

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 Sections 3-209 and 3-602 and by adding Sections 2-120
6 and 3-125 as follows:

7 (210 ILCS 45/2-120 new)

8 Sec. 2-120. Prohibition on retaliatory action against
9 residents.

10 (a) In this Section, "retaliatory action" means an action
11 that is taken in retaliation for a resident's involvement in
12 one or more of the protected activities described in
13 paragraphs (1) through (8) of subsection (b) and that
14 interferes with a resident's quality of life at the facility
15 or results in either the imposition of selective restrictions
16 or the resident's neglect or reduced access to services.

17 (b) No facility, licensee of a facility, or employee of a
18 facility shall threaten to take or take a retaliatory action
19 against a resident of the facility because the resident does
20 any one or more of the following:

21 (1) complains, discloses, or threatens to disclose, to
22 a supervisor, a public body, including, but not limited
23 to, the Office of the State Long Term Care Ombudsman, or

1 any other person with regulatory authority, an activity,
2 inaction, policy, or practice implemented by a licensee or
3 facility that the resident reasonably believes violates a
4 law, rule, or regulation;

5 (2) provides information to or testifies before a
6 public body conducting an investigation, hearing, or
7 inquiry into a violation of a law, rule, or regulation by
8 an administrator of the facility;

9 (3) assists or participates in a proceeding to enforce
10 the provisions of this Act, including a grievance
11 procedure under Section 2-112;

12 (4) seeks assistance for the resident to transition to
13 independent living or another setting outside of the
14 resident's current facility;

15 (5) makes a request of the facility related to the
16 resident's care;

17 (6) becomes a member of a residents' advisory council
18 as described in Section 2-203, a resident union, or a
19 similar organization;

20 (7) engages in activity protected in Section 3-608; or

21 (8) takes any other good faith action in support of
22 any other right or remedy provided by law.

23 (c) A resident of a facility who alleges a violation of
24 subsection (b) by a facility, the licensee of a facility, or an
25 employee of a facility may bring a civil action for damages
26 against the facility, the licensee who is responsible for the

1 facility, or both, within 2 years after the date of the last
2 violation of subsection (b) that is alleged in the resident's
3 complaint. A violation of subsection (b) may be established
4 upon a finding that (i) the facility, the licensee of the
5 facility, or the employee of the facility engaged in conduct
6 described in subsection (b) and (ii) this conduct was a
7 contributing factor in the retaliatory action alleged by the
8 resident.

9 (d) For each claimed violation of subsection (b) by a
10 facility, a licensee of a facility, or an employee of a
11 facility, the facility, the licensee who is responsible for
12 the facility, or both may also be liable to the resident for
13 additional damages in an amount equal to the average monthly
14 billing rate for Medicaid recipients in the facility.

15 (e) A copy of any complaint filed under this Section shall
16 be filed with the Department.

17 (f) To ensure compliance with the requirements of this
18 Section, each licensee shall annually provide to the residents
19 of its facility and their next of kin, a document containing a
20 description of the retaliation complaint procedures and
21 remedies established under this Act. The licensee shall file
22 this document in the resident's document file. This document
23 shall also be made available to the resident, the resident's
24 representative, the Department, or the Office of the State
25 Long Term Care Ombudsman upon request.

1 (210 ILCS 45/3-125 new)

2 Sec. 3-125. Retaliation-prevention training. The
3 administrators of a facility licensed under this Act shall
4 ensure that all staff of the facility receive annual
5 in-service training designed to prevent retaliatory actions
6 from being taken against residents of the facility.
7 Administrators shall ensure that the person who conducts the
8 in-service training at a facility is familiar with the
9 specific needs of the resident population at the facility.
10 With the advice and consent of the Office of the State Long
11 Term Care Ombudsman, the Department shall adopt rules that set
12 forth the training parameters and subjects which will ensure
13 that the in-service training conducted by administrators under
14 this Section includes, at a minimum, a discussion of the
15 following topics:

16 (1) a resident's right to file complaints and voice
17 grievances in the event of retaliation;

18 (2) examples of what might constitute retaliation
19 against a resident; and

20 (3) methods of preventing employee retaliation against
21 residents and alleviating a resident's fear of
22 retaliation.

23 (210 ILCS 45/3-209) (from Ch. 111 1/2, par. 4153-209)

24 Sec. 3-209. Required posting of information.

25 (a) Every facility shall conspicuously post for display in

1 an area of its offices accessible to residents, employees, and
2 visitors the following:

3 (1) Its current license;

4 (2) A description, provided by the Department, of
5 complaint procedures established under this Act and the
6 name, address, and telephone number of a person authorized
7 by the Department to receive complaints;

8 (3) A copy of any order pertaining to the facility
9 issued by the Department or a court;

10 (4) A list of the material available for public
11 inspection under Section 3-210;

12 (5) Phone numbers and websites for rights protection
13 services must be posted in common areas and at the main
14 entrance and provided upon entry and at the request of
15 residents or the resident's representative in accordance
16 with 42 CFR 483.10(j)(4); ~~and~~

17 (6) The statement "The Illinois Long-Term Care
18 Ombudsman Program is a free resident advocacy service
19 available to the public."; ~~and~~

20 (7) A description of the retaliation complaint
21 procedures and the remedies established under this Act.

22 In accordance with F574 of the State Operations Manual for
23 Long-Term Care Facilities, the administrator shall post for
24 all residents and at the main entrance the name, address, and
25 telephone number of the appropriate State governmental office
26 where complaints may be lodged in language the resident can

1 understand, which must include notice of the grievance
2 procedure of the facility or program as well as addresses and
3 phone numbers for the Office of Health Care Regulation and the
4 Long-Term Care Ombudsman Program and a website showing the
5 information of a facility's ownership. The facility shall
6 include a link to the Long-Term Care Ombudsman Program's
7 website on the home page of the facility's website.

8 (b) A facility that has received a notice of violation for
9 a violation of the minimum staffing requirements under Section
10 3-202.05 shall display, during the period of time the facility
11 is out of compliance, a notice stating in Calibri (body) font
12 and 26-point type in black letters on an 8.5 by 11 inch white
13 paper the following:

14 "Notice Dated:

15 This facility does not currently meet the minimum staffing
16 ratios required by law. Posted at the direction of the
17 Illinois Department of Public Health."

18 The notice must be posted, at a minimum, at all publicly used
19 exterior entryways into the facility, inside the main entrance
20 lobby, and next to any registration desk for easily accessible
21 viewing. The notice must also be posted on the main page of the
22 facility's website. The Department shall have the discretion
23 to determine the gravity of any violation and, taking into
24 account mitigating and aggravating circumstances and facts,

1 may reduce the requirement of, and amount of time for, posting
2 the notice.

3 (Source: P.A. 101-10, eff. 6-5-19; 102-1080, eff. 1-1-23.)

4 (210 ILCS 45/3-602) (from Ch. 111 1/2, par. 4153-602)

5 Sec. 3-602. The licensee shall pay the actual damages and
6 costs and attorney's fees to a facility resident whose rights,
7 as specified in Part 1 of Article II of this Act, including,
8 but not limited to, the rights under Section 2-120, are
9 violated.

10 (Source: P.A. 89-197, eff. 7-21-95.)