



Sen. Dale A. Righter

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10000SB1748sam001

LRB100 07154 MJP 26886 a

1 AMENDMENT TO SENATE BILL 1748

2 AMENDMENT NO. _____. Amend Senate Bill 1748 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Human Services Act is amended
5 by changing Section 1-17 as follows:

6 (20 ILCS 1305/1-17)

7 Sec. 1-17. Inspector General.

8 (a) Nature and purpose. It is the express intent of the
9 General Assembly to ensure the health, safety, and financial
10 condition of individuals receiving services in this State due
11 to mental illness, developmental disability, or both by
12 protecting those persons from acts of abuse, neglect, or both
13 by service providers. To that end, the Office of the Inspector
14 General for the Department of Human Services is created to
15 investigate and report upon allegations of the abuse, neglect,
16 or financial exploitation of individuals receiving services

1 within mental health facilities, developmental disabilities
2 facilities, and community agencies operated, licensed, funded
3 or certified by the Department of Human Services, but not
4 licensed or certified by any other State agency.

5 (b) Definitions. The following definitions apply to this
6 Section:

7 "Adult student with a disability" means an adult student,
8 age 18 through 21, inclusive, with an Individual Education
9 Program, other than a resident of a facility licensed by the
10 Department of Children and Family Services in accordance with
11 the Child Care Act of 1969. For purposes of this definition,
12 "through age 21, inclusive", means through the day before the
13 student's 22nd birthday.

14 "Agency" or "community agency" means (i) a community agency
15 licensed, funded, or certified by the Department, but not
16 licensed or certified by any other human services agency of the
17 State, to provide mental health service or developmental
18 disabilities service, or (ii) a program licensed, funded, or
19 certified by the Department, but not licensed or certified by
20 any other human services agency of the State, to provide mental
21 health service or developmental disabilities service.

22 "Aggravating circumstance" means a factor that is
23 attendant to a finding and that tends to compound or increase
24 the culpability of the accused.

25 "Allegation" means an assertion, complaint, suspicion, or
26 incident involving any of the following conduct by an employee,

1 facility, or agency against an individual or individuals:
2 mental abuse, physical abuse, sexual abuse, neglect, or
3 financial exploitation.

4 "Day" means working day, unless otherwise specified.

5 "Deflection" means a situation in which an individual is
6 presented for admission to a facility or agency, and the
7 facility staff or agency staff do not admit the individual.

8 "Deflection" includes triage, redirection, and denial of
9 admission.

10 "Department" means the Department of Human Services.

11 "Developmental disability" means "developmental
12 disability" as defined in the Mental Health and Developmental
13 Disabilities Code.

14 "Egregious neglect" means a finding of neglect as
15 determined by the Inspector General that (i) represents a gross
16 failure to adequately provide for, or a callused indifference
17 to, the health, safety, or medical needs of an individual and
18 (ii) results in an individual's death or other serious
19 deterioration of an individual's physical condition or mental
20 condition.

21 "Employee" means any person who provides services at the
22 facility or agency on-site or off-site. The service
23 relationship can be with the individual or with the facility or
24 agency. Also, "employee" includes any employee or contractual
25 agent of the Department of Human Services or the community
26 agency involved in providing or monitoring or administering

1 mental health or developmental disability services. This
2 includes but is not limited to: owners, operators, payroll
3 personnel, contractors, subcontractors, and volunteers.

4 "Facility" or "State-operated facility" means a mental
5 health facility or developmental disabilities facility
6 operated by the Department.

7 "Financial exploitation" means taking unjust advantage of
8 an individual's assets, property, or financial resources
9 through deception, intimidation, or conversion for the
10 employee's, facility's, or agency's own advantage or benefit.

11 "Finding" means the Office of Inspector General's
12 determination regarding whether an allegation is
13 substantiated, unsubstantiated, or unfounded.

14 "Health care worker registry" or "registry" means the
15 health care worker registry created by the Nursing Home Care
16 Act.

17 "Individual" means any person receiving mental health
18 service, developmental disabilities service, or both from a
19 facility or agency, while either on-site or off-site.

20 "Mental abuse" means the use of demeaning, intimidating, or
21 threatening words, signs, gestures, or other actions by an
22 employee about an individual and in the presence of an
23 individual or individuals that results in emotional distress or
24 maladaptive behavior, or could have resulted in emotional
25 distress or maladaptive behavior, for any individual present.

