



Sen. Jacqueline Y. Collins

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09600SB0678sam002

LRB096 06735 KTG 39551 a

1 AMENDMENT TO SENATE BILL 678

2 AMENDMENT NO. _____. Amend Senate Bill 678 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Nursing Home Care Act is amended by adding
5 Section 3-808 as follows:

6 (210 ILCS 45/3-808 new)

7 Sec. 3-808. Nursing home fraud, abuse, and neglect
8 prevention and reporting.

9 (a) Every licensed long term care facility that receives
10 Medicaid funding shall prominently display in its lobby, in its
11 dining areas, and on each floor of the facility information
12 approved by the Illinois Medicaid Fraud Control Unit on how to
13 report fraud, abuse, and neglect. In addition, information
14 regarding the reporting of fraud, abuse, and neglect shall be
15 provided to each resident at the time of admission and to the

1 resident's family members or emergency contacts, or to both the
2 resident's family members and his or her emergency contacts.

3 (b) Any owner or licensee of a long term care facility
4 licensed under the this Act shall be responsible for the
5 collection and maintenance of any and all records required to
6 be maintained under this Section and any other applicable
7 provisions of this Act, and as a provider under the Illinois
8 Public Aid Code, and shall be responsible for compliance with
9 all of the disclosure requirements under this Section. All
10 books and records and other papers and documents that are
11 required to be kept, and all records showing compliance with
12 all of the disclosure requirements to be made pursuant to this
13 Section, shall be kept at the facility and shall, at all times
14 during business hours, be subject to inspection by any law
15 enforcement or health oversight agency or its duly authorized
16 agents or employees.

17 (c) Any report of abuse and neglect of residents made by
18 any individual in whatever manner, including, but not limited
19 to, reports made under Sections 2-107 and 3-610 of this Act, or
20 as provided under the Abused and Neglected Long Term Care
21 Facility Residents Reporting Act, that is made to an
22 administrator, a director of nursing, or any other person with
23 management responsibility at a long term care facility must be
24 disclosed to the owners and licensee of the facility within 24
25 hours of the report. The owners and licensee of a long term
26 care facility shall maintain all records necessary to show

1 compliance with this disclosure requirement.

2 (d) Any person with an ownership interest in a long term
3 care facility licensed by the Department must, within 30 days
4 of the effective date of this amendatory Act of the 96th
5 General Assembly, disclose the existence of any ownership
6 interest in any vendor who does business with the facility. The
7 disclosures required by this subsection shall be made in the
8 form and manner prescribed by the Department. Licensed long
9 term care facilities who receive Medicaid funding shall submit
10 a copy of the disclosures required by this subsection to the
11 Illinois Medicaid Fraud Control Unit. The owners and licensee
12 of a long term care facility shall maintain all records
13 necessary to show compliance with this disclosure requirement.

14 (e) Notwithstanding the provisions of Section 3-318 of this
15 Act, and in addition thereto, any person, owner, or licensee
16 who knowingly fails to keep and maintain, or knowingly fails to
17 produce for inspection, books and records, or knowingly fails
18 to make the disclosures required by this Section, is guilty of
19 a Class A misdemeanor. A second or subsequent violation of this
20 Section shall be punishable as a Class 4 felony.

21 (f) Any owner or licensee who knowingly files or knowingly
22 causes to be filed a document with false information with the
23 Department, the Department of Healthcare and Family Services,
24 or the Illinois Medicaid Fraud Control Unit or any other law
25 enforcement agency, is guilty of a Class A misdemeanor.

1 Section 10. The Criminal Code of 1961 is amended by
2 changing Section 12-19 as follows:

3 (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

4 (Text of Section before amendment by P.A. 96-339)

5 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care
6 Facility Resident.

7 (a) Any person or any owner or licensee of a long term care
8 facility who abuses a long term care facility resident is
9 guilty of a Class 3 felony. Any person or any owner or licensee
10 of a long term care facility who criminally neglects a long
11 term care facility resident is guilty of a Class 4 felony. A
12 person whose criminal neglect of a long term care facility
13 resident results in the resident's death is guilty of a Class 3
14 felony. However, nothing herein shall be deemed to apply to a
15 physician licensed to practice medicine in all its branches or
16 a duly licensed nurse providing care within the scope of his or
17 her professional judgment and within the accepted standards of
18 care within the community.

19 (b) Notwithstanding the penalties in subsections (a) and
20 (c) and in addition thereto, if a licensee or owner of a long
21 term care facility or his or her employee has caused neglect of
22 a resident, the licensee or owner is guilty of a petty offense.
23 An owner or licensee is guilty under this subsection (b) only
24 if the owner or licensee failed to exercise reasonable care in
25 the hiring, training, supervising or providing of staff or

1 other related routine administrative responsibilities.

2 (c) Notwithstanding the penalties in subsections (a) and
3 (b) and in addition thereto, if a licensee or owner of a long
4 term care facility or his or her employee has caused gross
5 neglect of a resident, the licensee or owner is guilty of a
6 business offense for which a fine of not more than \$10,000 may
7 be imposed. An owner or licensee is guilty under this
8 subsection (c) only if the owner or licensee failed to exercise
9 reasonable care in the hiring, training, supervising or
10 providing of staff or other related routine administrative
11 responsibilities.

12 (d) For the purpose of this Section:

13 (1) "Abuse" means intentionally or knowingly causing
14 any physical or mental injury or committing any sexual
15 offense set forth in this Code.

