



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4863

Introduced 01/19/06, by Rep. Harry Osterman

SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-303

from Ch. 111 1/2, par. 4153-303

Amends the Nursing Home Care Act. Provides that within 10 days after the Department of Public Health notifies a facility that it has committed a Type "A" violation, a violation of the Act for which a plan of correction or a report of correction is required, or a level D or higher violation of federal Medicare and Medicaid nursing home certification requirements, the facility shall give any resident whose care is the subject of the violation (i) a copy of the notice of the violation and (ii) a written notice stating which violation or violations in the notice of violation apply to that resident. Requires the Department to prescribe a form to be used for giving residents the required notice. Provides that in a case in which a plan of correction is required, the notice required by these provisions shall be considered part of the plan of correction. Provides that a facility shall provide written proof to the Department that the notice required by these provisions has been given.

LRB094 18572 DRJ 53910 b

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 changing
5 Section 3-303 as follows:

6 (210 ILCS 45/3-303) (from Ch. 111 1/2, par. 4153-303)

7 Sec. 3-303. (a) The situation, condition or practice
8 constituting a Type "A" violation shall be abated or eliminated
9 immediately unless a fixed period of time, not exceeding 15
10 days, as determined by the Department and specified in the
11 notice of violation, is required for correction.

12 (b) At the time of issuance of a notice of a Type "B"
13 violation, the Department shall request a plan of correction
14 which is subject to the Department's approval. The facility
15 shall have 10 days after receipt of notice of violation in
16 which to prepare and submit a plan of correction. The
17 Department may extend this period up to 30 days where
18 correction involves substantial capital improvement. The plan
19 shall include a fixed time period not in excess of 90 days
20 within which violations are to be corrected. If the Department
21 rejects a plan of correction, it shall send notice of the
22 rejection and the reason for the rejection to the facility. The
23 facility shall have 10 days after receipt of the notice of
24 rejection in which to submit a modified plan. If the modified
25 plan is not timely submitted, or if the modified plan is
26 rejected, the facility shall follow an approved plan of
27 correction imposed by the Department.

28 (c) If the violation has been corrected prior to submission
29 and approval of a plan of correction, the facility may submit a
30 report of correction in place of a plan of correction. Such
31 report shall be signed by the administrator under oath.

32 (d) Upon a licensee's petition, the Department shall

1 determine whether to grant a licensee's request for an extended
2 correction time. Such petition shall be served on the
3 Department prior to expiration of the correction time
4 originally approved. The burden of proof is on the petitioning
5 facility to show good cause for not being able to comply with
6 the original correction time approved.

7 (e) If a facility desires to contest any Department action
8 under this Section it shall send a written request for a
9 hearing under Section 3-703 to the Department within 10 days of
10 receipt of notice of the contested action. The Department shall
11 commence the hearing as provided under Section 3-703. Whenever
12 possible, all action of the Department under this Section
13 arising out of a violation shall be contested and determined at
14 a single hearing. Issues decided after a hearing may not be
15 reheard at subsequent hearings under this Section.

16 (f) Within 10 days after the Department notifies a facility
17 that it has committed a Type "A" violation, a violation of this
18 Act for which a plan of correction or a report of correction is
19 required, or a level D or higher violation of federal Medicare
20 and Medicaid nursing home certification requirements, the
21 facility shall give any resident whose care is the subject of
22 the violation (i) a copy of the notice of the violation and
23 (ii) a written notice stating which violation or violations in
24 the notice of violation apply to that resident. If the resident
25 is identified in the notice of violation by a pseudonym, the
26 facility notice to the resident shall include identification of
27 the pseudonym. If the resident has a representative authorized
28 to receive health care information about the resident, the
29 facility shall also give the notice to the representative.

30 If the facility is appealing the notice of violation, the
31 written notice to the resident or resident's representative
32 under this subsection may state that the facility is appealing,
33 but the facility's filing of an appeal shall not delay the
34 required giving of notice to a resident or resident's
35 representative under this subsection.

36 Within 30 days after the effective date of this amendatory

1 Act of the 94th General Assembly, the Department shall
2 prescribe a form to be used by facilities to give written
3 notice to residents or residents' representatives under this
4 subsection.

5 In any case in which a plan of correction is required, the
6 notice required by this subsection shall be considered part of
7 the plan of correction.

8 A facility shall provide written proof to the Department
9 that the facility has given the notice required by this
10 subsection.

11 (Source: P.A. 85-1378.)