



Rep. Sara Feigenholtz

Filed: 5/23/2013

09800SB0026ham003

LRB098 05310 KTG 46390 a

1 AMENDMENT TO SENATE BILL 26

2 AMENDMENT NO. _____. Amend Senate Bill 26, AS AMENDED,
3 with reference to page and line numbers of House Amendment No.
4 1 as follows:

5 on page 4, by inserting immediately below line 8 the following:

6 ""Abuse" means any physical or mental injury or sexual
7 assault inflicted on a consumer other than by accidental means
8 in a facility."; and

9 on page 6, line 19, after "triage", by inserting "center"; and

10 on page 9, immediately below line 13, by inserting the
11 following:

12 ""Identified offender" means a person who meets any of the
13 following criteria:

14 (1) Has been convicted of, found guilty of, adjudicated
15 delinquent for, found not guilty by reason of insanity for,

1 or found unfit to stand trial for, any felony offense
2 listed in Section 25 of the Health Care Worker Background
3 Check Act, except for the following:

4 (i) a felony offense described in Section 10-5 of
5 the Nurse Practice Act;

6 (ii) a felony offense described in Section 4, 5, 6,
7 8, or 17.02 of the Illinois Credit Card and Debit Card
8 Act;

9 (iii) a felony offense described in Section 5, 5.1,
10 5.2, 7, or 9 of the Cannabis Control Act;

11 (iv) a felony offense described in Section 401,
12 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois
13 Controlled Substances Act; and

14 (v) a felony offense described in the
15 Methamphetamine Control and Community Protection Act.

16 (2) Has been convicted of, adjudicated delinquent for,
17 found not guilty by reason of insanity for, or found unfit
18 to stand trial for, any sex offense as defined in
19 subsection (c) of Section 10 of the Sex Offender Management
20 Board Act."; and

21 on page 12, immediately below line 9, by inserting the
22 following:

23 "Section 2-100. Rulemaking. The Department is empowered to
24 promulgate any rules necessary to ensure proper implementation

1 and administration of this Act."; and

2 on page 15, immediately below line 1, by inserting the
3 following:

4 "Section 2-104. Screening prior to admission.

5 (a) A facility shall within 24 hours after admission,
6 request a criminal history background check pursuant to the
7 Uniform Conviction Information Act for all persons age 18 or
8 older seeking admission to the facility, unless a background
9 check was initiated by a hospital pursuant to subsection (d) of
10 Section 6.09 of the Hospital Licensing Act. Background checks
11 conducted pursuant to this Section shall be based on the
12 consumer's name, date of birth, and other identifiers as
13 required by the Department of State Police. If the results of
14 the background check are inconclusive, the facility shall
15 initiate a fingerprint-based check, unless the fingerprint
16 check is waived by the Director of Public Health based on
17 verification by the facility that the consumer meets criteria
18 related to the consumer's health or lack of potential risk
19 which may be established by Departmental rule. A waiver issued
20 pursuant to this Section shall be valid only while the consumer
21 is immobile or while the criteria supporting the waiver exist.
22 The facility shall provide for or arrange for any required
23 fingerprint-based checks to be taken on the premises of the
24 facility. If a fingerprint-based check is required, the

1 facility shall arrange for it to be conducted in a manner that
2 is respectful of the consumer's dignity and that minimizes any
3 emotional or physical hardship to the consumer.

4 (b) If the results of a consumer's criminal history
5 background check reveal that the consumer is an identified
6 offender as defined in this Act, the facility shall do the
7 following:

8 (1) Immediately notify the Department of State Police,
9 in the form and manner required by the Department of State
10 Police, in collaboration with the Department of Public
11 Health, that the consumer is an identified offender.

12 (2) Within 72 hours, arrange for a fingerprint-based
13 criminal history record inquiry to be requested on the
14 identified offender consumer. The inquiry shall be based on
15 the subject's name, sex, race, date of birth, fingerprint
16 images, and other identifiers required by the Department of
17 State Police. The inquiry shall be processed through the
18 files of the Department of State Police and the Federal
19 Bureau of Investigation to locate any criminal history
20 record information that may exist regarding the subject.
21 The Federal Bureau of Investigation shall furnish to the
22 Department of State Police, pursuant to an inquiry under
23 this paragraph (2), any criminal history record
24 information contained in its files.

25 Section 2-105. Criminal History Report.

1 (a) The Department of State Police shall prepare a Criminal
2 History Report when it receives information, through the
3 criminal history background check required pursuant to
4 subsection (d) of Section 6.09 of the Hospital Licensing Act or
5 subsection (c) of Section 2-201.5 of the Nursing Home Care Act,
6 or through any other means, that a consumer of a facility is an
7 identified offender.

