



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB1292

Introduced 2/5/2013, by Sen. Andy Manar

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Nursing Home Care Act. Provides that all federal moneys received as a result of expenditures from the Long Term Care Monitor/Receiver Fund and all interest earned on moneys in the Fund shall be deposited into the Fund (rather than all federal moneys received as a result of expenditures from the Fund shall be deposited into the Fund). Provides that, with regard to the Long Term Care Monitor/Receiver Fund, deposits, balances, and expenditures shall be separately maintained for all federal fees, fines, and penalties and all State fees, fines, and penalties paid into the Fund. Provides that this shall include all interest earned and all federal dollars received as a result of expenditures from the Fund. Provides that with the exception of expenditures for monitors and receivers appointed by the courts or by the Department of Public Health under the authority granted in the Act, all authority for transfers or expenditures from the Fund is hereby suspended beginning fiscal year 2014; beginning in fiscal year 2014, expenditures in excess of those for monitors and receivers shall be made after consultation with the Long-Term Care Facility Advisory Board and based on the estimated amount of fines and penalties collected; and any funds transferred or expended in violation of this provision shall be immediately restored. Sets forth provisions concerning the Director of Public Health's plan for the reduction of violations and fines and list of recommended expenditures in excess of the amount needed for monitors and receivers. Provides that the Fund is not subject to sweeps, administrative chargebacks, or any other fiscal or budgetary maneuver that would in any way transfer any amount from the Fund into any other fund of the State. Amends various Acts to make conforming changes. Effective immediately.

LRB098 07058 RPM 37117 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning health facilities.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Department of Public Health Powers and  
5 Duties Law of the Civil Administrative Code of Illinois is  
6 amended by changing Section 2310-130 as follows:

7 (20 ILCS 2310/2310-130) (was 20 ILCS 2310/55.82)

8 Sec. 2310-130. Medicare or Medicaid certification fee;  
9 Health Care Facility and Program Survey Fund. To establish and  
10 charge a fee to any facility or program applying to be  
11 certified to participate in the Medicare program under Title  
12 XVIII of the federal Social Security Act or in the Medicaid  
13 program under Title XIX of the federal Social Security Act to  
14 cover the costs associated with the application, inspection,  
15 and survey of the facility or program and processing of the  
16 application. The Department shall establish the fee by rule,  
17 and the fee shall be based only on those application,  
18 inspection, and survey and processing costs not reimbursed to  
19 the State by the federal government. The fee shall be paid by  
20 the facility or program before the application is processed.

21 The fees received by the Department under this Section  
22 shall be deposited into the Health Care Facility and Program  
23 Survey Fund, which is hereby created as a special fund in the

1 State treasury. Moneys in the Fund shall be appropriated to the  
2 Department and may be used for any costs incurred by the  
3 Department, including personnel costs, in the processing of  
4 applications for Medicare or Medicaid certification.

5 Beginning July 1, 2011, the Department shall employ a  
6 minimum of one surveyor for every 500 licensed long term care  
7 beds. Beginning July 1, 2012, the Department shall employ a  
8 minimum of one surveyor for every 400 licensed long term care  
9 beds. Beginning July 1, 2013, the Department shall employ a  
10 minimum of one surveyor for every 300 licensed long term care  
11 beds.

12 The Department shall establish a surveyor development unit  
13 funded, subject to Section 3-518 of the Nursing Home Care Act,  
14 from money deposited in the Long Term Care Monitor/Receiver  
15 Fund.

16 (Source: P.A. 96-1372, eff. 7-29-10; 97-489, eff. 1-1-12.)

