



Sen. Mattie Hunter

Filed: 2/22/2010

09600SB3038sam001

LRB096 17649 KTG 36175 a

1 AMENDMENT TO SENATE BILL 3038

2 AMENDMENT NO. _____. Amend Senate Bill 3038 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The MR/DD Community Care Act is amended by
5 changing Sections 1-101.05, 2-112, 2-203, 2-204, and 3-303.1 as
6 follows:

7 (210 ILCS 47/1-101.05)

8 (This Section may contain text from a Public Act with a
9 delayed effective date)

10 Sec. 1-101.05. Prior law.

11 (a) This Act provides for licensure of intermediate care
12 facilities for the developmentally disabled and long-term care
13 for under age 22 facilities under this Act instead of under the
14 Nursing Home Care Act. On and after the effective date of this
15 Act, those facilities shall be governed by this Act instead of
16 the Nursing Home Care Act.

1 (b) (Blank) ~~If any other Act of the General Assembly~~
2 ~~changes, adds, or repeals a provision of the Nursing Home Care~~
3 ~~Act that is the same as or substantially similar to a provision~~
4 ~~of this Act, then that change, addition, or repeal in the~~
5 ~~Nursing Home Care Act shall be construed together with this~~
6 ~~Act.~~

7 (c) Nothing in this Act affects the validity or effect of
8 any finding, decision, or action made or taken by the
9 Department or the Director under the Nursing Home Care Act
10 before the effective date of this Act with respect to a
11 facility subject to licensure under this Act. That finding,
12 decision, or action shall continue to apply to the facility on
13 and after the effective date of this Act. Any finding,
14 decision, or action with respect to the facility made or taken
15 on or after the effective date of this Act shall be made or
16 taken as provided in this Act.

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

18 (210 ILCS 47/2-112)

19 (This Section may contain text from a Public Act with a
20 delayed effective date)

21 Sec. 2-112. Grievances. A resident shall be permitted to
22 present grievances on behalf of himself or herself or others to
23 the administrator, the DD ~~Long Term Care~~ Facility Advisory
24 Board established under Section 2-204 of this Act ~~the Nursing~~
25 ~~Home Care Act~~, the residents' advisory council, State

1 governmental agencies or other persons without threat of
2 discharge or reprisal in any form or manner whatsoever. The
3 administrator shall provide all residents or their
4 representatives with the name, address, and telephone number of
5 the appropriate State governmental office where complaints may
6 be lodged.

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

8 (210 ILCS 47/2-203)

9 (This Section may contain text from a Public Act with a
10 delayed effective date)

11 Sec. 2-203. Residents' advisory council. Each facility
12 shall establish a residents' advisory council. The
13 administrator shall designate a member of the facility staff to
14 coordinate the establishment of, and render assistance to, the
15 council.

16 (a) The composition of the residents' advisory council
17 shall be specified by Department regulation, but no employee or
18 affiliate of a facility shall be a member of any council.

19 (b) The council shall meet at least once each month with
20 the staff coordinator who shall provide assistance to the
21 council in preparing and disseminating a report of each meeting
22 to all residents, the administrator, and the staff.

23 (c) Records of the council meetings will be maintained in
24 the office of the administrator.

25 (d) The residents' advisory council may communicate to the

1 administrator the opinions and concerns of the residents. The
2 council shall review procedures for implementing resident
3 rights, facility responsibilities and make recommendations for
4 changes or additions which will strengthen the facility's
5 policies and procedures as they affect residents' rights and
6 facility responsibilities.

7 (e) The council shall be a forum for:

8 (1) Obtaining and disseminating information;

9 (2) Soliciting and adopting recommendations for
10 facility programing and improvements;

11 (3) Early identification and for recommending orderly
12 resolution of problems.

13 (f) The council may present complaints as provided in
14 Section 3-702 on behalf of a resident to the Department, the DD
15 ~~Long Term Care~~ Facility Advisory Board established under
16 Section 2-204 of this Act ~~the Nursing Home Care Act~~ or to any
17 other person it considers appropriate.

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

19 (210 ILCS 47/2-204)

20 (This Section may contain text from a Public Act with a
21 delayed effective date)

22 Sec. 2-204. DD ~~Long Term Care~~ Facility Advisory Board. The
23 Director shall appoint a DD Facility Advisory Board to consult
24 with the Department and the residents' advisory councils
25 created under Section 2-203.

1 (a) The Advisory Board shall be composed of the following
2 persons:

3 (1) the Director who shall serve as chairperson, ex
4 officio, and nonvoting;

5 (2) one representative each of the Department of
6 Healthcare and Family Services, the Department of Human
7 Services, and the Office of the State Fire Marshal, all
8 nonvoting members;

9 (3) one member who shall be a physician licensed to
10 practice medicine in all its branches;

11 (4) one member who shall be a behavioral specialist
12 selected from the recommendations of the Department of
13 Human Services;

14 (5) three members who shall be selected from the
15 recommendations by organizations whose membership consists
16 of facilities;

17 (6) two members who shall represent the general public
18 who are not members of a residents' advisory council
19 established under Section 2-203 and who have no
20 responsibility for management or formation of policy or
21 financial interest in a facility;

22 (7) one member who is a member of a residents' advisory
23 council established under Section 2-203 and is capable of
24 actively participating on the Advisory Board; and

25 (8) one member who shall be selected from the
26 recommendations of consumer organizations that engage

1 solely in advocacy or legal representation on behalf of
2 residents and their immediate families.

