Amends the Nursing Home Care Act. Requires the Department of Public Health to establish by rule guidelines for required continuing education of all employees who inspect, survey, or evaluate a facility and to offer continuing education opportunities at least quarterly. Provides that the Department shall notify a facility and complainant of its findings regarding a complainant's complaint within 5 calendar days (rather than 10 days) of the determination. Provides that employees of a State or unit of local government agency charged with inspecting, surveying, or evaluating facilities are required to complete at least 10 hours of continuing education annually. Provides that if a facility is found to have violated any provision of the Act or rule adopted under the Act, the facility shall develop a plan of correction to address deficiencies indicated in a statement of deficiency. Requires the Department to approve or deny the plan of correction within 72 hours after receiving the plan of correction. Provides that the Department shall conduct an annual review of all survey activity from the preceding calendar year (rather than conduct an annual review) and make a report including specified information concerning the complaint and survey process. Contains other provisions.
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 changing Sections 3-212 and 3-702 as follows:

(210 ILCS 45/3-212) (from Ch. 111 1/2, par. 4153-212)

Sec. 3-212. Inspection.

(a) The Department, whenever it deems necessary in accordance with subsection (b), shall inspect, survey and evaluate every facility to determine compliance with applicable licensure requirements and standards. Submission of a facility's current Consumer Choice Information Report required by Section 2-214 shall be verified at time of inspection. An inspection should occur within 120 days prior to license renewal. The Department may periodically visit a facility for the purpose of consultation. An inspection, survey, or evaluation, other than an inspection of financial records, shall be conducted without prior notice to the facility. A visit for the sole purpose of consultation may be announced. The Department shall provide training to surveyors about the appropriate assessment, care planning, and care of persons with mental illness (other than Alzheimer's disease or related disorders) to enable its surveyors to determine
whether a facility is complying with State and federal
requirements about the assessment, care planning, and care of
those persons.

(a-1) An employee of a State or unit of local government
agency charged with inspecting, surveying, and evaluating
facilities who directly or indirectly gives prior notice of an
inspection, survey, or evaluation, other than an inspection of
financial records, to a facility or to an employee of a
facility is guilty of a Class A misdemeanor.

An inspector or an employee of the Department who
intentionally prenotifies a facility, orally or in writing, of
a pending complaint investigation or inspection shall be
guilty of a Class A misdemeanor. Superiors of persons who have
prenotified a facility shall be subject to the same penalties,
if they have knowingly allowed the prenotification. A person
found guilty of prenotifying a facility shall be subject to
disciplinary action by his or her employer.

If the Department has a good faith belief, based upon
information that comes to its attention, that a violation of
this subsection has occurred, it must file a complaint with
the Attorney General or the State's Attorney in the county
where the violation took place within 30 days after discovery
of the information.

(a-2) An employee of a State or unit of local government
agency charged with inspecting, surveying, or evaluating
facilities who willfully profits from violating the
confidentiality of the inspection, survey, or evaluation process shall be guilty of a Class 4 felony and that conduct shall be deemed unprofessional conduct that may subject a person to loss of his or her professional license. An action to prosecute a person for violating this subsection (a-2) may be brought by either the Attorney General or the State's Attorney in the county where the violation took place.

(a-3) The Department shall by rule establish guidelines for required continuing education of all employees who inspect, survey, or evaluate a facility. The Department shall offer continuing education opportunities at least quarterly. Employees of a State or unit of local government agency charged with inspecting, surveying, or evaluating a facility are required to complete at least 10 hours of continuing education annually. Qualifying hours of continuing education shall only be offered by the Department. Content presented during the continuing education shall be consistent throughout the State, regardless of survey region. The continuing education required by this subsection is separate from any continuing education required for any license that the employee holds.

(b) In determining whether to make more than the required number of unannounced inspections, surveys and evaluations of a facility the Department shall consider one or more of the following: previous inspection reports; the facility's history of compliance with standards, rules and regulations
promulgated under this Act and correction of violations, penalties or other enforcement actions; the number and severity of complaints received about the facility; any allegations of resident abuse or neglect; weather conditions; health emergencies; other reasonable belief that deficiencies exist.

