

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 adding
5 Section 3-808 as follows:

6 (210 ILCS 45/3-808 new)

7 Sec. 3-808. Nursing home fraud, abuse, and neglect
8 prevention and reporting.

9 (a) Every licensed long term care facility that receives
10 Medicaid funding shall prominently display in its lobby, in its
11 dining areas, and on each floor of the facility information
12 approved by the Illinois Medicaid Fraud Control Unit on how to
13 report fraud, abuse, and neglect. In addition, information
14 regarding the reporting of fraud, abuse, and neglect shall be
15 provided to each resident at the time of admission and to the
16 resident's family members or emergency contacts, or to both the
17 resident's family members and his or her emergency contacts.

18 (b) Any owner or licensee of a long term care facility
19 licensed under this Act shall be responsible for the collection
20 and maintenance of any and all records required to be
21 maintained under this Section and any other applicable
22 provisions of this Act, and as a provider under the Illinois
23 Public Aid Code, and shall be responsible for compliance with

1 all of the disclosure requirements under this Section. All
2 books and records and other papers and documents that are
3 required to be kept, and all records showing compliance with
4 all of the disclosure requirements to be made pursuant to this
5 Section, shall be kept at the facility and shall, at all times
6 during business hours, be subject to inspection by any law
7 enforcement or health oversight agency or its duly authorized
8 agents or employees.

9 (c) Any report of abuse and neglect of residents made by
10 any individual in whatever manner, including, but not limited
11 to, reports made under Sections 2-107 and 3-610 of this Act, or
12 as provided under the Abused and Neglected Long Term Care
13 Facility Residents Reporting Act, that is made to an
14 administrator, a director of nursing, or any other person with
15 management responsibility at a long term care facility must be
16 disclosed to the owners and licensee of the facility within 24
17 hours of the report. The owners and licensee of a long term
18 care facility shall maintain all records necessary to show
19 compliance with this disclosure requirement.

20 (d) Any person with an ownership interest in a long term
21 care facility licensed by the Department must, within 30 days
22 of the effective date of this amendatory Act of the 96th
23 General Assembly, disclose the existence of any ownership
24 interest in any vendor who does business with the facility. The
25 disclosures required by this subsection shall be made in the
26 form and manner prescribed by the Department. Licensed long

1 term care facilities who receive Medicaid funding shall submit
2 a copy of the disclosures required by this subsection to the
3 Illinois Medicaid Fraud Control Unit. The owners and licensee
4 of a long term care facility shall maintain all records
5 necessary to show compliance with this disclosure requirement.

6 (e) Notwithstanding the provisions of Section 3-318 of this
7 Act, and in addition thereto, any person, owner, or licensee
8 who willfully fails to keep and maintain, or willfully fails to
9 produce for inspection, books and records, or willfully fails
10 to make the disclosures required by this Section, is guilty of
11 a Class A misdemeanor. A second or subsequent violation of this
12 Section shall be punishable as a Class 4 felony.

13 (f) Any owner or licensee who willfully files or willfully
14 causes to be filed a document with false information with the
15 Department, the Department of Healthcare and Family Services,
16 or the Illinois Medicaid Fraud Control Unit or any other law
17 enforcement agency, is guilty of a Class A misdemeanor.

18 Section 10. The Criminal Code of 1961 is amended by
19 changing Section 12-19 as follows:

20 (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

21 (Text of Section before amendment by P.A. 96-339)

22 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care
23 Facility Resident.

24 (a) Any person or any owner or licensee of a long term care

1 facility who abuses a long term care facility resident is
2 guilty of a Class 3 felony. Any person or any owner or licensee
3 of a long term care facility who criminally neglects a long
4 term care facility resident is guilty of a Class 4 felony. A
5 person whose criminal neglect of a long term care facility
6 resident results in the resident's death is guilty of a Class 3
7 felony. However, nothing herein shall be deemed to apply to a
8 physician licensed to practice medicine in all its branches or
9 a duly licensed nurse providing care within the scope of his or
10 her professional judgment and within the accepted standards of
11 care within the community.

12 (b) Notwithstanding the penalties in subsections (a) and
13 (c) and in addition thereto, if a licensee or owner of a long
14 term care facility or his or her employee has caused neglect of
15 a resident, the licensee or owner is guilty of a petty offense.
16 An owner or licensee is guilty under this subsection (b) only
17 if the owner or licensee failed to exercise reasonable care in
18 the hiring, training, supervising or providing of staff or
19 other related routine administrative responsibilities.