3 (b) The Advisory Board shall meet as frequently as the
4 chairperson deems necessary, but not less than 4 times each
5 year. Upon request by 4 or more members, the chairperson shall
6 call a meeting of the Advisory Board. The affirmative vote of 6
7 members of the Advisory Board shall be necessary for Advisory
8 Board action. A member of the Advisory Board may designate a
9 replacement to serve at the Advisory Board meeting and vote in
10 place of the member by submitting a letter of designation to
11 the chairperson prior to or at the Advisory Board meeting. The
12 Advisory Board members shall be reimbursed for their actual
13 expenses incurred in the performance of their duties.

14 (c) The Advisory Board shall advise the Department of
15 Public Health on all aspects of its responsibilities under this
16 Act, including the format and content of any rules promulgated
17 by the Department of Public Health. Any such rules, except
18 emergency rules promulgated pursuant to Section 5-45 of the
19 Illinois Administrative Procedure Act, promulgated without
20 obtaining the advice of the Advisory Board are null and void.
21 If the Department fails to follow the advice of the Advisory
22 Board, the Department shall, prior to the promulgation of such
23 rules, transmit a written explanation of the reason therefor to
24 the Advisory Board. During its review of rules, the Advisory
25 Board shall analyze the economic and regulatory impact of those
26 rules. If the Advisory Board, having been asked for its advice,

1 fails to advise the Department within 90 days, the rules shall
2 be considered acted upon. ~~The Long Term Care Facility Advisory~~
3 ~~Board established under Section 2-204 of the Nursing Home Care~~
4 ~~Act shall advise the Department of Public Health on all aspects~~
5 ~~of its responsibilities under this Act, including the format~~
6 ~~and content of any rules promulgated by the Department of~~
7 ~~Public Health. Any such rules, except emergency rules~~
8 ~~promulgated pursuant to Section 5-45 of the Illinois~~
9 ~~Administrative Procedure Act, promulgated without obtaining~~
10 ~~the advice of the Advisory Board are null and void. In the~~
11 ~~event that the Department fails to follow the advice of the~~
12 ~~Board, the Department shall, prior to the promulgation of such~~
13 ~~rules, transmit a written explanation of the reason thereof to~~
14 ~~the Board. During its review of rules, the Board shall analyze~~
15 ~~the economic and regulatory impact of those rules. If the~~
16 ~~Advisory Board, having been asked for its advice, fails to~~
17 ~~advise the Department within 90 days, the rules shall be~~
18 ~~considered acted upon.~~

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

20 (210 ILCS 47/3-303.1)

21 (This Section may contain text from a Public Act with a
22 delayed effective date)

23 Sec. 3-303.1. Waiver of facility's compliance with rule or
24 standard. Upon application by a facility, the Director may
25 grant or renew the waiver of the facility's compliance with a

1 rule or standard for a period not to exceed the duration of the
2 current license or, in the case of an application for license
3 renewal, the duration of the renewal period. The waiver may be
4 conditioned upon the facility taking action prescribed by the
5 Director as a measure equivalent to compliance. In determining
6 whether to grant or renew a waiver, the Director shall consider
7 the duration and basis for any current waiver with respect to
8 the same rule or standard and the validity and effect upon
9 patient health and safety of extending it on the same basis,
10 the effect upon the health and safety of residents, the quality
11 of resident care, the facility's history of compliance with the
12 rules and standards of this Act and the facility's attempts to
13 comply with the particular rule or standard in question. The
14 Department may provide, by rule, for the automatic renewal of
15 waivers concerning physical plant requirements upon the
16 renewal of a license. The Department shall renew waivers
17 relating to physical plant standards issued pursuant to this
18 Section at the time of the indicated reviews, unless it can
19 show why such waivers should not be extended for the following
20 reasons:

21 (a) the condition of the physical plant has deteriorated or
22 its use substantially changed so that the basis upon which the
23 waiver was issued is materially different; or

24 (b) the facility is renovated or substantially remodeled in
25 such a way as to permit compliance with the applicable rules
26 and standards without substantial increase in cost. A copy of

1 each waiver application and each waiver granted or renewed
2 shall be on file with the Department and available for public
3 inspection. The Director shall annually review such file and
4 recommend to the DD Long-Term Care Facility Advisory Board
5 established under Section 2-204 of this Act ~~Section 2-204 of~~
6 ~~the Nursing Home Care Act~~ any modification in rules or
7 standards suggested by the number and nature of waivers
8 requested and granted and the difficulties faced in compliance
9 by similarly situated facilities.

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

11 Section 99. Effective date. This Act takes effect July 1,
12 2010."