



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3710

by Rep. Deb Conroy

SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-304.2

210 ILCS 45/3-501

from Ch. 111 1/2, par. 4153-501

Amends the Nursing Home Care Act. Replaces provisions concerning designation of distressed facilities with language providing that: by January 1, 2021, and quarterly thereafter, the Department of Public Health shall generate and publish a list of no more than 10 distressed facilities at any one time; the facilities shall be selected using criteria established by rule for both certified and noncertified facilities and that certified facilities shall be selected from the Centers for Medicare and Medicaid Services' Special Focus Facility Candidate List; the Department shall notify each facility within 30 days of that facility's distressed designation and that a facility has 30 days after that notification to register an appeal; the Department may, using criteria established by rule, place a monitor in a facility designated as a distressed facility; the Department shall notify a facility at least 30 days prior to placement of a monitor in the facility and that, if any deficiencies or violations have not been corrected within 30 days of being publicly designated as a distressed facility, the facility shall develop and assist in the implementation of a plan of improvement; and once a facility has proven to be without health deficiencies for 12 months it shall be removed from the distressed facilities list. Makes other changes.

LRB101 08787 CPF 53874 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 Sections 3-304.2 and 3-501 as follows:

6 (210 ILCS 45/3-304.2)

7 Sec. 3-304.2. Designation of distressed facilities.

8 (a) By January 1, 2021 ~~May 1, 2011~~, and quarterly
9 thereafter, the Department shall generate and publish
10 ~~quarterly~~ a list of no more than 10 distressed facilities at
11 any one time. The facilities shall be selected using criteria
12 established by rule for both certified and noncertified
13 facilities. Certified facilities shall be selected from the
14 Centers for Medicare and Medicaid Services' Special Focus
15 Facility Candidate List. ~~Criteria for inclusion of certified~~
16 ~~facilities on the list shall be those used by the U.S. General~~
17 ~~Accounting Office in report 9 689, until such time as the~~
18 ~~Department by rule modifies the criteria.~~

19 (b) (Blank). ~~In deciding whether and how to modify the~~
20 ~~criteria used by the General Accounting Office, the Department~~
21 ~~shall complete a test run of any substitute criteria to~~
22 ~~determine their reliability by comparing the number of~~
23 ~~facilities identified as distressed against the number of~~

1 ~~distressed facilities generated using the criteria contained~~
2 ~~in the General Accounting Office report. The Department may not~~
3 ~~adopt substitute criteria that generate fewer facilities with a~~
4 ~~distressed designation than are produced by the General~~
5 ~~Accounting Office criteria during the test run.~~

6 (c) The Department shall, by rule, adopt criteria to
7 identify non-Medicaid-certified facilities that are distressed
8 and shall publish this list quarterly beginning October 1,
9 2011.

10 (d) The Department shall notify each facility within 30
11 days of its distressed designation, and of the calculation on
12 which it is based. A facility has 30 days after receipt of the
13 notification to register an appeal of the distressed facility
14 designation. The appeal may assert that the deficiencies
15 -serving as a basis for the designation have been corrected or
16 substantially corrected and that the operator has made a good
17 faith effort to complete the plan of corrections, or that
18 errors were made by the Centers for Medicare and Medicaid in
19 placing the facility on the Special Focus Facility Candidate
20 List. The designation shall not be made public until the appeal
21 process has been exhausted.

22 (e) ~~The A distressed facility may contract with an~~
23 ~~independent consultant meeting criteria established by the~~
24 ~~Department. If the distressed facility does not seek the~~
25 ~~assistance of an independent consultant, the Department may,~~
26 using criteria established by rule, shall place a monitor or a

1 ~~temporary manager~~ in ~~a~~ the facility designated as a distressed
2 facility, depending on the Department's assessment of the
3 condition of the facility. The Department shall notify a
4 facility at least 30 days before placing a monitor in that
5 facility. The facility has 30 days after receipt of
6 notification by the Department to appeal the placement of a
7 monitor. The monitor shall not remain in the facility longer
8 than 60 days unless a redetermination is made by the Department
9 that the placement of the monitor is still warranted and
10 evidence exists that the facility is not making a good faith
11 effort to correct the deficiencies or violations that led to
12 the facility's designation as a distressed facility.

13 (f) If any deficiencies or violations have not been
14 corrected within 30 days after being publicly designated as a
15 distressed facility, the facility shall ~~Independent~~
16 ~~consultant. A facility that has been designated a distressed~~
17 ~~facility may contract with an independent consultant to develop~~
18 and assist in the implementation of a plan of improvement to
19 bring and keep the facility in compliance with this Act and, if
20 applicable, with federal certification requirements. A
21 facility ~~that contracts with an independent consultant~~ shall
22 have 90 days to develop a plan of improvement and demonstrate a
23 good faith effort at implementation, and another 90 days to
24 achieve compliance and take whatever additional actions are
25 called for in the improvement plan to correct the deficiencies
26 or violations that led to its designation as a distressed