20 (c) Notwithstanding the penalties in subsections (a) and
21 (b) and in addition thereto, if a licensee or owner of a long
22 term care facility or his or her employee has caused gross
23 neglect of a resident, the licensee or owner is guilty of a
24 business offense for which a fine of not more than \$10,000 may
25 be imposed. An owner or licensee is guilty under this
26 subsection (c) only if the owner or licensee failed to exercise

1 reasonable care in the hiring, training, supervising or
2 providing of staff or other related routine administrative
3 responsibilities.

4 (d) For the purpose of this Section:

5 (1) "Abuse" means intentionally or knowingly causing
6 any physical or mental injury or committing any sexual
7 offense set forth in this Code.

8 (2) "Criminal neglect" means an act whereby a person
9 recklessly (i) performs acts that cause an elderly person's
10 or person with a disability's life to be endangered, health
11 to be injured, or pre-existing physical or mental condition
12 to deteriorate or that create the substantial likelihood
13 that an elderly person's or person with a disability's life
14 will be endangered, health will be injured, or pre-existing
15 physical or mental condition will deteriorate, or (ii)
16 fails to perform acts that he or she knows or reasonably
17 should know are necessary to maintain or preserve the life
18 or health of an elderly person or person with a disability,
19 and that failure causes the elderly person's or person with
20 a disability's life to be endangered, health to be injured,
21 or pre-existing physical or mental condition to
22 deteriorate or that create the substantial likelihood that
23 an elderly person's or person with a disability's life will
24 be endangered, health will be injured, or pre-existing
25 physical or mental condition will deteriorate, or (iii)
26 abandons an elderly person or person with a disability.

1 (3) "Neglect" means negligently failing to provide
2 adequate medical or personal care or maintenance, which
3 failure results in physical or mental injury or the
4 deterioration of a physical or mental condition.

5 (4) "Resident" means a person residing in a long term
6 care facility.

7 (5) "Owner" means the person who owns a long term care
8 facility as provided under the Nursing Home Care Act or an
9 assisted living or shared housing establishment under the
10 Assisted Living and Shared Housing Act.

11 (6) "Licensee" means the individual or entity licensed
12 to operate a facility under the Nursing Home Care Act or
13 the Assisted Living and Shared Housing Act.

14 (7) "Facility" or "long term care facility" means a
15 private home, institution, building, residence, or any
16 other place, whether operated for profit or not, or a
17 county home for the infirm and chronically ill operated
18 pursuant to Division 5-21 or 5-22 of the Counties Code, or
19 any similar institution operated by the State of Illinois
20 or a political subdivision thereof, which provides,
21 through its ownership or management, personal care,
22 sheltered care or nursing for 3 or more persons not related
23 to the owner by blood or marriage. The term also includes
24 skilled nursing facilities and intermediate care
25 facilities as defined in Title XVIII and Title XIX of the
26 federal Social Security Act and assisted living

1 establishments and shared housing establishments licensed
2 under the Assisted Living and Shared Housing Act.

3 (e) Nothing contained in this Section shall be deemed to
4 apply to the medical supervision, regulation or control of the
5 remedial care or treatment of residents in a facility conducted
6 for those who rely upon treatment by prayer or spiritual means
7 in accordance with the creed or tenets of any well recognized
8 church or religious denomination and which is licensed in
9 accordance with Section 3-803 of the Nursing Home Care Act.
10 (Source: P.A. 93-301, eff. 1-1-04.)

11 (Text of Section after amendment by P.A. 96-339)

12 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care
13 Facility Resident.

14 (a) Any person or any owner or licensee of a long term care
15 facility who abuses a long term care facility resident is
16 guilty of a Class 3 felony. Any person or any owner or licensee
17 of a long term care facility who criminally neglects a long
18 term care facility resident is guilty of a Class 4 felony. A
19 person whose criminal neglect of a long term care facility
20 resident results in the resident's death is guilty of a Class 3
21 felony. However, nothing herein shall be deemed to apply to a
22 physician licensed to practice medicine in all its branches or
23 a duly licensed nurse providing care within the scope of his or
24 her professional judgment and within the accepted standards of
25 care within the community.