17 Section 10. The Equity in Long-term Care Quality Act is  
18 amended by changing Section 15 as follows:

19 (30 ILCS 772/15)

20 Sec. 15. Equity in Long-term Care Quality Fund.

21 (a) There is created in the State treasury a special fund  
22 to be known as the Equity in Long-term Care Quality Fund.  
23 Grants shall be funded using federal civil monetary penalties  
24 collected and deposited into the Long Term Care

1 Monitor/Receiver Fund established under the Nursing Home Care  
2 Act. Subject to appropriation and Section 3-518 of the Nursing  
3 Home Care Act, moneys in the Fund shall be used to improve the  
4 quality of nursing home care in areas without access to  
5 high-quality long-term care. Interest earned on moneys in the  
6 Fund shall be deposited into the Fund.

7 (b) The Department may use no more than 10% of the moneys  
8 deposited into the Fund in any year to administer the program  
9 established by the Fund and to implement the requirements of  
10 the Nursing Home Care Act with respect to distressed  
11 facilities.

12 (Source: P.A. 96-1372, eff. 7-29-10.)

13 Section 15. The Abuse Prevention Review Team Act is amended  
14 by changing Section 50 as follows:

15 (210 ILCS 28/50)

16 Sec. 50. Funding. Notwithstanding any other provision of  
17 law, to the extent permitted by federal law, the Department  
18 shall use moneys from fines paid by facilities licensed under  
19 the Nursing Home Care Act, the Specialized Mental Health  
20 Rehabilitation Act, or the ID/DD Community Care Act for  
21 violating requirements for certification under Titles XVIII  
22 and XIX of the Social Security Act to implement the provisions  
23 of this Act. The Department shall use moneys deposited in the  
24 Long Term Care Monitor/Receiver Fund, subject to Section 3-518

1 of the Nursing Home Care Act, to pay the costs of implementing  
2 this Act that cannot be met by the use of federal civil  
3 monetary penalties.

4 (Source: P.A. 96-339, eff. 7-1-10; 97-38, eff. 6-28-11; 97-227,  
5 eff. 1-1-12; 97-813, eff. 7-13-12.)

6 Section 20. The Nursing Home Care Act is amended by  
7 changing Section 3-103 and by adding Section 3-518 as follows:

8 (210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)

9 Sec. 3-103. The procedure for obtaining a valid license  
10 shall be as follows:

11 (1) Application to operate a facility shall be made to  
12 the Department on forms furnished by the Department.

13 (2) All license applications shall be accompanied with  
14 an application fee. The fee for an annual license shall be  
15 \$1,990. Facilities that pay a fee or assessment pursuant to  
16 Article V-C of the Illinois Public Aid Code shall be exempt  
17 from the license fee imposed under this item (2). The fee  
18 for a 2-year license shall be double the fee for the annual  
19 license. The fees collected shall be deposited with the  
20 State Treasurer into the Long Term Care Monitor/Receiver  
21 Fund, which has been created as a special fund in the State  
22 treasury. This special fund is to be used by the Department  
23 for expenses related to the appointment of monitors and  
24 receivers as contained in Sections 3-501 through 3-518

1       ~~3-517~~ of this Act, for the enforcement of this Act, for  
2       expenses related to surveyor development, and for  
3       implementation of the Abuse Prevention Review Team Act. All  
4       federal moneys received as a result of expenditures from  
5       the Fund and all interest earned on moneys in the Fund  
6       shall be deposited into the Fund. The Department may reduce  
7       or waive a penalty pursuant to Section 3-308 only if that  
8       action will not threaten the ability of the Department to  
9       meet the expenses required to be met by the Long Term Care  
10      Monitor/Receiver Fund. The application shall be under oath  
11      and the submission of false or misleading information shall  
12      be a Class A misdemeanor. The application shall contain the  
13      following information:

14           (a) The name and address of the applicant if an  
15           individual, and if a firm, partnership, or  
16           association, of every member thereof, and in the case  
17           of a corporation, the name and address thereof and of  
18           its officers and its registered agent, and in the case  
19           of a unit of local government, the name and address of  
20           its chief executive officer;

21           (b) The name and location of the facility for which  
22           a license is sought;

23           (c) The name of the person or persons under whose  
24           management or supervision the facility will be  
25           conducted;

26           (d) The number and type of residents for which

1 maintenance, personal care, or nursing is to be  
2 provided; and

3 (e) Such information relating to the number,  
4 experience, and training of the employees of the  
5 facility, any management agreements for the operation  
6 of the facility, and of the moral character of the  
7 applicant and employees as the Department may deem  
8 necessary.