26 "Mental illness" means "mental illness" as defined in the

1 Mental Health and Developmental Disabilities Code.

2 "Mentally ill" means having a mental illness.

3 "Mitigating circumstance" means a condition that (i) is
4 attendant to a finding, (ii) does not excuse or justify the
5 conduct in question, but (iii) may be considered in evaluating
6 the severity of the conduct, the culpability of the accused, or
7 both the severity of the conduct and the culpability of the
8 accused.

9 "Neglect" means an employee's, agency's, or facility's
10 failure to provide adequate medical care, personal care, or
11 maintenance and that, as a consequence, (i) causes an
12 individual pain, injury, or emotional distress, (ii) results in
13 either an individual's maladaptive behavior or the
14 deterioration of an individual's physical condition or mental
15 condition, or (iii) places the individual's health or safety at
16 substantial risk.

17 "Person with a developmental disability" means a person
18 having a developmental disability.

19 "Physical abuse" means an employee's non-accidental and
20 inappropriate contact with an individual that causes bodily
21 harm. "Physical abuse" includes actions that cause bodily harm
22 as a result of an employee directing an individual or person to
23 physically abuse another individual.

24 "Recommendation" means an admonition, separate from a
25 finding, that requires action by the facility, agency, or
26 Department to correct a systemic issue, problem, or deficiency

1 identified during an investigation.

2 "Required reporter" means any employee who suspects,
3 witnesses, or is informed of an allegation of any one or more
4 of the following: mental abuse, physical abuse, sexual abuse,
5 neglect, or financial exploitation.

6 "Secretary" means the Chief Administrative Officer of the
7 Department.

8 "Sexual abuse" means any sexual contact or intimate
9 physical contact between an employee and an individual,
10 including an employee's coercion or encouragement of an
11 individual to engage in sexual behavior that results in sexual
12 contact, intimate physical contact, sexual behavior, or
13 intimate physical behavior. Sexual abuse also includes (i) an
14 employee's actions that result in the sending or showing of
15 sexually explicit images to an individual via computer,
16 cellular phone, electronic mail, portable electronic device,
17 or other media with or without contact with the individual or
18 (ii) an employee's posting of sexually explicit images of an
19 individual online or elsewhere whether or not there is contact
20 with the individual.

21 "Sexually explicit images" includes, but is not limited to,
22 any material which depicts nudity, sexual conduct, or
23 sado-masochistic abuse, or which contains explicit and
24 detailed verbal descriptions or narrative accounts of sexual
25 excitement, sexual conduct, or sado-masochistic abuse.

26 "Substantiated" means there is a preponderance of the

1 evidence to support the allegation.

2 "Unfounded" means there is no credible evidence to support
3 the allegation.

4 "Unsubstantiated" means there is credible evidence, but
5 less than a preponderance of evidence to support the
6 allegation.

7 (c) Appointment. The Governor shall appoint, and the Senate
8 shall confirm, an Inspector General. The Inspector General
9 shall be appointed for a term of 4 years and shall function
10 within the Department of Human Services and report to the
11 Secretary and the Governor.

12 (d) Operation and appropriation. The Inspector General
13 shall function independently within the Department with
14 respect to the operations of the Office, including the
15 performance of investigations and issuance of findings and
16 recommendations. The appropriation for the Office of Inspector
17 General shall be separate from the overall appropriation for
18 the Department.

19 (e) Powers and duties. The Inspector General shall
20 investigate reports of suspected mental abuse, physical abuse,
21 sexual abuse, neglect, or financial exploitation of
22 individuals in any mental health or developmental disabilities
23 facility or agency and shall have authority to take immediate
24 action to prevent any one or more of the following from
25 happening to individuals under its jurisdiction: mental abuse,
26 physical abuse, sexual abuse, neglect, or financial

1 exploitation. Upon written request of an agency of this State,
2 the Inspector General may assist another agency of the State in
3 investigating reports of the abuse, neglect, or abuse and
4 neglect of persons with mental illness, persons with
5 developmental disabilities, or persons with both. To comply
6 with the requirements of subsection (k) of this Section, the
7 Inspector General shall also review all reportable deaths for
8 which there is no allegation of abuse or neglect. Nothing in
9 this Section shall preempt any duties of the Medical Review
10 Board set forth in the Mental Health and Developmental
11 Disabilities Code. The Inspector General shall have no
12 authority to investigate alleged violations of the State
13 Officials and Employees Ethics Act. Allegations of misconduct
14 under the State Officials and Employees Ethics Act shall be
15 referred to the Office of the Governor's Executive Inspector
16 General for investigation.

