living
10 facility, assisted living establishment, and shared
11 housing establishment shall display, in multiple,
12 conspicuous public places within the facility accessible
13 to both visitors and residents and in an easily readable
14 format, the address and phone number of the Office of the
15 Long Term Care Ombudsman, in a manner prescribed by the
16 Office.

17 (e) Immunity. An ombudsman or any representative of the
18 Office participating in the good faith performance of his or
19 her official duties shall have immunity from any liability
20 (civil, criminal or otherwise) in any proceedings (civil,
21 criminal or otherwise) brought as a consequence of the
22 performance of his official duties.

23 (f) Business offenses.

24 (1) No person shall:

25 (i) Intentionally prevent, interfere with, or
26 attempt to impede in any way any representative of the

1 Office in the performance of his official duties under
2 this Act and the Older Americans Act of 1965; or

3 (ii) Intentionally retaliate, discriminate
4 against, or effect reprisals against any long term care
5 facility resident or employee for contacting or
6 providing information to any representative of the
7 Office.

8 (2) A violation of this Section is a business offense,
9 punishable by a fine not to exceed \$501.

10 (3) The Director of Aging, in consultation with the
11 Office, shall notify the State's Attorney of the county in
12 which the long term care facility, supportive living
13 facility, or assisted living or shared housing
14 establishment is located, or the Attorney General, of any
15 violations of this Section.

16 (g) Confidentiality of records and identities. The
17 Department shall establish procedures for the disclosure by the
18 State Ombudsman or the regional ombudsmen entities of files
19 maintained by the program. The procedures shall provide that
20 the files and records may be disclosed only at the discretion
21 of the State Long Term Care Ombudsman or the person designated
22 by the State Ombudsman to disclose the files and records, and
23 the procedures shall prohibit the disclosure of the identity of
24 any complainant, resident, witness, or employee of a long term
25 care provider unless:

26 (1) the complainant, resident, witness, or employee of

1 a long term care provider or his or her legal
2 representative consents to the disclosure and the consent
3 is in writing;

4 (2) the complainant, resident, witness, or employee of
5 a long term care provider gives consent orally; and the
6 consent is documented contemporaneously in writing in
7 accordance with such requirements as the Department shall
8 establish; or

9 (3) the disclosure is required by court order.

10 (h) Legal representation. The Attorney General shall
11 provide legal representation to any representative of the
12 Office against whom suit or other legal action is brought in
13 connection with the performance of the representative's
14 official duties, in accordance with the State Employee
15 Indemnification Act.

16 (i) Treatment by prayer and spiritual means. Nothing in
17 this Act shall be construed to authorize or require the medical
18 supervision, regulation or control of remedial care or
19 treatment of any resident in a long term care facility operated
20 exclusively by and for members or adherents of any church or
21 religious denomination the tenets and practices of which
22 include reliance solely upon spiritual means through prayer for
23 healing.

24 (Source: P.A. 93-241, eff. 7-22-03; 93-878, eff. 1-1-05.)"; and

25 on page 14, immediately below line 15, by inserting the

1 following:

2 "Section 7. The Assisted Living and Shared Housing Act is
3 amended by adding Section 117 as follows:

4 (210 ILCS 9/117 new)

5 Sec. 117. Consumer Choice Information Reports.

6 (a) Every establishment shall complete a Consumer Choice
7 Information Report and shall file it with the Office of State
8 Long Term Care Ombudsman electronically as prescribed by the
9 Office. The Report shall be filed annually and upon request of
10 the Office of State Long Term Care Ombudsman. The Consumer
11 Choice Information Report must be completed by the
12 establishment in full.

13 (b) A violation of any of the provisions of this Section
14 constitutes an unlawful practice under the Consumer Fraud and
15 Deceptive Business Practices Act. All remedies, penalties, and
16 authority granted to the Attorney General by the Consumer Fraud
17 and Deceptive Business Practices Act shall be available to him
18 or her for the enforcement of this Section.

