

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Nursing Home Care Act is amended by changing Section 3-304.2 as follows:

(210 ILCS 45/3-304.2)

Sec. 3-304.2. Designation of distressed facilities.

(a) (Blank). ~~By May 1, 2011, and quarterly thereafter, the Department shall generate and publish quarterly a list of distressed facilities. Criteria for inclusion of certified facilities on the list shall be those used by the U.S. General Accounting Office in report 9-689, until such time as the Department by rule modifies the criteria.~~

(b) (Blank). ~~In deciding whether and how to modify the criteria used by the General Accounting Office, the Department shall complete a test run of any substitute criteria to determine their reliability by comparing the number of facilities identified as distressed against the number of distressed facilities generated using the criteria contained in the General Accounting Office report. The Department may not adopt substitute criteria that generate fewer facilities with a distressed designation than are produced by the General Accounting Office criteria during the test run.~~

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

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

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

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

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

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

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

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

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

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

(i) The Department may establish by rule criteria for

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

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

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