

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) (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~~
17 ~~determine their reliability by comparing the number of~~
18 ~~facilities identified as distressed against the number of~~
19 ~~distressed facilities generated using the criteria contained~~
20 ~~in the General Accounting Office report. The Department may~~
21 ~~not adopt substitute criteria that generate fewer facilities~~
22 ~~with a distressed designation than are produced by the General~~
23 ~~Accounting Office criteria during the test run.~~

1 (b-5) The Department shall, by rule, adopt criteria to
2 identify distressed facilities and shall publish a list of
3 distressed facilities quarterly. The Department shall, by
4 rule, create a timeframe and a procedure on how a facility can
5 be removed from the list. No facility shall be identified as a
6 distressed facility unless it has committed a violation or
7 deficiency that has harmed a resident.

8 (c) The Department shall, by rule, adopt criteria to
9 identify non-Medicaid-certified facilities that are distressed
10 and shall publish this list quarterly. The list may not
11 contain more than 40 facilities per quarter ~~beginning October~~
12 ~~1, 2011.~~

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

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

23 (f) ~~Independent consultant.~~ A facility that has been
24 designated a distressed facility may contract with an
25 independent consultant to develop and assist in the
26 implementation of a plan of improvement to bring and keep the

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

20 (f-5) ~~Monitor and temporary managers.~~ A distressed
21 facility that does not contract with a consultant shall be
22 assigned a monitor ~~or a temporary manager~~ at the Department's
23 discretion. The monitor ~~cost of the temporary manager shall be~~
24 ~~paid by the facility. The temporary manager shall have the~~
25 ~~authority determined by the Department, which may grant the~~
26 ~~temporary manager any or all of the authority a court may grant~~

1 ~~a receiver. The temporary manager~~ may apply to the Equity in
2 Long-term Care Quality Fund on behalf of the facility for
3 grant funds to implement the plan of improvement.

4 (g) The Department shall by rule establish a mentor
5 program for owners and operators of distressed facilities. The
6 mentor program shall provide technical assistance and guidance
7 to facilities.

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

26 (i) The Department may establish by rule criteria for

1 restricting an owner of a facility from acquiring additional
2 nursing facilities if the ~~owner of a facility~~ was placed on the
3 distressed list while it was owned by that owner ~~from~~
4 ~~acquiring additional skilled nursing facilities.~~ The
5 Department may not prohibit an owner who acquires ownership of
6 a facility that is already on the distressed facility list
7 before the owner's acquisition of the facility from acquiring
8 additional skilled nursing facilities.

9 (j) This Section does not apply to homes, institutions, or
10 other places operated by or under the authority of the
11 Illinois Department of Veterans' Affairs as these facilities
12 are certified by the United States Department of Veterans
13 Affairs and not the Centers for Medicare and Medicaid
14 Services.

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