19 (c) The Department of Public Health shall include
20 verification of the submission of an establishment's current
21 Consumer Choice Information Report when conducting annual
22 on-site visit under Section 110.

23 (d) Assisted living and shared housing establishments are
24 subject to this Section beginning 6 months after the effective

1 date of this amendatory Act of the 95th General Assembly.

2 Section 8. The Nursing Home Care Act is amended by changing
3 Sections 3-210 and 3-212 and by adding Section 2-214 as
4 follows:

5 (210 ILCS 45/2-214 new)

6 Sec. 2-214. Consumer Choice Information Reports.

7 (a) Every facility shall complete a Consumer Choice
8 Information Report and shall file it with the Office of State
9 Long Term Care Ombudsman electronically as prescribed by the
10 Office. The Report shall be filed annually and upon request of
11 the Office of State Long Term Care Ombudsman. The Consumer
12 Choice Information Report must be completed by the facility in
13 full.

14 (b) A violation of any of the provisions of this Section
15 constitutes an unlawful practice under the Consumer Fraud and
16 Deceptive Business Practices Act. All remedies, penalties, and
17 authority granted to the Attorney General by the Consumer Fraud
18 and Deceptive Business Practices Act shall be available to him
19 or her for the enforcement of this Section.

20 (c) The Department of Public Health shall include
21 verification of the submission of a facility's current Consumer
22 Choice Information Report when conducting an inspection
23 pursuant to Section 3-212.

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

2 Sec. 3-210. A facility shall retain the following for
3 public inspection:

4 (1) A complete copy of every inspection report of the
5 facility received from the Department during the past 5 years;

6 (2) A copy of every order pertaining to the facility issued
7 by the Department or a court during the past 5 years;

8 (3) A description of the services provided by the facility
9 and the rates charged for those services and items for which a
10 resident may be separately charged;

11 (4) A copy of the statement of ownership required by
12 Section 3-207;

13 (5) A record of personnel employed or retained by the
14 facility who are licensed, certified or registered by the
15 Department of Professional Regulation; and

16 (6) A complete copy of the most recent inspection report of
17 the facility received from the Department.

18 (7) A copy of the current Consumer Choice Information
19 Report required by Section 2-214.

20 (Source: P.A. 85-1209)

21 (210 ILCS 45/3-212) (from Ch. 111 1/2, par. 4153-212)

22 Sec. 3-212. Inspection.

23 (a) The Department, whenever it deems necessary in
24 accordance with subsection (b), shall inspect, survey and
25 evaluate every facility to determine compliance with

1 applicable licensure requirements and standards. Submission of
2 a facility's current Consumer Choice Information Report
3 required by Section 2-214 shall be verified at time of
4 inspection. An inspection should occur within 120 days prior to
5 license renewal. The Department may periodically visit a
6 facility for the purpose of consultation. An inspection,
7 survey, or evaluation, other than an inspection of financial
8 records, shall be conducted without prior notice to the
9 facility. A visit for the sole purpose of consultation may be
10 announced. The Department shall provide training to surveyors
11 about the appropriate assessment, care planning, and care of
12 persons with mental illness (other than Alzheimer's disease or
13 related disorders) to enable its surveyors to determine whether
14 a facility is complying with State and federal requirements
15 about the assessment, care planning, and care of those persons.

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

22 An inspector or an employee of the Department who
23 intentionally prenotifies a facility, orally or in writing, of
24 a pending complaint investigation or inspection shall be guilty
25 of a Class A misdemeanor. Superiors of persons who have
26 prenotified a facility shall be subject to the same penalties,

1 if they have knowingly allowed the prenotification. A person
2 found guilty of prenotifying a facility shall be subject to
3 disciplinary action by his or her employer.

4 If the Department has a good faith belief, based upon
5 information that comes to its attention, that a violation of
6 this subsection has occurred, it must file a complaint with the
7 Attorney General or the State's Attorney in the county where
8 the violation took place within 30 days after discovery of the
9 information.