(b-1) The Department shall not be required to determine whether a facility certified to participate in the Medicare program under Title XVIII of the Social Security Act, or the Medicaid program under Title XIX of the Social Security Act, and which the Department determines by inspection under this Section or under Section 3-702 of this Act to be in compliance with the certification requirements of Title XVIII or XIX, is in compliance with any requirement of this Act that is less stringent than or duplicates a federal certification requirement. In accordance with subsection (a) of this Section or subsection (d) of Section 3-702, the Department shall determine whether a certified facility is in compliance with requirements of this Act that exceed federal certification requirements. If a certified facility is found to be out of compliance with federal certification requirements, the results of an inspection conducted pursuant to Title XVIII or XIX of the Social Security Act may be used as the basis for enforcement remedies authorized and commenced, with the Department's discretion to evaluate whether penalties are warranted, under this Act. Enforcement of this Act against a
certified facility shall be commenced pursuant to the requirements of this Act, unless enforcement remedies sought pursuant to Title XVIII or XIX of the Social Security Act exceed those authorized by this Act. As used in this subsection, "enforcement remedy" means a sanction for violating a federal certification requirement or this Act.

(c) Upon completion of each inspection, survey and evaluation, the appropriate Department personnel who conducted the inspection, survey or evaluation shall submit a copy of their report to the licensee upon exiting the facility, and shall submit the actual report to the appropriate regional office of the Department. Such report and any recommendations for action by the Department under this Act shall be transmitted to the appropriate offices of the associate director of the Department, together with related comments or documentation provided by the licensee which may refute findings in the report, which explain extenuating circumstances that the facility could not reasonably have prevented, or which indicate methods and timetables for correction of deficiencies described in the report. Without affecting the application of subsection (a) of Section 3-303, any documentation or comments of the licensee shall be provided within 10 days of receipt of the copy of the report. Such report shall recommend to the Director appropriate action under this Act with respect to findings against a facility. The Director shall then determine whether the report's
findings constitute a violation or violations of which the facility must be given notice. Such determination shall be based upon the severity of the finding, the danger posed to resident health and safety, the comments and documentation provided by the facility, the diligence and efforts to correct deficiencies, correction of the reported deficiencies, the frequency and duration of similar findings in previous reports and the facility's general inspection history. Violations shall be determined under this subsection no later than 75 days after completion of each inspection, survey and evaluation.

(d) The Department shall maintain all inspection, survey and evaluation reports for at least 5 years in a manner accessible to and understandable by the public.

(e) Revisit surveys. The Department shall conduct a revisit to its licensure and certification surveys, consistent with federal regulations and guidelines.

(f) Notwithstanding any other provision of this Act, the Department shall, no later than 180 days after the effective date of this amendatory Act of the 98th General Assembly, implement a single survey process that encompasses federal certification and State licensure requirements, health and life safety requirements, and an enhanced complaint investigation initiative.

(1) To meet the requirement of a single survey process, the portions of the health and life safety survey
associated with federal certification and State licensure surveys must be started within 7 working days of each other. Nothing in this paragraph (1) of subsection (f) of this Section applies to a complaint investigation.

(2) The enhanced complaint and incident report investigation initiative shall permit the facility to challenge the amount of the fine due to the excessive length of the investigation which results in one or more of the following conditions:

(A) prohibits the timely development and implementation of a plan of correction;

(B) creates undue financial hardship impacting the quality of care delivered to the resident;

(C) delays initiation of corrective training; and

(D) negatively impacts quality assurance and patient improvement standards.

This paragraph (2) does not apply to complaint investigations exited within 14 working days or a situation that triggers an extended survey.

(Source: P.A. 98-104, eff. 7-22-13.)