9 (3) Each initial application shall be accompanied by a  
10 financial statement setting forth the financial condition  
11 of the applicant and by a statement from the unit of local  
12 government having zoning jurisdiction over the facility's  
13 location stating that the location of the facility is not  
14 in violation of a zoning ordinance. An initial application  
15 for a new facility shall be accompanied by a permit as  
16 required by the "Illinois Health Facilities Planning Act".  
17 After the application is approved, the applicant shall  
18 advise the Department every 6 months of any changes in the  
19 information originally provided in the application.

20 (4) Other information necessary to determine the  
21 identity and qualifications of an applicant to operate a  
22 facility in accordance with this Act shall be included in  
23 the application as required by the Department in  
24 regulations.

25 (Source: P.A. 96-758, eff. 8-25-09; 96-1372, eff. 7-29-10;  
26 96-1504, eff. 1-27-11; 96-1530, eff. 2-16-11; 97-489, eff.

1 1-1-12.)

2 (210 ILCS 45/3-518 new)

3 Sec. 3-518. Long Term Care Monitor/Receiver Fund.

4 (a) With regard to the Long Term Care Monitor/Receiver  
5 Fund, deposits, balances, and expenditures shall be separately  
6 maintained for all federal fees, fines, and penalties and all  
7 State fees, fines, and penalties paid into the Fund. This shall  
8 include all interest earned and all federal dollars received as  
9 a result of expenditures from the Fund. With the exception of  
10 expenditures for monitors and receivers appointed by the courts  
11 or by the Department under the authority granted in this Act,  
12 all authority for transfers or expenditures from the Fund is  
13 hereby suspended beginning fiscal year 2014. Beginning in  
14 fiscal year 2014, expenditures in excess of those for monitors  
15 and receivers shall be made after consultation with the  
16 Long-Term Care Facility Advisory Board and based on the  
17 estimated amount of fines and penalties collected as described  
18 in subsection (c) of this Section. Any funds transferred or  
19 expended in violation of this subsection shall be immediately  
20 restored.

21 (b) In the first month of each fiscal year, the Director  
22 shall prepare a plan for the reduction of violations and fines  
23 for the new fiscal year. The Director's plan shall, at a  
24 minimum, include a quarterly joint meeting of surveyors,  
25 supervisors, providers, State and regional administrators, and



1 federally-authorized long-term care ombudsman aimed at  
2 reducing violations of State and federal regulations. The  
3 Department shall solicit suggested topics from all potential  
4 attendees. To meet this requirement, the Department shall, at a  
5 minimum, post the solicitation for topics and notice of the  
6 meeting on its Internet website and request associations  
7 representing both providers and long-term care ombudsmen to  
8 notify their members.

9 (c) The plan shall also include an estimate of funds  
10 available in the Long Term Care Monitor/Receiver Fund for the  
11 upcoming fiscal year taking into account moneys required to be  
12 deposited into the Fund from all sources.

13 (d) Based on the estimate described in subsection (c) of  
14 this Section, the Director shall prepare a list of recommended  
15 expenditures in excess of the amount needed for monitors and  
16 receivers specifying the dollar amount for each to be expended  
17 for the fiscal year and identifying multi-year obligations.  
18 Expenditures associated with the Director's plan for the  
19 reduction of violations shall be given priority over all  
20 expenditures from the Fund, except those associated with  
21 payment for monitors and receivers.