8 (b) The Department of State Police shall complete the
9 Criminal History Report within 10 business days after receiving
10 information under subsection (a) that a consumer is an
11 identified offender.

12 (c) The Criminal History Report shall include, but not be
13 limited to, the following:

14 (1) Copies of the identified offender's parole,
15 mandatory supervised release, or probation orders.

16 (2) An interview with the identified offender.

17 (3) A detailed summary of the entire criminal history
18 of the offender, including arrests, convictions, and the
19 date of the identified offender's last conviction relative
20 to the date of admission to a long-term care facility.

21 (4) If the identified offender is a convicted or
22 registered sex offender, a review of any and all sex
23 offender evaluations conducted on that offender. If there
24 is no sex offender evaluation available, the Department of
25 State Police shall arrange, through the Department of
26 Public Health, for a sex offender evaluation to be

1 conducted on the identified offender. If the convicted or
2 registered sex offender is under supervision by the
3 Illinois Department of Corrections or a county probation
4 department, the sex offender evaluation shall be arranged
5 by and at the expense of the supervising agency. All
6 evaluations conducted on convicted or registered sex
7 offenders under this Act shall be conducted by sex offender
8 evaluators approved by the Sex Offender Management Board.

9 (d) The Department of State Police shall provide the
10 Criminal History Report to a licensed forensic psychologist.
11 After (i) consideration of the Criminal History Report, (ii)
12 consultation with the facility administrator or the facility
13 medical director, or both, regarding the mental and physical
14 condition of the identified offender, and (iii) reviewing the
15 facility's file on the identified offender, including all
16 incident reports, all information regarding medication and
17 medication compliance, and all information regarding previous
18 discharges or transfers from other facilities, the licensed
19 forensic psychologist shall prepare an Identified Offender
20 Report and Recommendation. The Identified Offender Report and
21 Recommendation shall detail whether and to what extent the
22 identified offender's criminal history necessitates the
23 implementation of security measures within the long-term care
24 facility. If the identified offender is a convicted or
25 registered sex offender or if the Identified Offender Report
26 and Recommendation reveals that the identified offender poses a

1 significant risk of harm to others within the facility, the
2 offender shall be required to have his or her own room within
3 the facility.

4 (e) The licensed forensic psychologist shall complete the
5 Identified Offender Report and Recommendation within 14
6 business days after receiving the Criminal History Report and
7 shall promptly provide the Identified Offender Report and
8 Recommendation to the Department of State Police, which shall
9 provide the Identified Offender Report and Recommendation to
10 the following:

11 (1) The facility within which the identified offender
12 resides.

13 (2) The Chief of Police of the municipality in which
14 the facility is located.

15 (3) The State of Illinois Long Term Care Ombudsman.

16 (4) The Department of Public Health.

17 (e-5) The Department of Public Health shall keep a
18 continuing record of all consumers determined to be identified
19 offenders as defined in Section 1-114.01 of the Nursing Home
20 Care Act and shall report the number of identified offender
21 consumers annually to the General Assembly.

22 (f) The facility shall incorporate the Identified Offender
23 Report and Recommendation into the identified offender's care
24 plan created pursuant to 42 CFR 483.20.

25 (g) If, based on the Identified Offender Report and
26 Recommendation, a facility determines that it cannot manage the

1 identified offender consumer safely within the facility, it
2 shall commence involuntary transfer or discharge proceedings
3 pursuant to Section 3-402.

4 (h) Except for willful and wanton misconduct, any person
5 authorized to participate in the development of a Criminal
6 History Report or Identified Offender Report and
7 Recommendation is immune from criminal or civil liability for
8 any acts or omissions as the result of his or her good faith
9 effort to comply with this Section."; and

10 on page 19, line 19, after "authorized", by inserting "under
11 Illinois law"; and

12 on page 20, line 2, by replacing the period with "to the
13 Department within 24 hours. Facilities shall comply with
14 Sections 3-610 and 3-810 of the Nursing Home Care Act. The
15 provisions under Sections 3-610 and 3-810 of the Nursing Home
16 Care Act shall apply to employees of facilities licensed under
17 this Act."; and

18 on page 20, line 4, by replacing "or crisis stabilization" with
19 "centers"; and

20 on page 20, line 13, by replacing "knock" with "reasonably
21 announce their intent to enter"; and

1 on page 20, immediately below line 15, by inserting the
2 following:

3 "Consumers shall be free to leave at any time. If a
4 consumer in a triage center expresses a desire to contact a
5 third party for any purpose, the facility staff shall contact
6 that third party on behalf of the consumer."; and

7 on page 21, line 6, by replacing "or crisis stabilization" with
8 "centers"; and

9 on page 22, line 12, after the period, by inserting "The
10 Department shall by rule establish criteria, hearings, and
11 procedures for involuntary discharge."; and

12 on page 23, by inserting immediately below line 7 the
13 following:

14 "Section 3-115. Informed consent; restraints. Informed
15 consent shall be required for restraints consistent with the
16 requirements contained in subsection (c) of Section 2-106 of
17 the Nursing Home Care Act.