17 (f) Limitations. The Inspector General shall not conduct an
18 investigation within an agency or facility if that
19 investigation would be redundant to or interfere with an
20 investigation conducted by another State agency. The Inspector
21 General shall have no supervision over, or involvement in, the
22 routine programmatic, licensing, funding, or certification
23 operations of the Department. Nothing in this subsection limits
24 investigations by the Department that may otherwise be required
25 by law or that may be necessary in the Department's capacity as
26 central administrative authority responsible for the operation

1 of the State's mental health and developmental disabilities
2 facilities.

3 (g) Rulemaking authority. The Inspector General shall
4 promulgate rules establishing minimum requirements for
5 reporting allegations as well as for initiating, conducting,
6 and completing investigations based upon the nature of the
7 allegation or allegations. The rules shall clearly establish
8 that if 2 or more State agencies could investigate an
9 allegation, the Inspector General shall not conduct an
10 investigation that would be redundant to, or interfere with, an
11 investigation conducted by another State agency. The rules
12 shall further clarify the method and circumstances under which
13 the Office of Inspector General may interact with the
14 licensing, funding, or certification units of the Department in
15 preventing further occurrences of mental abuse, physical
16 abuse, sexual abuse, neglect, egregious neglect, and financial
17 exploitation.

18 (h) Training programs. The Inspector General shall (i)
19 establish a comprehensive program to ensure that every person
20 authorized to conduct investigations receives ongoing training
21 relative to investigation techniques, communication skills,
22 and the appropriate means of interacting with persons receiving
23 treatment for mental illness, developmental disability, or
24 both mental illness and developmental disability, and (ii)
25 establish and conduct periodic training programs for facility
26 and agency employees concerning the prevention and reporting of

1 any one or more of the following: mental abuse, physical abuse,
2 sexual abuse, neglect, egregious neglect, or financial
3 exploitation. Nothing in this Section shall be deemed to
4 prevent the Office of Inspector General from conducting any
5 other training as determined by the Inspector General to be
6 necessary or helpful.

7 (i) Duty to cooperate.

8 (1) The Inspector General shall at all times be granted
9 access to any facility or agency for the purpose of
10 investigating any allegation, conducting unannounced site
11 visits, monitoring compliance with a written response, or
12 completing any other statutorily assigned duty. The
13 Inspector General shall conduct unannounced site visits to
14 each facility at least annually for the purpose of
15 reviewing and making recommendations on systemic issues
16 relative to preventing, reporting, investigating, and
17 responding to all of the following: mental abuse, physical
18 abuse, sexual abuse, neglect, egregious neglect, or
19 financial exploitation.

20 (2) Any employee who fails to cooperate with an Office
21 of the Inspector General investigation is in violation of
22 this Act. Failure to cooperate with an investigation
23 includes, but is not limited to, any one or more of the
24 following: (i) creating and transmitting a false report to
25 the Office of the Inspector General hotline, (ii) providing
26 false information to an Office of the Inspector General

1 Investigator during an investigation, (iii) colluding with
2 other employees to cover up evidence, (iv) colluding with
3 other employees to provide false information to an Office
4 of the Inspector General investigator, (v) destroying
5 evidence, (vi) withholding evidence, or (vii) otherwise
6 obstructing an Office of the Inspector General
7 investigation. Additionally, any employee who, during an
8 unannounced site visit or written response compliance
9 check, fails to cooperate with requests from the Office of
10 the Inspector General is in violation of this Act.

11 (j) Subpoena powers. The Inspector General shall have the
12 power to subpoena witnesses and compel the production of all
13 documents and physical evidence relating to his or her
14 investigations and any hearings authorized by this Act. This
15 subpoena power shall not extend to persons or documents of a
16 labor organization or its representatives insofar as the
17 persons are acting in a representative capacity to an employee
18 whose conduct is the subject of an investigation or the
19 documents relate to that representation. Any person who
20 otherwise fails to respond to a subpoena or who knowingly
21 provides false information to the Office of the Inspector
22 General by subpoena during an investigation is guilty of a
23 Class A misdemeanor.

