



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5130

Introduced 2/8/2012, by Rep. Michael Unes - David R. Leitch -
Jehan A. Gordon

SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-702

from Ch. 111 1/2, par. 4153-702

Amends the Nursing Home Care Act. Provides that when the Department of Public Health receives a complaint of a violation of the Act or the Department's rules, the Department shall require (instead of request) information identifying the complainant, and requires that the identifying information include the complainant's relationship to the facility. Provides that if the Department has a good faith belief, based on information that comes to its attention, that a complaint is frivolous, intended to harass, or intended to defraud the Department, the Department shall (i) impose on the complainant a civil monetary penalty in the amount of \$125 and (ii) include the complainant's name on a list of violators published quarterly. Also provides that if the complainant is licensed or certified by the Department or by the Department of Financial and Professional Regulation, then, subject to the requirements of the Department's Health Care Worker Registry, the Department shall forward the complainant's name to the appropriate agency for further action. Effective January 1, 2013.

LRB097 17324 DRJ 62525 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Nursing Home Care Act is amended by changing
5 Section 3-702 as follows:

6 (210 ILCS 45/3-702) (from Ch. 111 1/2, par. 4153-702)

7 Sec. 3-702. (a) A person who believes that this Act or a
8 rule promulgated under this Act may have been violated may
9 request an investigation. The request may be submitted to the
10 Department in writing, by telephone, or by personal visit. An
11 oral complaint shall be reduced to writing by the Department.
12 The Department shall require ~~request~~ information identifying
13 the complainant, including the name, address, ~~and~~ telephone
14 number, and relationship to the facility that is the subject of
15 the complaint, to help enable appropriate follow-up. The
16 Department shall act on such complaints via on-site visits or
17 other methods deemed appropriate to handle the complaints with
18 ~~or without~~ such identifying information, as otherwise provided
19 under this Section. The complainant shall be informed that
20 compliance with such request is ~~not~~ required to satisfy the
21 procedures for filing a complaint under this Act. If the
22 Department has a good faith belief, based on information that
23 comes to its attention, that a complaint is frivolous, intended

1 to harass, or intended to defraud the Department, the
2 Department shall (i) impose on the complainant a civil monetary
3 penalty in the amount of \$125 and (ii) include the
4 complainant's name on a list of violators published quarterly.
5 In addition, if the complainant is licensed or certified by the
6 Department or by the Department of Financial and Professional
7 Regulation, then, subject to the requirements of the
8 Department's Health Care Worker Registry, the Department shall
9 forward the complainant's name to the appropriate agency for
10 further action.

11 (b) The substance of the complaint shall be provided in
12 writing to the licensee, owner or administrator no earlier than
13 at the commencement of an on-site inspection of the facility
14 which takes place pursuant to the complaint.

15 (c) The Department shall not disclose the name of the
16 complainant unless the complainant consents in writing to the
17 disclosure or the investigation results in a judicial
18 proceeding, or unless disclosure is essential to the
19 investigation. The complainant shall be given the opportunity
20 to withdraw the complaint before disclosure. Upon the request
21 of the complainant, the Department may permit the complainant
22 or a representative of the complainant to accompany the person
23 making the on-site inspection of the facility.

24 (d) Upon receipt of a complaint, the Department shall
25 determine whether this Act or a rule promulgated under this Act
26 has been or is being violated. The Department shall investigate

1 all complaints alleging abuse or neglect within 7 days after
2 the receipt of the complaint except that complaints of abuse or
3 neglect which indicate that a resident's life or safety is in
4 imminent danger shall be investigated within 24 hours after
5 receipt of the complaint. All other complaints shall be
6 investigated within 30 days after the receipt of the complaint.
7 The Department employees investigating a complaint shall
8 conduct a brief, informal exit conference with the facility to
9 alert its administration of any suspected serious deficiency
10 that poses a direct threat to the health, safety or welfare of
11 a resident to enable an immediate correction for the
12 alleviation or elimination of such threat. Such information and
13 findings discussed in the brief exit conference shall become a
14 part of the investigating record but shall not in any way
15 constitute an official or final notice of violation as provided
16 under Section 3-301. All complaints shall be classified as "an
17 invalid report", "a valid report", or "an undetermined report".
18 For any complaint classified as "a valid report", the
19 Department must determine within 30 working days if any rule or
20 provision of this Act has been or is being violated.

21 (d-1) The Department shall, whenever possible, combine an
22 on-site investigation of a complaint in a facility with other
23 inspections in order to avoid duplication of inspections.

24 (e) In all cases, the Department shall inform the
25 complainant of its findings within 10 days of its determination
26 unless otherwise indicated by the complainant, and the

1 complainant may direct the Department to send a copy of such
2 findings to another person. The Department's findings may
3 include comments or documentation provided by either the
4 complainant or the licensee pertaining to the complaint. The
5 Department shall also notify the facility of such findings
6 within 10 days of the determination, but the name of the
7 complainant or residents shall not be disclosed in this notice
8 to the facility. The notice of such findings shall include a
9 copy of the written determination; the correction order, if
10 any; the warning notice, if any; the inspection report; or the
11 State licensure form on which the violation is listed.

12 (f) A written determination, correction order, or warning
13 notice concerning a complaint, together with the facility's
14 response, shall be available for public inspection, but the
15 name of the complainant or resident shall not be disclosed
16 without his consent.

17 (g) A complainant who is dissatisfied with the
18 determination or investigation by the Department may request a
19 hearing under Section 3-703. The facility shall be given notice
20 of any such hearing and may participate in the hearing as a
21 party. If a facility requests a hearing under Section 3-703
22 which concerns a matter covered by a complaint, the complainant
23 shall be given notice and may participate in the hearing as a
24 party. A request for a hearing by either a complainant or a
25 facility shall be submitted in writing to the Department within
26 30 days after the mailing of the Department's findings as

1 described in subsection (e) of this Section. Upon receipt of
2 the request the Department shall conduct a hearing as provided
3 under Section 3-703.

4 (h) Any person who knowingly transmits a false report to
5 the Department commits the offense of disorderly conduct under
6 subsection (a)(8) of Section 26-1 of the "Criminal Code of
7 1961".

8 (Source: P.A. 85-1378.)

9 Section 99. Effective date. This Act takes effect January
10 1, 2013.