16 (2) "Criminal neglect" means an act whereby a person
17 recklessly (i) performs acts that cause an elderly person's
18 or person with a disability's life to be endangered, health
19 to be injured, or pre-existing physical or mental condition
20 to deteriorate or creates the substantial likelihood of
21 injury or deterioration, or (ii) fails to perform acts that
22 he or she knows or reasonably should know are necessary to
23 maintain or preserve the life or health of an elderly
24 person or person with a disability, and that failure causes
25 the elderly person's or person with a disability's life to
26 be endangered, health to be injured, or pre-existing

1 physical or mental condition to deteriorate or creates the
2 substantial likelihood of injury or deterioration, or
3 (iii) abandons an elderly person or person with a
4 disability.

5 (3) "Neglect" means negligently failing to provide
6 adequate medical or personal care or maintenance, which
7 failure results in physical or mental injury or the
8 deterioration of a physical or mental condition.

9 (4) "Resident" means a person residing in a long term
10 care facility.

11 (5) "Owner" means the person who owns a long term care
12 facility as provided under the Nursing Home Care Act or an
13 assisted living or shared housing establishment under the
14 Assisted Living and Shared Housing Act.

15 (6) "Licensee" means the individual or entity licensed
16 to operate a facility under the Nursing Home Care Act or
17 the Assisted Living and Shared Housing Act.

18 (7) "Facility" or "long term care facility" means a
19 private home, institution, building, residence, or any
20 other place, whether operated for profit or not, or a
21 county home for the infirm and chronically ill operated
22 pursuant to Division 5-21 or 5-22 of the Counties Code, or
23 any similar institution operated by the State of Illinois
24 or a political subdivision thereof, which provides,
25 through its ownership or management, personal care,
26 sheltered care or nursing for 3 or more persons not related

1 to the owner by blood or marriage. The term also includes
2 skilled nursing facilities and intermediate care
3 facilities as defined in Title XVIII and Title XIX of the
4 federal Social Security Act and assisted living
5 establishments and shared housing establishments licensed
6 under the Assisted Living and Shared Housing Act.

7 (e) Nothing contained in this Section shall be deemed to
8 apply to the medical supervision, regulation or control of the
9 remedial care or treatment of residents in a facility conducted
10 for those who rely upon treatment by prayer or spiritual means
11 in accordance with the creed or tenets of any well recognized
12 church or religious denomination and which is licensed in
13 accordance with Section 3-803 of the Nursing Home Care Act.

14 (Source: P.A. 93-301, eff. 1-1-04.)

15 (Text of Section after amendment by P.A. 96-339)

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22 term care facility resident is guilty of a Class 4 felony. A
23 person whose criminal neglect of a long term care facility
24 resident results in the resident's death is guilty of a Class 3
25 felony. However, nothing herein shall be deemed to apply to a

1 physician licensed to practice medicine in all its branches or
2 a duly licensed nurse providing care within the scope of his or
3 her professional judgment and within the accepted standards of
4 care within the community.

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6 (c) and in addition thereto, if a licensee or owner of a long
7 term care facility or his or her employee has caused neglect of
8 a resident, the licensee or owner is guilty of a petty offense.
9 An owner or licensee is guilty under this subsection (b) only
10 if the owner or licensee failed to exercise reasonable care in
11 the hiring, training, supervising or providing of staff or
12 other related routine administrative responsibilities.

13 (c) Notwithstanding the penalties in subsections (a) and
14 (b) and in addition thereto, if a licensee or owner of a long
15 term care facility or his or her employee has caused gross
16 neglect of a resident, the licensee or owner is guilty of a
17 business offense for which a fine of not more than \$10,000 may
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5 to deteriorate or creates the substantial likelihood of
6 injury or deterioration, or (ii) fails to perform acts that
7 he or she knows or reasonably should know are necessary to
8 maintain or preserve the life or health of an elderly
9 person or person with a disability, and that failure causes
10 the elderly person's or person with a disability's life to
11 be endangered, health to be injured, or pre-existing
12 physical or mental condition to deteriorate or creates the
13 substantial likelihood of injury or deterioration, or
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15 disability.

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17 adequate medical or personal care or maintenance, which
18 failure results in physical or mental injury or the
19 deterioration of a physical or mental condition.

20 (4) "Resident" means a person residing in a long term
21 care facility.

22 (5) "Owner" means the person who owns a long term care
23 facility as provided under the Nursing Home Care Act, a
24 facility as provided under the MR/DD Community Care Act, or
25 an assisted living or shared housing establishment under
26 the Assisted Living and Shared Housing Act.

1 (6) "Licensee" means the individual or entity licensed
2 to operate a facility under the Nursing Home Care Act, the
3 MR/DD Community Care Act, or the Assisted Living and Shared
4 Housing Act.

5 (7) "Facility" or "long term care facility" means a
6 private home, institution, building, residence, or any
7 other place, whether operated for profit or not, or a
8 county home for the infirm and chronically ill operated
9 pursuant to Division 5-21 or 5-22 of the Counties Code, or
10 any similar institution operated by the State of Illinois
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24 in accordance with the creed or tenets of any well recognized
25 church or religious denomination and which is licensed in
26 accordance with Section 3-803 of the Nursing Home Care Act or

1 Section 3-803 of the MR/DD Community Care Act.

2 (Source: P.A. 96-339, eff. 7-1-10.)

3 Section 95. No acceleration or delay. Where this Act makes
4 changes in a statute that is represented in this Act by text
5 that is not yet or no longer in effect (for example, a Section
6 represented by multiple versions), the use of that text does
7 not accelerate or delay the taking effect of (i) the changes
8 made by this Act or (ii) provisions derived from any other
9 Public Act.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law."