22 (e) Prior to the implementation of the plan and the  
23 expenditure of funds for purposes other than the payment of  
24 monitors and receivers, the Director shall seek the advice of  
25 the Long-Term Care Facility Advisory Board, which shall meet as  
26 soon after the beginning of the fiscal year as practicable. Any

1 changes to the plan or the proposed list of expenditures shall  
2 be submitted to the Advisory Board for their comment prior to  
3 implementation. All documents shall be sent electronically to  
4 Advisory Board members at least 48 hours in advance of a  
5 scheduled meeting.

6 (f) Notwithstanding any other law to the contrary, the Long  
7 Term Care Monitor/Receiver Fund is not subject to sweeps,  
8 administrative chargebacks, or any other fiscal or budgetary  
9 maneuver that would in any way transfer any amount from the  
10 Long Term Care Monitor/Receiver Fund into any other fund of the  
11 State.

12 Section 25. The ID/DD Community Care Act is amended by  
13 changing Section 3-103 as follows:

14 (210 ILCS 47/3-103)

15 Sec. 3-103. Application for license; financial statement.  
16 The procedure for obtaining a valid license shall be as  
17 follows:

18 (1) Application to operate a facility shall be made to  
19 the Department on forms furnished by the Department.

20 (2) All license applications shall be accompanied with  
21 an application fee. The fee for an annual license shall be  
22 \$995. Facilities that pay a fee or assessment pursuant to  
23 Article V-C of the Illinois Public Aid Code shall be exempt  
24 from the license fee imposed under this item (2). The fee

1 for a 2-year license shall be double the fee for the annual  
2 license set forth in the preceding sentence. The fees  
3 collected shall be deposited with the State Treasurer into  
4 the Long Term Care Monitor/Receiver Fund, which has been  
5 created as a special fund in the State treasury. This  
6 special fund is to be used by the Department for expenses  
7 related to the appointment of monitors and receivers as  
8 contained in Sections 3-501 through 3-517 of this Act and  
9 Section 3-518 of the Nursing Home Care Act. At the end of  
10 each fiscal year, any funds in excess of \$1,000,000 held in  
11 the Long Term Care Monitor/Receiver Fund shall be deposited  
12 in the State's General Revenue Fund. The application shall  
13 be under oath and the submission of false or misleading  
14 information shall be a Class A misdemeanor. The application  
15 shall contain the following information:

16 (a) The name and address of the applicant if an  
17 individual, and if a firm, partnership, or  
18 association, of every member thereof, and in the case  
19 of a corporation, the name and address thereof and of  
20 its officers and its registered agent, and in the case  
21 of a unit of local government, the name and address of  
22 its chief executive officer;

23 (b) The name and location of the facility for which  
24 a license is sought;

25 (c) The name of the person or persons under whose  
26 management or supervision the facility will be

1 conducted;

2 (d) The number and type of residents for which  
3 maintenance, personal care, or nursing is to be  
4 provided; and

5 (e) Such information relating to the number,  
6 experience, and training of the employees of the  
7 facility, any management agreements for the operation  
8 of the facility, and of the moral character of the  
9 applicant and employees as the Department may deem  
10 necessary.

11 (3) Each initial application shall be accompanied by a  
12 financial statement setting forth the financial condition  
13 of the applicant and by a statement from the unit of local  
14 government having zoning jurisdiction over the facility's  
15 location stating that the location of the facility is not  
16 in violation of a zoning ordinance. An initial application  
17 for a new facility shall be accompanied by a permit as  
18 required by the Illinois Health Facilities Planning Act.  
19 After the application is approved, the applicant shall  
20 advise the Department every 6 months of any changes in the  
21 information originally provided in the application.

22 (4) Other information necessary to determine the  
23 identity and qualifications of an applicant to operate a  
24 facility in accordance with this Act shall be included in  
25 the application as required by the Department in  
26 regulations.

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

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 20 ILCS 2310/2310-130 was 20 ILCS 2310/55.82

4 30 ILCS 772/15

5 210 ILCS 28/50

6 210 ILCS 45/3-103 from Ch. 111 1/2, par. 4153-103

7 210 ILCS 45/3-518 new

8 210 ILCS 47/3-103