(210 ILCS 45/3-702) (from Ch. 111 1/2, par. 4153-702)

Sec. 3-702. (a) A person who believes that this Act or a rule promulgated under this Act may have been violated may request an investigation. The request may be submitted to the Department in writing, by telephone, by electronic means, or
by personal visit. An oral complaint shall be reduced to writing by the Department. The Department shall make available, through its website and upon request, information regarding the oral and phone intake processes and the list of questions that will be asked of the complainant. The Department shall request information identifying the complainant, including the name, address and telephone number, to help enable appropriate follow-up. The Department shall act on such complaints via on-site visits or other methods deemed appropriate to handle the complaints with or without such identifying information, as otherwise provided under this Section. The complainant shall be informed that compliance with such request is not required to satisfy the procedures for filing a complaint under this Act. The Department must notify complainants that complaints with less information provided are far more difficult to respond to and investigate.

(b) The substance of the complaint shall be provided in writing to the licensee, owner, or administrator upon no earlier than at the commencement of an on-site inspection of the facility which takes place pursuant to the complaint.

(c) The Department shall not disclose the name of the complainant unless the complainant consents in writing to the disclosure or the investigation results in a judicial proceeding, or unless disclosure is essential to the investigation. The complainant shall be given the opportunity to withdraw the complaint before disclosure. Upon the request
of the complainant, the Department may permit the complainant or a representative of the complainant to accompany the person making the on-site inspection of the facility.

(d) Upon receipt of a complaint, the Department shall determine whether this Act or a rule promulgated under this Act has been or is being violated. The Department shall investigate all complaints alleging abuse or neglect within 7 calendar days after the receipt of the complaint except that complaints of abuse or neglect which indicate that a resident's life or safety is in imminent danger shall be investigated within 24 hours after receipt of the complaint. All other complaints shall be investigated within 30 calendar days after the receipt of the complaint. The Department employees investigating a complaint shall conduct a brief, informal exit conference with the facility to alert its administration of any suspected serious deficiency that poses a direct threat to the health, safety or welfare of a resident to enable an immediate correction for the alleviation or elimination of such threat. Such information and findings discussed in the brief exit conference shall become a part of the investigating record but shall not in any way constitute an official or final notice of violation as provided under Section 3-301. All complaints shall be classified as "an invalid report", "a valid report", or "an undetermined report". For any complaint classified as "a valid report", the Department must determine within 7 calendar 30 working days
after any Department employee enters a facility to begin an
on-site inspection if any rule or provision of this Act has
been or is being violated.

(d-1) The Department shall, whenever possible, combine an
on-site investigation of a complaint in a facility with other
inspections in order to avoid duplication of inspections.

(e) In all cases, the Department shall inform the
complainant of its findings within 5 calendar days of its
determination unless otherwise indicated by the complainant,
and the complainant may direct the Department to send a copy of
such findings to another person. The Department's findings may
include comments or documentation provided by either the
complainant or the licensee pertaining to the complaint. The
Department shall also notify the facility of such findings
within 5 calendar days of the determination, but the name of
the complainant or residents shall not be disclosed in this
notice to the facility. The notice or statement of deficiency
of such findings shall include a copy of the written
determination; the correction order, if any; the warning
notice, if any; the inspection report; or the State licensure
form on which the violation is listed. If a facility is found
to have violated any provision of this Act or rule adopted
under this Act, the facility shall develop a plan of
correction to address deficiencies indicated in a statement of
deficiency. The facility shall submit the plan of correction
to the Department for approval. The Department must approve or
deny the plan of correction within 72 hours after receiving the plan of correction. If the facility's plan of correction is denied, the Department must notify the facility within 48 hours after the denial determination and provide specific reasons for the denial, a process to remedy the denial, and requests for additional information, as needed, and complete the plan of correction determination process within 48 hours after receiving requested information from the facility. The Department shall complete an on-site revisit or desk revisit within 7 calendar days after approval of the facility's plan of correction. During the on-site or desk revisit, the Department must address the approved plan of correction and clear any outstanding violation for which a plan of correction has been approved before beginning a new complaint investigation or annual review. If the Department receives an abuse or neglect complaint that indicates a resident is in immediate danger within the same time frame during which an on-site revisit must be completed, the Department must conduct the on-site revisit simultaneously with the new complaint investigation. Under no circumstance may a violation remain open if the Department has approved the facility's plan of correction. If a facility fails to remedy the violation for which an on-site revisit is being conducted, the facility must correct any outstanding violation. Once the facility has notified the Department that the facility is in compliance with the plan of correction, the Department must complete an
on-site revisit within 7 calendar days. If the Department fails to complete a revisit within 7 calendar days after approving a facility's plan of correction, the facility shall be considered to be in substantial compliance.