18 Section 3-116. Experimental research. No consumer shall be
19 subjected to experimental research or treatment without first
20 obtaining his or her informed, written consent. The conduct of
21 any experimental research or treatment shall be authorized and

1 monitored by an institutional review board appointed by the
2 executive director. The membership, operating procedures and
3 review criteria for the institutional review board shall be
4 prescribed under rules and regulations of the Department and
5 shall comply with the requirements for institutional review
6 boards established by the federal Food and Drug Administration.
7 No person who has received compensation in the prior 3 years
8 from an entity that manufactures, distributes, or sells
9 pharmaceuticals, biologics, or medical devices may serve on the
10 institutional review board.

11 No facility shall permit experimental research or
12 treatment to be conducted on a consumer, or give access to any
13 person or person's records for a retrospective study about the
14 safety or efficacy of any care or treatment, without the prior
15 written approval of the institutional review board. No
16 executive director, or person licensed by the State to provide
17 medical care or treatment to any person, may assist or
18 participate in any experimental research on or treatment of a
19 consumer, including a retrospective study, that does not have
20 the prior written approval of the board. Such conduct shall be
21 grounds for professional discipline by the Department of
22 Financial and Professional Regulation.

23 The institutional review board may exempt from ongoing
24 review research or treatment initiated on a consumer before the
25 individual's admission to a facility and for which the board
26 determines there is adequate ongoing oversight by another

1 institutional review board. Nothing in this Section shall
2 prevent a facility, any facility employee, or any other person
3 from assisting or participating in any experimental research on
4 or treatment of a consumer, if the research or treatment began
5 before the person's admission to a facility, until the board
6 has reviewed the research or treatment and decided to grant or
7 deny approval or to exempt the research or treatment from
8 ongoing review."; and

9 on page 23, line 15, by replacing "units" with "centers"; and

10 on page 30, line 12, by replacing "units" with "centers"; and

11 on page 30, line 24, after "triage", by inserting "centers";
12 and

13 on page 31, line 7, after "checks", by inserting ", consistent
14 with Section 1-114.01, subsections (b) and (c) of Section
15 2-201.5, and Section 2-201.6 of the Nursing Home Care Act"; and

16 on page 31, line 16, after "check", by inserting ", consistent
17 with the Health Care Worker Background Check Act"; and

18 on page 33, line 14 by inserting after "Act" the following:

19 "and the rules promulgated under this Act. The Department shall
20 have access to and may reproduce or photocopy any books,

1 records, and other documents maintained by the facility to the
2 extent necessary to carry out this Act and the rules
3 promulgated under this Act. The Department shall not divulge or
4 disclose the contents of a record under this Section as
5 otherwise prohibited by this Act. Any holder of a license or
6 applicant for a license shall be deemed to have given consent
7 to any authorized officer, employee, or agent of the Department
8 to enter and inspect the facility in accordance with this
9 Article. Refusal to permit such entry or inspection shall
10 constitute grounds for denial, suspension, or revocation of a
11 license under this Act"; and

12 on page 33, line 15, by deleting "scheduled"; and

13 on page 33, line 16, by deleting "unscheduled"; and

14 on page 34, by replacing lines 2 and 3 with the following:

15 "(a) The Department may revoke a license for any failure to
16 substantially comply with this Act and the rules promulgated
17 under this Act, including, but not limited to, the following:"
18 and

19 on page 34, line 5, by replacing "or" with "and"; and

20 on page 35, line 3, by replacing "the standards of this" with
21 "this Act and the rules promulgated under this Act."; and

1 on page 35, by deleting line 4; and

2 on page 35, line 5, by replacing "the standards" with "this Act
3 and the rules promulgated under this Act"; and

4 on page 35, line 8, by replacing "the standards" with "this Act
5 and the rules promulgated under this Act"; and

6 on page 35, line 11, by replacing "the standards" with "this
7 Act and the rules promulgated under this Act"; and

