



Rep. Anna Moeller

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10300HB2076ham001

LRB103 27114 AWJ 59426 a

1 AMENDMENT TO HOUSE BILL 2076

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2076 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Nursing Home Care Act is amended by  
5 changing Section 3-304.2 as follows:

6 (210 ILCS 45/3-304.2)

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

8 (a) (Blank). ~~By May 1, 2011, and quarterly thereafter, the~~  
9 ~~Department shall generate and publish quarterly a list of~~  
10 ~~distressed facilities. Criteria for inclusion of certified~~  
11 ~~facilities on the list shall be those used by the U.S. General~~  
12 ~~Accounting Office in report 9-689, until such time as the~~  
13 ~~Department by rule modifies the criteria.~~

14 (b) (Blank). ~~In deciding whether and how to modify the~~  
15 ~~criteria used by the General Accounting Office, the Department~~  
16 ~~shall complete a test run of any substitute criteria to~~

1 ~~determine their reliability by comparing the number of~~  
2 ~~facilities identified as distressed against the number of~~  
3 ~~distressed facilities generated using the criteria contained~~  
4 ~~in the General Accounting Office report. The Department may~~  
5 ~~not adopt substitute criteria that generate fewer facilities~~  
6 ~~with a distressed designation than are produced by the General~~  
7 ~~Accounting Office criteria during the test run.~~

8 (b-5) The Department shall, by rule, adopt criteria to  
9 identify distressed facilities and shall publish a list of  
10 distressed facilities quarterly. The Department shall, by  
11 rule, create a timeframe and a procedure on how a facility can  
12 be removed from the list. No facility shall be identified as a  
13 distressed facility unless it has committed a violation or  
14 deficiency that has harmed a resident.

15 (c) The Department shall, by rule, adopt criteria to  
16 identify non-Medicaid-certified facilities that are distressed  
17 and shall publish this list quarterly. The list may not  
18 contain more than 40 facilities per quarter ~~beginning October~~  
19 ~~1, 2011.~~

20 (d) The Department shall notify each facility of its  
21 distressed designation, and of the calculation on which it is  
22 based. A facility has the right to appeal a designation, and  
23 the procedure for appealing shall be outlined in rule.

24 (e) A distressed facility may contract with an independent  
25 consultant meeting criteria established by the Department. If  
26 the distressed facility does not seek the assistance of an

1 independent consultant, the Department shall place a monitor  
2 ~~or a temporary manager~~ in the facility, depending on the  
3 Department's assessment of the condition of the facility.

4 (f) ~~Independent consultant.~~ A facility that has been  
5 designated a distressed facility may contract with an  
6 independent consultant to develop and assist in the  
7 implementation of a plan of improvement to bring and keep the  
8 facility in compliance with this Act and, if applicable, with  
9 federal certification requirements. A facility that contracts  
10 with an independent consultant shall have 90 days to develop a  
11 plan of improvement and demonstrate a good faith effort at  
12 implementation, and another 90 days to achieve compliance and  
13 take whatever additional actions are called for in the  
14 improvement plan to maintain compliance. A facility that the  
15 Department determines has a plan of improvement likely to  
16 bring and keep the facility in compliance and that has  
17 demonstrated good faith efforts at implementation within the  
18 first 90 days may be eligible to receive a grant under the  
19 Equity in Long-term Care Quality Act to assist it in achieving  
20 and maintaining compliance. In this subsection, "independent"  
21 consultant means an individual who has no professional or  
22 financial relationship with the facility, any person with a  
23 reportable ownership interest in the facility, or any related  
24 parties. In this subsection, "related parties" has the meaning  
25 attributed to it in the instructions for completing Medicaid  
26 cost reports.

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

11           (g) The Department shall, by rule, establish a mentor  
12 program for owners and operators of distressed facilities. The  
13 mentor program shall provide technical assistance and guidance  
14 to facilities.

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

1 profession. By February 1, 2011, the Department shall report  
2 to the General Assembly on the results of negotiations about  
3 creating criteria for mandatory license revocations of  
4 distressed facilities and make recommendations about any  
5 statutory changes it believes are appropriate to protect the  
6 health, safety, and welfare of nursing home residents.

7 (i) The Department may establish, by rule, criteria for  
8 restricting an owner of a facility from acquiring additional  
9 nursing facilities if the ~~owner of a facility was placed~~ on the  
10 distressed list while it was owned by that owner ~~from~~  
11 acquiring additional skilled nursing facilities. The  
12 Department may not prohibit an owner who acquires ownership of  
13 a facility that is already on the distressed facility list  
14 before the owner's acquisition of the facility from acquiring  
15 additional skilled nursing facilities.

16 (j) This Section does not apply to homes, institutions, or  
17 other places operated by or under the authority of the  
18 Illinois Department of Veterans' Affairs as these facilities  
19 are certified by the United States Department of Veterans  
20 Affairs and not the Centers for Medicare and Medicaid  
21 Services.

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