

# SB0478



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB0478

Introduced 2/23/2021, by Sen. Sara Feigenholtz

#### SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-304.2

Amends the Nursing Home Care Act. In provisions regarding the designation of distressed facilities, provides that the Department of Public Health shall, by rule, adopt criteria to identify facilities that are distressed and shall publish a list of identified facilities quarterly (rather than generate and publish quarterly a list of distressed facilities using specified criteria). Provides that no facility shall be identified as a distressed facility unless it has committed violations or deficiencies that have actually harmed residents. Removes language requiring the Department to complete a test run of any substitute criteria to determine their reliability by comparing the number of facilities identified as distressed against the number of distressed facilities generated.

LRB102 10915 CPF 17084 b

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  
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) The Department shall, by rule, adopt criteria to  
9 identify facilities that are distressed and shall publish a  
10 list of identified facilities quarterly. No facility shall be  
11 identified as a distressed facility unless it has committed  
12 violations or deficiencies that have actually harmed  
13 residents. By May 1, 2011, and quarterly thereafter, the  
14 Department shall generate and publish quarterly a list of  
15 distressed facilities. 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~~  
3 ~~not adopt substitute criteria that generate fewer facilities~~  
4 ~~with a 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 of its  
11 distressed designation, and of the calculation on which it is  
12 based.

13 (e) A distressed facility may contract with an independent  
14 consultant meeting criteria established by the Department. If  
15 the distressed facility does not seek the assistance of an  
16 independent consultant, the Department shall place a monitor  
17 or a temporary manager in the facility, depending on the  
18 Department's assessment of the condition of the facility.

19 (f) Independent consultant. A facility that has been  
20 designated a distressed facility may contract with an  
21 independent consultant to develop and assist in the  
22 implementation of a plan of improvement to bring and keep the  
23 facility in compliance with this Act and, if applicable, with  
24 federal certification requirements. A facility that contracts  
25 with an independent consultant shall have 90 days to develop a  
26 plan of improvement and demonstrate a good faith effort at

1 implementation, and another 90 days to achieve compliance and  
2 take whatever additional actions are called for in the  
3 improvement plan to maintain compliance. A facility that the  
4 Department determines has a plan of improvement likely to  
5 bring and keep the facility in compliance and that has  
6 demonstrated good faith efforts at implementation within the  
7 first 90 days may be eligible to receive a grant under the  
8 Equity in Long-term Care Quality Act to assist it in achieving  
9 and maintaining compliance. 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) Monitor and temporary managers. A distressed  
17 facility that does not contract with a consultant shall be  
18 assigned a monitor or a temporary manager at the Department's  
19 discretion. The cost of the temporary manager shall be paid by  
20 the facility. The temporary manager shall have the authority  
21 determined by the Department, which may grant the temporary  
22 manager any or all of the authority a court may grant a  
23 receiver. The temporary manager may apply to the Equity in  
24 Long-term Care Quality Fund for grant funds to implement the  
25 plan of improvement.

26 (g) The Department shall by rule establish a mentor

1 program for owners of distressed facilities.

2 (h) The Department shall by rule establish sanctions (in  
3 addition to those authorized elsewhere in this Article)  
4 against distressed facilities that are not in compliance with  
5 this Act and (if applicable) with federal certification  
6 requirements. Criteria for imposing sanctions shall take into  
7 account a facility's actions to address the violations and  
8 deficiencies that caused its designation as a distressed  
9 facility, and its compliance with this Act and with federal  
10 certification requirements (if applicable), subsequent to its  
11 designation as a distressed facility, including mandatory  
12 revocations if criteria can be agreed upon by the Department,  
13 resident advocates, and representatives of the nursing home  
14 profession. By February 1, 2011, the Department shall report  
15 to the General Assembly on the results of negotiations about  
16 creating criteria for mandatory license revocations of  
17 distressed facilities and make recommendations about any  
18 statutory changes it believes are appropriate to protect the  
19 health, safety, and welfare of nursing home residents.

20 (i) The Department may establish by rule criteria for  
21 restricting the owner of a facility on the distressed list  
22 from acquiring additional skilled nursing facilities.

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