



Rep. Harry Osterman

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09600SB2863ham001

LRB096 16937 DRJ 41399 a

1 AMENDMENT TO SENATE BILL 2863

2 AMENDMENT NO. _____. Amend Senate Bill 2863 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Nursing Home Care Act is amended by adding
5 Section 3-808.5 as follows:

6 (210 ILCS 45/3-808.5 new)

7 Sec. 3-808.5. Nursing home fraud, abuse, and neglect
8 prevention and reporting.

9 (a) Every licensed long term care facility that receives
10 Medicaid funding shall prominently display in its lobby, in its
11 dining areas, and on each floor of the facility information
12 approved by the Illinois Medicaid Fraud Control Unit on how to
13 report fraud, abuse, and neglect. In addition, information
14 regarding the reporting of fraud, abuse, and neglect shall be
15 provided to each resident at the time of admission and to the
16 resident's family members or emergency contacts, or to both the

1 resident's family members and his or her emergency contacts.

2 (b) Any owner or licensee of a long term care facility
3 licensed under this Act shall be responsible for the collection
4 and maintenance of any and all records required to be
5 maintained under this Section and any other applicable
6 provisions of this Act, and as a provider under the Illinois
7 Public Aid Code, and shall be responsible for compliance with
8 all of the disclosure requirements under this Section. All
9 books and records and other papers and documents that are
10 required to be kept, and all records showing compliance with
11 all of the disclosure requirements to be made pursuant to this
12 Section, shall be kept at the facility and shall, at all times
13 during business hours, be subject to inspection by any law
14 enforcement or health oversight agency or its duly authorized
15 agents or employees.

16 (c) Any report of abuse and neglect of residents made by
17 any individual in whatever manner, including, but not limited
18 to, reports made under Sections 2-107 and 3-610 of this Act, or
19 as provided under the Abused and Neglected Long Term Care
20 Facility Residents Reporting Act, that is made to an
21 administrator, a director of nursing, or any other person with
22 management responsibility at a long term care facility must be
23 disclosed to the owners and licensee of the facility within 24
24 hours of the report. The owners and licensee of a long term
25 care facility shall maintain all records necessary to show
26 compliance with this disclosure requirement.

1 (d) Any person with an ownership interest in a long term
2 care facility licensed by the Department must, within 30 days
3 of the effective date of this amendatory Act of the 96th
4 General Assembly, disclose the existence of any ownership
5 interest in any vendor who does business with the facility. The
6 disclosures required by this subsection shall be made in the
7 form and manner prescribed by the Department. Licensed long
8 term care facilities who receive Medicaid funding shall submit
9 a copy of the disclosures required by this subsection to the
10 Illinois Medicaid Fraud Control Unit. The owners and licensee
11 of a long term care facility shall maintain all records
12 necessary to show compliance with this disclosure requirement.

13 (e) Notwithstanding the provisions of Section 3-318 of this
14 Act, and in addition thereto, any person, owner, or licensee
15 who willfully fails to keep and maintain, or willfully fails to
16 produce for inspection, books and records, or willfully fails
17 to make the disclosures required by this Section, is guilty of
18 a Class A misdemeanor. A second or subsequent violation of this
19 Section shall be punishable as a Class 4 felony.

20 (f) Any owner or licensee who willfully files or willfully
21 causes to be filed a document with false information with the
22 Department, the Department of Healthcare and Family Services,
23 or the Illinois Medicaid Fraud Control Unit or any other law
24 enforcement agency, is guilty of a Class A misdemeanor.

25 Section 10. The Criminal Code of 1961 is amended by

1 changing Section 12-19 as follows:

2 (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

3 (Text of Section before amendment by P.A. 96-339)

4 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care
5 Facility Resident.

6 (a) Any person or any owner or licensee of a long term care
7 facility who abuses a long term care facility resident is
8 guilty of a Class 3 felony. Any person or any owner or licensee
9 of a long term care facility who criminally neglects a long
10 term care facility resident is guilty of a Class 4 felony. A
11 person whose criminal neglect of a long term care facility
12 resident results in the resident's death is guilty of a Class 3
13 felony. However, nothing herein shall be deemed to apply to a
14 physician licensed to practice medicine in all its branches or
15 a duly licensed nurse providing care within the scope of his or
16 her professional judgment and within the accepted standards of
17 care within the community.