(f) A written determination, correction order, or warning notice concerning a complaint, together with the facility's response, shall be available for public inspection, but the name of the complainant or resident shall not be disclosed without his consent.

(g) A complainant who is dissatisfied with the determination or investigation by the Department may request a hearing under Section 3-703. The facility shall be given notice of any such hearing and may participate in the hearing as a party. If a facility requests a hearing under Section 3-703 which concerns a matter covered by a complaint, the complainant shall be given notice and may participate in the hearing as a party. A request for a hearing by either a complainant or a facility shall be submitted in writing to the Department within 30 days after the mailing of the Department's findings as described in subsection (e) of this Section. Upon receipt of the request the Department shall conduct a hearing as provided under Section 3-703.

(g-5) The Department shall conduct an annual review of all survey activity from the preceding calendar year and make a report concerning the complaint and survey process. The report shall include, but not be limited to:
number of complaints received; the total number of 24-hour, 7-day, and 30-day complaints; the breakdown of anonymous and non-anonymous complaints; and whether the number of complaints that were substantiated versus unsubstantiated; or not, the total number of substantiated complaints that were completed in the time frame determined under subsection (d); the total number of informal dispute resolutions requested; the total number of informal dispute resolution requests approved; the total number of informal dispute resolutions that were overturned or reduced in severity; the total number of independent informal dispute resolutions requested; the total number of independent informal dispute resolution requests approved; the total number of independent informal dispute resolutions that were overturned or reduced in severity; the total number of revisits not completed within the statutorily mandated time frames; the total number of nurse surveyors hired during the calendar year; the total number of nurse surveyors who left Department employment; the total number of nurse surveyors who transferred to other positions within the Department or transferred to another State agency; the total number of Department employees entering long-term care facilities for any reason who are fully vaccinated for influenza and COVID-19; the total number of Department employees entering long-term care facilities for any reason who are not fully vaccinated for influenza and COVID-19; the total number of Department employees who enter long-term care
facilities and who have tested positive for COVID-19; and any other complaint information requested by the Long-Term Care Facility Advisory Board created under Section 2-204 of this Act or the Illinois Long-Term Care Council created under Section 4.04a of the Illinois Act on the Aging. All of the listed reporting criteria in this subsection and additional complaint information requested by the Long-Term Care Facility Advisory Board, the Illinois Long-Term Care Council, or the General Assembly shall be provided in aggregate and broken down by Office of Health Care Regulation region. In addition, the Department shall provide Manatt health vaccine and health equity report findings, information about continued progress toward correcting identified deficiencies, and annual Centers for Medicare and Medicaid Services' State Performance Standards System results for the State of Illinois. This report shall be provided to the Long-Term Care Facility Advisory Board, the Illinois Long-Term Care Council, and the General Assembly. The Long-Term Care Facility Advisory Board and the Illinois Long-Term Care Council shall review the report and suggest any changes deemed necessary to the Department for review and action, including how to investigate and substantiate anonymous complaints.

(h) Any person who knowingly transmits a false report to the Department commits the offense of disorderly conduct under subsection (a)(8) of Section 26-1 of the Criminal Code of 2012.
(Source: P.A. 102-432, eff. 8-20-21.)