24 (k) Reporting allegations and deaths.

25 (1) Allegations. If an employee witnesses, is told of,
26 or has reason to believe an incident of mental abuse,

1 physical abuse, sexual abuse, neglect, or financial
2 exploitation has occurred, the employee, agency, or
3 facility shall report the allegation by phone to the Office
4 of the Inspector General hotline according to the agency's
5 or facility's procedures, but in no event later than 4
6 hours after the initial discovery of the incident,
7 allegation, or suspicion of any one or more of the
8 following: mental abuse, physical abuse, sexual abuse,
9 neglect, or financial exploitation. A required reporter as
10 defined in subsection (b) of this Section who knowingly or
11 intentionally fails to comply with these reporting
12 requirements is guilty of a Class A misdemeanor.

13 (2) Deaths. Absent an allegation, a required reporter
14 shall, within 24 hours after initial discovery, report by
15 phone to the Office of the Inspector General hotline each
16 of the following:

17 (i) Any death of an individual occurring within 14
18 calendar days after discharge or transfer of the
19 individual from a residential program or facility.

20 (ii) Any death of an individual occurring within 24
21 hours after deflection from a residential program or
22 facility.

23 (iii) Any other death of an individual occurring at
24 an agency or facility or at any Department-funded site.

25 (3) Retaliation. It is a violation of this Act for any
26 employee or administrator of an agency or facility to take

1 retaliatory action against an employee who acts in good
2 faith in conformance with his or her duties as a required
3 reporter.

4 (1) Reporting to law enforcement.

5 (1) Reporting criminal acts. Within 24 hours after
6 determining that there is credible evidence indicating
7 that a criminal act may have been committed or that special
8 expertise may be required in an investigation, the
9 Inspector General shall notify the Department of State
10 Police or other appropriate law enforcement authority, or
11 ensure that such notification is made. The Department of
12 State Police shall investigate any report from a
13 State-operated facility indicating a possible murder,
14 sexual assault, or other felony by an employee. All
15 investigations conducted by the Inspector General shall be
16 conducted in a manner designed to ensure the preservation
17 of evidence for possible use in a criminal prosecution.

18 (2) Reporting allegations of adult students with
19 disabilities. Upon receipt of a reportable allegation
20 regarding an adult student with a disability, the
21 Department's Office of the Inspector General shall
22 determine whether the allegation meets the criteria for the
23 Domestic Abuse Program under the Abuse of Adults with
24 Disabilities Intervention Act. If the allegation is
25 reportable to that program, the Office of the Inspector
26 General shall initiate an investigation. If the allegation

1 is not reportable to the Domestic Abuse Program, the Office
2 of the Inspector General shall make an expeditious referral
3 to the respective law enforcement entity. If the alleged
4 victim is already receiving services from the Department,
5 the Office of the Inspector General shall also make a
6 referral to the respective Department of Human Services'
7 Division or Bureau.

8 (m) Investigative reports. Upon completion of an
9 investigation, the Office of Inspector General shall issue an
10 investigative report identifying whether the allegations are
11 substantiated, unsubstantiated, or unfounded. Within 10
12 business days after the transmittal of a completed
13 investigative report substantiating an allegation, finding an
14 allegation is unsubstantiated, or if a recommendation is made,
15 the Inspector General shall provide the investigative report on
16 the case to the Secretary and to the director of the facility
17 or agency where any one or more of the following occurred:
18 mental abuse, physical abuse, sexual abuse, neglect, egregious
19 neglect, or financial exploitation. The director of the
20 facility or agency shall be responsible for maintaining the
21 confidentiality of the investigative report consistent with
22 State and federal law. In a substantiated case, the
23 investigative report shall include any mitigating or
24 aggravating circumstances that were identified during the
25 investigation. If the case involves substantiated neglect, the
26 investigative report shall also state whether egregious