18 (b) Notwithstanding the penalties in subsections (a) and
19 (c) and in addition thereto, if a licensee or owner of a long
20 term care facility or his or her employee has caused neglect of
21 a resident, the licensee or owner is guilty of a petty offense.
22 An owner or licensee is guilty under this subsection (b) only
23 if the owner or licensee failed to exercise reasonable care in
24 the hiring, training, supervising or providing of staff or
25 other related routine administrative responsibilities.

1 (c) Notwithstanding the penalties in subsections (a) and
2 (b) and in addition thereto, if a licensee or owner of a long
3 term care facility or his or her employee has caused gross
4 neglect of a resident, the licensee or owner is guilty of a
5 business offense for which a fine of not more than \$10,000 may
6 be imposed. An owner or licensee is guilty under this
7 subsection (c) only if the owner or licensee failed to exercise
8 reasonable care in the hiring, training, supervising or
9 providing of staff or other related routine administrative
10 responsibilities.

11 (d) For the purpose of this Section:

12 (1) "Abuse" means intentionally or knowingly causing
13 any physical or mental injury or committing any sexual
14 offense set forth in this Code.

15 (2) "Criminal neglect" means an act whereby a person
16 recklessly (i) performs acts that cause an elderly person's
17 or person with a disability's life to be endangered, health
18 to be injured, or pre-existing physical or mental condition
19 to deteriorate or that create the substantial likelihood
20 that an elderly person's or person with a disability's life
21 will be endangered, health will be injured, or pre-existing
22 physical or mental condition will deteriorate, or (ii)
23 fails to perform acts that he or she knows or reasonably
24 should know are necessary to maintain or preserve the life
25 or health of an elderly person or person with a disability,
26 and that failure causes the elderly person's or person with

1 a disability's life to be endangered, health to be injured,
2 or pre-existing physical or mental condition to
3 deteriorate or that create the substantial likelihood that
4 an elderly person's or person with a disability's life will
5 be endangered, health will be injured, or pre-existing
6 physical or mental condition will deteriorate, or (iii)
7 abandons an elderly person or person with a disability.

8 (3) "Neglect" means negligently failing to provide
9 adequate medical or personal care or maintenance, which
10 failure results in physical or mental injury or the
11 deterioration of a physical or mental condition.

12 (4) "Resident" means a person residing in a long term
13 care facility.

14 (5) "Owner" means the person who owns a long term care
15 facility as provided under the Nursing Home Care Act or an
16 assisted living or shared housing establishment under the
17 Assisted Living and Shared Housing Act.

18 (6) "Licensee" means the individual or entity licensed
19 to operate a facility under the Nursing Home Care Act or
20 the Assisted Living and Shared Housing Act.

21 (7) "Facility" or "long term care facility" means a
22 private home, institution, building, residence, or any
23 other place, whether operated for profit or not, or a
24 county home for the infirm and chronically ill operated
25 pursuant to Division 5-21 or 5-22 of the Counties Code, or
26 any similar institution operated by the State of Illinois

1 or a political subdivision thereof, which provides,
2 through its ownership or management, personal care,
3 sheltered care or nursing for 3 or more persons not related
4 to the owner by blood or marriage. The term also includes
5 skilled nursing facilities and intermediate care
6 facilities as defined in Title XVIII and Title XIX of the
7 federal Social Security Act and assisted living
8 establishments and shared housing establishments licensed
9 under the Assisted Living and Shared Housing Act.

10 (e) Nothing contained in this Section shall be deemed to
11 apply to the medical supervision, regulation or control of the
12 remedial care or treatment of residents in a facility conducted
13 for those who rely upon treatment by prayer or spiritual means
14 in accordance with the creed or tenets of any well recognized
15 church or religious denomination and which is licensed in
16 accordance with Section 3-803 of the Nursing Home Care Act.

17 (Source: P.A. 93-301, eff. 1-1-04.)

18 (Text of Section after amendment by P.A. 96-339)

19 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care
20 Facility Resident.

