

1 AN ACT concerning nursing homes.

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 3-212 as follows:

6 (210 ILCS 45/3-212) (from Ch. 111 1/2, par. 4153-212)  
7 Sec. 3-212. Inspection.

8 (a) The Department, whenever it deems necessary in  
9 accordance with subsection (b), shall inspect, survey, and  
10 evaluate every facility to determine compliance with  
11 applicable licensure requirements and standards. An  
12 inspection should occur within 120 days prior to license  
13 renewal. The Department may periodically visit a facility  
14 for the purpose of consultation. An inspection, survey, or  
15 evaluation, other than an inspection of financial records,  
16 shall be conducted without prior notice to the facility. A  
17 visit for the sole purpose of consultation may be announced.  
18 The Department shall provide training to surveyors concerning  
19 ~~about~~ the appropriate assessment, care planning, and care of  
20 persons with mental illness (other than Alzheimer's disease  
21 or related disorders) to enable its surveyors to determine  
22 whether a facility is complying with State and federal  
23 requirements about the assessment, care planning, and care of  
24 those persons.

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

31 An inspector or an employee of the Department who

1 intentionally prenotifies a facility, orally or in writing,  
2 of a pending complaint investigation or inspection shall be  
3 guilty of a Class A misdemeanor. Superiors of persons who  
4 have prenotified a facility shall be subject to the same  
5 penalties, if they have knowingly allowed the  
6 prenotification. A person found guilty of prenotifying a  
7 facility shall be subject to disciplinary action by his or  
8 her employer.

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

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

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

1 belief that deficiencies exist.

2 (b-1) The Department shall not be required to determine  
3 whether a facility certified to participate in the Medicare  
4 program under Title XVIII of the Social Security Act, or the  
5 Medicaid program under Title XIX of the Social Security Act,  
6 and which the Department determines by inspection under this  
7 Section or under Section 3-702 of this Act to be in  
8 compliance with the certification requirements of Title XVIII  
9 or XIX, is in compliance with any requirement of this Act  
10 that is less stringent than or duplicates a federal  
11 certification requirement. In accordance with subsection (a)  
12 of this Section or subsection (d) of Section 3-702, the  
13 Department shall determine whether a certified facility is in  
14 compliance with requirements of this Act that exceed federal  
15 certification requirements. If a certified facility is found  
16 to be out of compliance with federal certification  
17 requirements, the results of an inspection conducted pursuant  
18 to Title XVIII or XIX of the Social Security Act may be used  
19 as the basis for enforcement remedies authorized and  
20 commenced under this Act. Enforcement of this Act against a  
21 certified facility shall be commenced pursuant to the  
22 requirements of this Act, unless enforcement remedies sought  
23 pursuant to Title XVIII or XIX of the Social Security Act  
24 exceed those authorized by this Act. As used in this  
25 subsection, "enforcement remedy" means a sanction for  
26 violating a federal certification requirement or this Act.

27 (c) Upon completion of each inspection, survey and  
28 evaluation, the appropriate Department personnel who  
29 conducted the inspection, survey or evaluation shall submit a  
30 copy of their report to the licensee upon exiting the  
31 facility, and shall submit the actual report to the  
32 appropriate regional office of the Department. Such report  
33 and any recommendations for action by the Department under  
34 this Act shall be transmitted to the appropriate offices of

1 the associate director of the Department, together with  
2 related comments or documentation provided by the licensee  
3 which may refute findings in the report, which explain  
4 extenuating circumstances that the facility could not  
5 reasonably have prevented, or which indicate methods and  
6 timetables for correction of deficiencies described in the  
7 report. Without affecting the application of subsection (a)  
8 of Section 3-303, any documentation or comments of the  
9 licensee shall be provided within 10 days of receipt of the  
10 copy of the report. Such report shall recommend to the  
11 Director appropriate action under this Act with respect to  
12 findings against a facility. The Director shall then  
13 determine whether the report's findings constitute a  
14 violation or violations of which the facility must be given  
15 notice. Such determination shall be based upon the severity  
16 of the finding, the danger posed to resident health and  
17 safety, the comments and documentation provided by the  
18 facility, the diligence and efforts to correct deficiencies,  
19 correction of the reported deficiencies, the frequency and  
20 duration of similar findings in previous reports and the  
21 facility's general inspection history. Violations shall be  
22 determined under this subsection no later than 60 days after  
23 completion of each inspection, survey and evaluation.

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

27 (Source: P.A. 91-799, eff. 6-13-00; 92-209, eff. 1-1-02.)