1 neglect was found. An investigative report may also set forth
2 recommendations. All investigative reports prepared by the
3 Office of the Inspector General shall be considered
4 confidential and shall not be released except as provided by
5 the law of this State or as required under applicable federal
6 law. Unsubstantiated and unfounded reports shall not be
7 disclosed except as allowed under Section 6 of the Abused and
8 Neglected Long Term Care Facility Residents Reporting Act. Raw
9 data used to compile the investigative report shall not be
10 subject to release unless required by law or a court order.
11 "Raw data used to compile the investigative report" includes,
12 but is not limited to, any one or more of the following: the
13 initial complaint, witness statements, photographs,
14 investigator's notes, police reports, or incident reports. If
15 the allegations are substantiated, the accused shall be
16 provided with a redacted copy of the investigative report.
17 Death reports where there was no allegation of abuse or neglect
18 shall only be released pursuant to applicable State or federal
19 law or a valid court order.

20 (n) Written responses and reconsideration requests.

21 (1) Written responses. Within 30 calendar days from
22 receipt of a substantiated investigative report or an
23 investigative report which contains recommendations,
24 absent a reconsideration request, the facility or agency
25 shall file a written response that addresses, in a concise
26 and reasoned manner, the actions taken to: (i) protect the

1 individual; (ii) prevent recurrences; and (iii) eliminate
2 the problems identified. The response shall include the
3 implementation and completion dates of such actions. If the
4 written response is not filed within the allotted 30
5 calendar day period, the Secretary shall determine the
6 appropriate corrective action to be taken.

7 (2) Reconsideration requests. The facility, agency,
8 victim or guardian, or the subject employee may request
9 that the Office of Inspector General reconsider or clarify
10 its finding based upon additional information.

11 (o) Disclosure of the finding by the Inspector General. The
12 Inspector General shall disclose the finding of an
13 investigation to the following persons: (i) the Governor, (ii)
14 the Secretary, (iii) the director of the facility or agency,
15 (iv) the alleged victims and their guardians, (v) the
16 complainant, and (vi) the accused. This information shall
17 include whether the allegations were deemed substantiated,
18 unsubstantiated, or unfounded.

19 (p) Secretary review. Upon review of the Inspector
20 General's investigative report and any agency's or facility's
21 written response, the Secretary shall accept or reject the
22 written response and notify the Inspector General of that
23 determination. The Secretary may further direct that other
24 administrative action be taken, including, but not limited to,
25 any one or more of the following: (i) additional site visits,
26 (ii) training, (iii) provision of technical assistance

1 relative to administrative needs, licensure or certification,
2 or (iv) the imposition of appropriate sanctions.

3 (q) Action by facility or agency. Within 30 days of the
4 date the Secretary approves the written response or directs
5 that further administrative action be taken, the facility or
6 agency shall provide an implementation report to the Inspector
7 General that provides the status of the action taken. The
8 facility or agency shall be allowed an additional 30 days to
9 send notice of completion of the action or to send an updated
10 implementation report. If the action has not been completed
11 within the additional 30 day period, the facility or agency
12 shall send updated implementation reports every 60 days until
13 completion. The Inspector General shall conduct a review of any
14 implementation plan that takes more than 120 days after
15 approval to complete, and shall monitor compliance through a
16 random review of approved written responses, which may include,
17 but are not limited to: (i) site visits, (ii) telephone
18 contact, and (iii) requests for additional documentation
19 evidencing compliance.

20 (r) Sanctions. Sanctions, if imposed by the Secretary under
21 Subdivision (p)(iv) of this Section, shall be designed to
22 prevent further acts of mental abuse, physical abuse, sexual
23 abuse, neglect, egregious neglect, or financial exploitation
24 or some combination of one or more of those acts at a facility
25 or agency, and may include any one or more of the following:

26 (1) Appointment of on-site monitors.

1 (2) Transfer or relocation of an individual or
2 individuals.

3 (3) Closure of units.

4 (4) Termination of any one or more of the following:
5 (i) Department licensing, (ii) funding, or (iii)
6 certification.

7 The Inspector General may seek the assistance of the
8 Illinois Attorney General or the office of any State's Attorney
9 in implementing sanctions.

10 (s) Health care worker registry.

11 (1) Reporting to the registry. The Inspector General
12 shall report to the Department of Public Health's health
13 care worker registry, a public registry, the identity and
14 finding of each employee of a facility or agency against
15 whom there is a final investigative report containing a
16 substantiated allegation of physical or sexual abuse,
17 financial exploitation, or egregious neglect of an
18 individual.