8 on page 35, lines 15 and 16, by replacing "the standards. The
9 agency" with "this Act and the rules promulgated under this
10 Act. The facility"; and

11 on page 36, line 7, by replacing "Part" with "Act or the rules
12 promulgated under this Act"; and

13 on page 36, line 8, by replacing "agency" with "facility"; and

14 on page 36, line 17, by replacing "Part" with "Act or the rules
15 promulgated under this Act"; and

16 on page 36, line 18, by replacing "standards" with "this Act
17 and the rules promulgated under this Act"; and

1 on page 36, line 22, by replacing "agency" with "facility"; and
2 on page 36, line 23, by replacing "agency" with "facility"; and
3 on page 37, line 10, by replacing "agency" with "facility"; and
4 on page 37, line 11, by replacing "agency" with "facility"; and
5 on page 39, by inserting immediately below line 1 the
6 following:

7 "Section 4-111. Notwithstanding the existence or pursuit
8 of any other remedy, the Director of the Department may, in the
9 manner provided by law, upon the advice of the Attorney General
10 who shall represent the Director of the Department in the
11 proceedings, maintain an action in the name of the State for
12 injunction or other process against any person or governmental
13 unit to restrain or prevent the establishment of a facility
14 without a license issued pursuant to this Act, or to restrain
15 or prevent the opening, conduction, operating, or maintaining
16 of a facility without a license issued pursuant to this Act. In
17 addition, the Director of the Department may, in the manner
18 provided by law, in the name of the People of the State and
19 through the Attorney General who shall represent the Director
20 of the Department in the proceedings, maintain an action for

1 injunction or other relief or process against any licensee or
2 other person to enforce and compel compliance with the
3 provisions of this Act and the standards, rules, and
4 regulations established by virtue of this Act and any order
5 entered for any response action pursuant to this Act and such
6 standards, rules, and regulations."; and

7 by deleting lines 7 through 23 of page 490, all of pages 491
8 through 538, and lines 1 through 20 of page 539; and

9 on page 544, line 26, after "research", by inserting "and
10 education"; and

11 on page 545, line 17, after "research", by inserting "and
12 education"; and

13 on page 548, by deleting lines 8 and 9; and

14 on page 578, line 24 by replacing "resident" with "residents";
15 and

16 on page 582, line 12 by inserting before "Transition" the
17 following:

18 "For dates of services beginning January 1, 2014, the RUG-IV
19 nursing component per diem for a nursing home shall be the
20 product of the statewide RUG-IV nursing base per diem rate, the

1 facility average case mix index, and the regional wage
2 adjustor."; and

3 on page 582, line 15 by replacing "subsection (d-1)" with "this
4 subsection (e-2)"; and

5 on page 582, line 25 by replacing "subsection (d-1)" with "this
6 subsection (e-2)"; and

7 on page 584, line 21, after "triage" by inserting "center"; and

8 on page 585, by inserting immediately below line 13 the
9 following:

10 "Section 11-45. The Illinois Public Aid Code is amended by
11 adding Section 5-5.4h as follows:

12 (305 ILCS 5/5-5.4h new)

13 Sec. 5-5.4h. Medicaid reimbursement for pediatric skilled
14 nursing facilities.

15 (a) Facilities uniquely licensed as pediatric skilled
16 nursing facilities that serve severely and chronically ill
17 pediatric patients shall have a specific reimbursement system
18 designed to recognize the characteristics and needs of the
19 patients they serve.

20 (b) For dates of services starting July 1, 2013 and until a

1 new reimbursement system is designed, pediatric skilled
2 nursing facilities that meet the following criteria:

3 (1) serve exceptional care patients; and

4 (2) have 30% or more of their patients receiving
5 ventilator care;

6 shall receive Medicaid reimbursement on a 30-day expedited
7 schedule."; and

8 on page 596, line 11, by replacing "60" with "75"; and

9 on page 597, by replacing lines 1 through 3 with the following:

10 "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."; and

15 on page 597, line 4, after "complaint", by inserting "and
16 incident report"; and

17 on page 597, by replacing lines 5 and 6 with the following:

18 "shall permit the facility to challenge the amount of the fine
19 due to the excessive length of"; and

20 on page 597, immediately below line 15, by inserting the

1 following:

2 "This paragraph (2) does not apply to complaint
3 investigations exited within 14 working days or a situation
4 that triggers an extended survey."; and

5 on page 624, line 8, after "occurred,", by inserting "and the
6 facility in which the applicant resides is notified,"; and

7 on page 625, line 5, by replacing "2014" with "2013"; and

8 on page 625, line 6, by replacing "2015" with "2014".