1 facility ~~maintain compliance~~. A facility that the Department
2 determines has a plan of improvement likely to correct the
3 deficiencies or violations ~~bring and keep the facility in~~
4 ~~compliance~~ and that has demonstrated good faith efforts at
5 implementation within the first 90 days may be eligible to
6 receive a grant under the Equity in Long-term Care Quality Act
7 to assist it in achieving and maintaining compliance. Criteria
8 for determining how the grant is awarded shall be established
9 by the Department by rule. ~~In this subsection, "independent"~~
10 ~~consultant means an individual who has no professional or~~
11 ~~financial relationship with the facility, any person with a~~
12 ~~reportable ownership interest in the facility, or any related~~
13 ~~parties. In this subsection, "related parties" has the meaning~~
14 ~~attributed to it in the instructions for completing Medicaid~~
15 ~~cost reports.~~

16 (f-5) Once a facility on the distressed facilities list has
17 proven to be without health deficiencies above scope and
18 severity level E, Life Safety Code deficiencies above scope and
19 severity level F, or State violations above Type C for 12
20 months, it shall be removed from the distressed facilities
21 list. A facility that fails to meet the criteria for removal
22 solely because of a level F deficiency cited under Tag F371 of
23 the federal requirements shall be removed from the distressed
24 facilities list unless the Department is required to keep the
25 facility on the list by criteria established by the Department
26 by rule. ~~Monitor and temporary managers. A distressed facility~~

1 ~~that does not contract with a consultant shall be assigned a~~
2 ~~monitor or a temporary manager at the Department's discretion.~~
3 ~~The cost of the temporary manager shall be paid by the~~
4 ~~facility. The temporary manager shall have the authority~~
5 ~~determined by the Department, which may grant the temporary~~
6 ~~manager any or all of the authority a court may grant a~~
7 ~~receiver. The temporary manager may apply to the Equity in~~
8 ~~Long term Care Quality Fund for grant funds to implement the~~
9 ~~plan of improvement.~~

10 (g) (Blank). ~~The Department shall by rule establish a~~
11 ~~mentor program for owners of distressed facilities.~~

12 (h) The Department shall by rule establish sanctions ~~(in~~
13 ~~addition to those authorized elsewhere in this Article)~~ against
14 distressed facilities that are not in compliance with this Act
15 and (if applicable) with federal certification requirements.
16 Criteria for imposing sanctions shall take into account a
17 facility's actions to address the violations and deficiencies
18 that caused its designation as a distressed facility, and its
19 compliance with this Act and with federal certification
20 requirements (if applicable), subsequent to its designation as
21 a distressed facility, ~~including mandatory revocations if~~
22 ~~criteria can be agreed upon by the Department, resident~~
23 ~~advocates, and representatives of the nursing home profession.~~
24 By February 1, 2022 ~~February 1, 2011~~, the Department shall
25 report to the General Assembly on the results of negotiations
26 about creating criteria for mandatory license revocations of

1 distressed facilities and make recommendations about any
2 statutory changes it believes are appropriate to protect the
3 health, safety, and welfare of nursing home residents.

4 (i) (Blank). ~~The Department may establish by rule criteria~~
5 ~~for restricting the owner of a facility on the distressed list~~
6 ~~from acquiring additional skilled nursing facilities.~~

7 (Source: P.A. 96-1372, eff. 7-29-10; 97-813, eff. 7-13-12.)

8 (210 ILCS 45/3-501) (from Ch. 111 1/2, par. 4153-501)

9 Sec. 3-501. The Department may place an employee or agent
10 to serve as a monitor in a facility or may petition the circuit
11 court for appointment of a receiver for a facility, or both,
12 when any of the following conditions exist:

13 (a) The facility is operating without a license;

14 (b) The Department has suspended, revoked or refused to
15 renew the existing license of the facility;

16 (c) The facility is closing or has informed the
17 Department that it intends to close and adequate
18 arrangements for relocation of residents have not been made
19 at least 30 days prior to closure;

20 (d) The Department determines that an emergency
21 exists, whether or not it has initiated revocation or
22 nonrenewal procedures, if because of the unwillingness or
23 inability of the licensee to remedy the emergency the
24 Department believes a monitor or receiver is necessary;

25 (e) The Department is notified that the facility is

1 terminated or will not be renewed for participation in the
2 federal reimbursement program under either Title XVIII or
3 Title XIX of the Social Security Act; or

4 (f) The facility has been designated a distressed
5 facility by the Department and the criteria set forth in
6 subsection (e) and does not have a consultant employed
7 pursuant to subsection (f) of Section 3-304.2 for placing
8 and retaining a monitor have been met. ~~and an acceptable~~
9 ~~plan of improvement, or the Department has reason to~~
10 ~~believe the facility is not complying with the plan of~~
11 ~~improvement.~~ Nothing in this paragraph (f) shall preclude
12 the Department from placing a monitor in a facility if
13 otherwise justified by law.

14 As used in subsection (d) and Section 3-503, "emergency"
15 means a threat to the health, safety or welfare of a resident
16 that the facility is unwilling or unable to correct.

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