19 (2) Notice to employee. Prior to reporting the name of
20 an employee, the employee shall be notified of the
21 Department's obligation to report and shall be granted an
22 opportunity to request an administrative hearing, the sole
23 purpose of which is to determine if the substantiated
24 finding warrants reporting to the registry. Notice to the
25 employee shall contain a clear and concise statement of the
26 grounds on which the report to the registry is based, offer

1 the employee an opportunity for a hearing, and identify the
2 process for requesting such a hearing. Notice is sufficient
3 if provided by certified mail to the employee's last known
4 address. If the employee fails to request a hearing within
5 30 days from the date of the notice, the Inspector General
6 shall report the name of the employee to the registry.
7 Nothing in this subdivision (s) (2) shall diminish or impair
8 the rights of a person who is a member of a collective
9 bargaining unit under the Illinois Public Labor Relations
10 Act or under any other federal labor statute.

11 (3) Registry hearings. If the employee requests an
12 administrative hearing, the employee shall be granted an
13 opportunity to appear before an administrative law judge to
14 present reasons why the employee's name should not be
15 reported to the registry. The Department shall bear the
16 burden of presenting evidence that establishes, by a
17 preponderance of the evidence, that the substantiated
18 finding warrants reporting to the registry. After
19 considering all the evidence presented, the administrative
20 law judge shall make a recommendation to the Secretary as
21 to whether the substantiated finding warrants reporting
22 the name of the employee to the registry. The Secretary
23 shall render the final decision. The Department and the
24 employee shall have the right to request that the
25 administrative law judge consider a stipulated disposition
26 of these proceedings.

1 (4) Testimony at registry hearings. A person who makes
2 a report or who investigates a report under this Act shall
3 testify fully in any judicial proceeding resulting from
4 such a report, as to any evidence of abuse or neglect, or
5 the cause thereof. No evidence shall be excluded by reason
6 of any common law or statutory privilege relating to
7 communications between the alleged perpetrator of abuse or
8 neglect, or the individual alleged as the victim in the
9 report, and the person making or investigating the report.
10 Testimony at hearings is exempt from the confidentiality
11 requirements of subsection (f) of Section 10 of the Mental
12 Health and Developmental Disabilities Confidentiality Act.

13 (5) Employee's rights to collateral action. No
14 reporting to the registry shall occur and no hearing shall
15 be set or proceed if an employee notifies the Inspector
16 General in writing, including any supporting
17 documentation, that he or she is formally contesting an
18 adverse employment action resulting from a substantiated
19 finding by complaint filed with the Illinois Civil Service
20 Commission, or which otherwise seeks to enforce the
21 employee's rights pursuant to any applicable collective
22 bargaining agreement. If an action taken by an employer
23 against an employee as a result of a finding of physical
24 abuse, sexual abuse, or egregious neglect is overturned
25 through an action filed with the Illinois Civil Service
26 Commission or under any applicable collective bargaining

1 agreement and if that employee's name has already been sent
2 to the registry, the employee's name shall be removed from
3 the registry.

4 (6) Removal from registry. At any time after the report
5 to the registry, but no more than once in any 12-month
6 period, an employee may petition the Department in writing
7 to remove his or her name from the registry. Upon receiving
8 notice of such request, the Inspector General shall conduct
9 an investigation into the petition. Upon receipt of such
10 request, an administrative hearing will be set by the
11 Department. At the hearing, the employee shall bear the
12 burden of presenting evidence that establishes, by a
13 preponderance of the evidence, that removal of the name
14 from the registry is in the public interest. The parties
15 may jointly request that the administrative law judge
16 consider a stipulated disposition of these proceedings.

17 (t) Review of Administrative Decisions. The Department
18 shall preserve a record of all proceedings at any formal
19 hearing conducted by the Department involving health care
20 worker registry hearings. Final administrative decisions of
21 the Department are subject to judicial review pursuant to
22 provisions of the Administrative Review Law.

23 (u) Quality Care Board. There is created, within the Office
24 of the Inspector General, a Quality Care Board to be composed
25 of 7 members appointed by the Governor with the advice and
26 consent of the Senate. One of the members shall be designated

1 as chairman by the Governor. Of the initial appointments made
2 by the Governor, 4 Board members shall each be appointed for a
3 term of 4 years and 3 members shall each be appointed for a
4 term of 2 years. Upon the expiration of each member's term, a
5 successor shall be appointed for a term of 4 years. In the case
6 of a vacancy in the office of any member, the Governor shall
7 appoint a successor for the remainder of the unexpired term.