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22 facility who abuses a long term care facility resident is
23 guilty of a Class 3 felony. Any person or any owner or licensee
24 of a long term care facility who criminally neglects a long
25 term care facility resident is guilty of a Class 4 felony. A

1 person whose criminal neglect of a long term care facility
2 resident results in the resident's death is guilty of a Class 3
3 felony. However, nothing herein shall be deemed to apply to a
4 physician licensed to practice medicine in all its branches or
5 a duly licensed nurse providing care within the scope of his or
6 her professional judgment and within the accepted standards of
7 care within the community.

8 (b) Notwithstanding the penalties in subsections (a) and
9 (c) and in addition thereto, if a licensee or owner of a long
10 term care facility or his or her employee has caused neglect of
11 a resident, the licensee or owner is guilty of a petty offense.
12 An owner or licensee is guilty under this subsection (b) only
13 if the owner or licensee failed to exercise reasonable care in
14 the hiring, training, supervising or providing of staff or
15 other related routine administrative responsibilities.

16 (c) Notwithstanding the penalties in subsections (a) and
17 (b) and in addition thereto, if a licensee or owner of a long
18 term care facility or his or her employee has caused gross
19 neglect of a resident, the licensee or owner is guilty of a
20 business offense for which a fine of not more than \$10,000 may
21 be imposed. An owner or licensee is guilty under this
22 subsection (c) only if the owner or licensee failed to exercise
23 reasonable care in the hiring, training, supervising or
24 providing of staff or other related routine administrative
25 responsibilities.

26 (d) For the purpose of this Section:

1 (1) "Abuse" means intentionally or knowingly causing
2 any physical or mental injury or committing any sexual
3 offense set forth in this Code.

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5 recklessly (i) performs acts that cause an elderly person's
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10 will be endangered, health will be injured, or pre-existing
11 physical or mental condition will deteriorate, or (ii)
12 fails to perform acts that he or she knows or reasonably
13 should know are necessary to maintain or preserve the life
14 or health of an elderly person or person with a disability,
15 and that failure causes the elderly person's or person with
16 a disability's life to be endangered, health to be injured,
17 or pre-existing physical or mental condition to
18 deteriorate or that create the substantial likelihood that
19 an elderly person's or person with a disability's life will
20 be endangered, health will be injured, or pre-existing
21 physical or mental condition will deteriorate, or (iii)
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24 adequate medical or personal care or maintenance, which
25 failure results in physical or mental injury or the
26 deterioration of a physical or mental condition.

1 (4) "Resident" means a person residing in a long term
2 care facility.

3 (5) "Owner" means the person who owns a long term care
4 facility as provided under the Nursing Home Care Act, a
5 facility as provided under the MR/DD Community Care Act, or
6 an assisted living or shared housing establishment under
7 the Assisted Living and Shared Housing Act.

8 (6) "Licensee" means the individual or entity licensed
9 to operate a facility under the Nursing Home Care Act, the
10 MR/DD Community Care Act, or the Assisted Living and Shared
11 Housing Act.

12 (7) "Facility" or "long term care facility" means a
13 private home, institution, building, residence, or any
14 other place, whether operated for profit or not, or a
15 county home for the infirm and chronically ill operated
16 pursuant to Division 5-21 or 5-22 of the Counties Code, or
17 any similar institution operated by the State of Illinois
18 or a political subdivision thereof, which provides,
19 through its ownership or management, personal care,
20 sheltered care or nursing for 3 or more persons not related
21 to the owner by blood or marriage. The term also includes
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23 facilities as defined in Title XVIII and Title XIX of the
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5 in accordance with the creed or tenets of any well recognized
6 church or religious denomination and which is licensed in
7 accordance with Section 3-803 of the Nursing Home Care Act or
8 Section 3-803 of the MR/DD Community Care Act.

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

10 Section 95. No acceleration or delay. Where this Act makes
11 changes in a statute that is represented in this Act by text
12 that is not yet or no longer in effect (for example, a Section
13 represented by multiple versions), the use of that text does
14 not accelerate or delay the taking effect of (i) the changes
15 made by this Act or (ii) provisions derived from any other
16 Public Act.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."