

AN ACT concerning regulation.

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

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

(210 ILCS 45/3-808.5 new)

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

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

(b) Any owner or licensee of a long term care facility licensed under this Act shall be responsible for the collection and maintenance of any and all records required to be maintained under this Section and any other applicable provisions of this Act, and as a provider under the Illinois Public Aid Code, and shall be responsible for compliance with

all of the disclosure requirements under this Section. All books and records and other papers and documents that are required to be kept, and all records showing compliance with all of the disclosure requirements to be made pursuant to this Section, shall be kept at the facility and shall, at all times during business hours, be subject to inspection by any law enforcement or health oversight agency or its duly authorized agents or employees.

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

(d) Any person with an ownership interest in a long term care facility licensed by the Department must, within 30 days of the effective date of this amendatory Act of the 96th General Assembly, disclose the existence of any ownership interest in any vendor who does business with the facility. The disclosures required by this subsection shall be made in the form and manner prescribed by the Department. Licensed long

term care facilities who receive Medicaid funding shall submit a copy of the disclosures required by this subsection to the Illinois Medicaid Fraud Control Unit. The owners and licensee of a long term care facility shall maintain all records necessary to show compliance with this disclosure requirement.

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

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

Section 10. The Criminal Code of 1961 is amended by changing Section 12-19 as follows:

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

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

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

(a) Any person or any owner or licensee of a long term care

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

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

(c) Notwithstanding the penalties in subsections (a) and (b) and in addition thereto, if a licensee or owner of a long term care facility or his or her employee has caused gross neglect of a resident, the licensee or owner is guilty of a business offense for which a fine of not more than \$10,000 may be imposed. An owner or licensee is guilty under this subsection (c) only if the owner or licensee failed to exercise

reasonable care in the hiring, training, supervising or providing of staff or other related routine administrative responsibilities.

(d) For the purpose of this Section:

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

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

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

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

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

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

(7) "Facility" or "long term care facility" means a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code, or any similar institution operated by the State of Illinois or a political subdivision thereof, which provides, through its ownership or management, personal care, sheltered care or nursing for 3 or more persons not related to the owner by blood or marriage. The term also includes skilled nursing facilities and intermediate care facilities as defined in Title XVIII and Title XIX of the federal Social Security Act and assisted living

establishments and shared housing establishments licensed under the Assisted Living and Shared Housing Act.

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

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

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

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

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

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

(d) For the purpose of this Section:

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

(2) "Criminal neglect" means an act whereby a person recklessly (i) performs acts that cause an elderly person's or person with a disability's life to be endangered, health to be injured, or pre-existing physical or mental condition

to deteriorate or that create the substantial likelihood that an elderly person's or person with a disability's life will be endangered, health will be injured, or pre-existing physical or mental condition will deteriorate, or (ii) fails to perform acts that he or she knows or reasonably should know are necessary to maintain or preserve the life or health of an elderly person or person with a disability, and that failure causes the elderly person's or person with a disability's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate or that create the substantial likelihood that an elderly person's or person with a disability's life will be endangered, health will be injured, or pre-existing physical or mental condition will deteriorate, or (iii) abandons an elderly person or person with a disability.

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

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

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

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

(7) "Facility" or "long term care facility" means a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code, or any similar institution operated by the State of Illinois or a political subdivision thereof, which provides, through its ownership or management, personal care, sheltered care or nursing for 3 or more persons not related to the owner by blood or marriage. The term also includes skilled nursing facilities and intermediate care facilities as defined in Title XVIII and Title XIX of the federal Social Security Act and assisted living establishments and shared housing establishments licensed under the Assisted Living and Shared Housing Act.

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

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SB2863 Enrolled

LRB096 16937 RPM 32250 b

Section 3-803 of the MR/DD Community Care Act.

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

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

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