1 (b) Notwithstanding the penalties in subsections (a) and
2 (c) and in addition thereto, if a licensee or owner of a long
3 term care facility or his or her employee has caused neglect of
4 a resident, the licensee or owner is guilty of a petty offense.
5 An owner or licensee is guilty under this subsection (b) only
6 if the owner or licensee failed to exercise reasonable care in
7 the hiring, training, supervising or providing of staff or
8 other related routine administrative responsibilities.

9 (c) Notwithstanding the penalties in subsections (a) and
10 (b) and in addition thereto, if a licensee or owner of a long
11 term care facility or his or her employee has caused gross
12 neglect of a resident, the licensee or owner is guilty of a
13 business offense for which a fine of not more than \$10,000 may
14 be imposed. An owner or licensee is guilty under this
15 subsection (c) only if the owner or licensee failed to exercise
16 reasonable care in the hiring, training, supervising or
17 providing of staff or other related routine administrative
18 responsibilities.

19 (d) For the purpose of this Section:

20 (1) "Abuse" means intentionally or knowingly causing
21 any physical or mental injury or committing any sexual
22 offense set forth in this Code.

23 (2) "Criminal neglect" means an act whereby a person
24 recklessly (i) performs acts that cause an elderly person's
25 or person with a disability's life to be endangered, health
26 to be injured, or pre-existing physical or mental condition

1 to deteriorate or that create the substantial likelihood
2 that an elderly person's or person with a disability's life
3 will be endangered, health will be injured, or pre-existing
4 physical or mental condition will deteriorate, or (ii)
5 fails to perform acts that he or she knows or reasonably
6 should know are necessary to maintain or preserve the life
7 or health of an elderly person or person with a disability,
8 and that failure causes the elderly person's or person with
9 a disability's life to be endangered, health to be injured,
10 or pre-existing physical or mental condition to
11 deteriorate or that create the substantial likelihood that
12 an elderly person's or person with a disability's life will
13 be endangered, health will be injured, or pre-existing
14 physical or mental condition will deteriorate, or (iii)
15 abandons an elderly person or person with a disability.

16 (3) "Neglect" means negligently failing to provide
17 adequate medical or personal care or maintenance, which
18 failure results in physical or mental injury or the
19 deterioration of a physical or mental condition.

20 (4) "Resident" means a person residing in a long term
21 care facility.

22 (5) "Owner" means the person who owns a long term care
23 facility as provided under the Nursing Home Care Act, a
24 facility as provided under the MR/DD Community Care Act, or
25 an assisted living or shared housing establishment under
26 the Assisted Living and Shared Housing Act.

1 (6) "Licensee" means the individual or entity licensed
2 to operate a facility under the Nursing Home Care Act, the
3 MR/DD Community Care Act, or the Assisted Living and Shared
4 Housing Act.

5 (7) "Facility" or "long term care facility" means a
6 private home, institution, building, residence, or any
7 other place, whether operated for profit or not, or a
8 county home for the infirm and chronically ill operated
9 pursuant to Division 5-21 or 5-22 of the Counties Code, or
10 any similar institution operated by the State of Illinois
11 or a political subdivision thereof, which provides,
12 through its ownership or management, personal care,
13 sheltered care or nursing for 3 or more persons not related
14 to the owner by blood or marriage. The term also includes
15 skilled nursing facilities and intermediate care
16 facilities as defined in Title XVIII and Title XIX of the
17 federal Social Security Act and assisted living
18 establishments and shared housing establishments licensed
19 under the Assisted Living and Shared Housing Act.

20 (e) Nothing contained in this Section shall be deemed to
21 apply to the medical supervision, regulation or control of the
22 remedial care or treatment of residents in a facility conducted
23 for those who rely upon treatment by prayer or spiritual means
24 in accordance with the creed or tenets of any well recognized
25 church or religious denomination and which is licensed in
26 accordance with Section 3-803 of the Nursing Home Care Act or

1 Section 3-803 of the MR/DD Community Care Act.

2 (Source: P.A. 96-339, eff. 7-1-10.)

3 Section 95. No acceleration or delay. Where this Act makes
4 changes in a statute that is represented in this Act by text
5 that is not yet or no longer in effect (for example, a Section
6 represented by multiple versions), the use of that text does
7 not accelerate or delay the taking effect of (i) the changes
8 made by this Act or (ii) provisions derived from any other
9 Public Act.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.