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

20 (b) In determining whether to make more than the required
21 number of unannounced inspections, surveys and evaluations of a
22 facility the Department shall consider one or more of the
23 following: previous inspection reports; the facility's history
24 of compliance with standards, rules and regulations
25 promulgated under this Act and correction of violations,
26 penalties or other enforcement actions; the number and severity

1 of complaints received about the facility; any allegations of
2 resident abuse or neglect; weather conditions; health
3 emergencies; other reasonable belief that deficiencies exist.

4 (b-1) The Department shall not be required to determine
5 whether a facility certified to participate in the Medicare
6 program under Title XVIII of the Social Security Act, or the
7 Medicaid program under Title XIX of the Social Security Act,
8 and which the Department determines by inspection under this
9 Section or under Section 3-702 of this Act to be in compliance
10 with the certification requirements of Title XVIII or XIX, is
11 in compliance with any requirement of this Act that is less
12 stringent than or duplicates a federal certification
13 requirement. In accordance with subsection (a) of this Section
14 or subsection (d) of Section 3-702, the Department shall
15 determine whether a certified facility is in compliance with
16 requirements of this Act that exceed federal certification
17 requirements. If a certified facility is found to be out of
18 compliance with federal certification requirements, the
19 results of an inspection conducted pursuant to Title XVIII or
20 XIX of the Social Security Act may be used as the basis for
21 enforcement remedies authorized and commenced under this Act.
22 Enforcement of this Act against a certified facility shall be
23 commenced pursuant to the requirements of this Act, unless
24 enforcement remedies sought pursuant to Title XVIII or XIX of
25 the Social Security Act exceed those authorized by this Act. As
26 used in this subsection, "enforcement remedy" means a sanction

1 for violating a federal certification requirement or this Act.

2 (c) Upon completion of each inspection, survey and
3 evaluation, the appropriate Department personnel who conducted
4 the inspection, survey or evaluation shall submit a copy of
5 their report to the licensee upon exiting the facility, and
6 shall submit the actual report to the appropriate regional
7 office of the Department. Such report and any recommendations
8 for action by the Department under this Act shall be
9 transmitted to the appropriate offices of the associate
10 director of the Department, together with related comments or
11 documentation provided by the licensee which may refute
12 findings in the report, which explain extenuating
13 circumstances that the facility could not reasonably have
14 prevented, or which indicate methods and timetables for
15 correction of deficiencies described in the report. Without
16 affecting the application of subsection (a) of Section 3-303,
17 any documentation or comments of the licensee shall be provided
18 within 10 days of receipt of the copy of the report. Such
19 report shall recommend to the Director appropriate action under
20 this Act with respect to findings against a facility. The
21 Director shall then determine whether the report's findings
22 constitute a violation or violations of which the facility must
23 be given notice. Such determination shall be based upon the
24 severity of the finding, the danger posed to resident health
25 and safety, the comments and documentation provided by the
26 facility, the diligence and efforts to correct deficiencies,

1 correction of the reported deficiencies, the frequency and
2 duration of similar findings in previous reports and the
3 facility's general inspection history. Violations shall be
4 determined under this subsection no later than 60 days after
5 completion of each inspection, survey and evaluation.

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

9 (Source: P.A. 91-799, eff. 6-13-00; 92-209, eff. 1-1-02.)"; and

10 on page 22, immediately below line 5, by inserting the
11 following:

12 "Section 15. The Consumer Fraud and Deceptive Business
13 Practices Act is amended by adding Section 2ZZ as follows:

14 (815 ILCS 505/2ZZ new)

15 Sec. 2ZZ. Long term care facility or assisted living or
16 shared housing establishment; Consumer Choice Information
17 Report. A long term care facility that fails to comply with
18 Section 2-214 of the Nursing Home Care Act, or an assisted
19 living or shared housing establishment that fails to comply
20 with Section 117 of the Assisted Living and Shared Housing Act,
21 commits an unlawful practice within the meaning of this Act."