8 Members appointed by the Governor shall be qualified by
9 professional knowledge or experience in the area of law,
10 investigatory techniques, or in the area of care of the
11 mentally ill or care of persons with developmental
12 disabilities. Two members appointed by the Governor shall be
13 persons with a disability or a parent of a person with a
14 disability. Members shall serve without compensation, but
15 shall be reimbursed for expenses incurred in connection with
16 the performance of their duties as members.

17 The Board shall meet quarterly, and may hold other meetings
18 on the call of the chairman. Four members shall constitute a
19 quorum allowing the Board to conduct its business. The Board
20 may adopt rules and regulations it deems necessary to govern
21 its own procedures.

22 The Board shall monitor and oversee the operations,
23 policies, and procedures of the Inspector General to ensure the
24 prompt and thorough investigation of allegations of neglect and
25 abuse. In fulfilling these responsibilities, the Board may do
26 the following:

1 (1) Provide independent, expert consultation to the
2 Inspector General on policies and protocols for
3 investigations of alleged abuse, neglect, or both abuse and
4 neglect.

5 (2) Review existing regulations relating to the
6 operation of facilities.

7 (3) Advise the Inspector General as to the content of
8 training activities authorized under this Section.

9 (4) Recommend policies concerning methods for
10 improving the intergovernmental relationships between the
11 Office of the Inspector General and other State or federal
12 offices.

13 (v) Annual report. The Inspector General shall provide to
14 the General Assembly and the Governor, no later than January 1
15 of each year, a summary of reports and investigations made
16 under this Act for the prior fiscal year with respect to
17 individuals receiving mental health or developmental
18 disabilities services. The report shall detail the imposition
19 of sanctions, if any, and the final disposition of any
20 corrective or administrative action directed by the Secretary.
21 The summaries shall not contain any confidential or identifying
22 information of any individual, but shall include objective data
23 identifying any trends in the number of reported allegations,
24 the timeliness of the Office of the Inspector General's
25 investigations, and their disposition, for each facility and
26 Department-wide, for the most recent 3-year time period. The

1 report shall also identify, by facility, the staff-to-patient
2 ratios taking account of direct care staff only. The report
3 shall also include detailed recommended administrative actions
4 and matters for consideration by the General Assembly.

5 (w) Program audit. The Auditor General shall conduct a
6 program audit of the Office of the Inspector General on an
7 as-needed basis, as determined by the Auditor General. The
8 audit shall specifically include the Inspector General's
9 compliance with the Act and effectiveness in investigating
10 reports of allegations occurring in any facility or agency. The
11 Auditor General shall conduct the program audit according to
12 the provisions of the Illinois State Auditing Act and shall
13 report its findings to the General Assembly no later than
14 January 1 following the audit period.

15 (x) Nothing in this Section shall be construed to mean that
16 a patient is a victim of abuse or neglect because of health
17 care services appropriately provided or not provided by health
18 care professionals.

19 (y) Nothing in this Section shall require a facility,
20 including its employees, agents, medical staff members, and
21 health care professionals, to provide a service to a patient in
22 contravention of that patient's stated or implied objection to
23 the provision of that service on the ground that that service
24 conflicts with the patient's religious beliefs or practices,
25 nor shall the failure to provide a service to a patient be
26 considered abuse under this Section if the patient has objected

1 to the provision of that service based on his or her religious
2 beliefs or practices.

3 (Source: P.A. 98-49, eff. 7-1-13; 98-711, eff. 7-16-14; 99-143,
4 eff. 7-27-15; 99-323, eff. 8-7-15; 99-642, eff. 7-28-16.)

5 Section 10. The Community-Integrated Living Arrangements
6 Licensure and Certification Act is amended by changing Sections
7 4, 6, and 13 and by adding Section 9.2 as follows:

8 (210 ILCS 135/4) (from Ch. 91 1/2, par. 1704)

9 Sec. 4. (a) Any community mental health or developmental
10 services agency who wishes to develop and support a variety of
11 community-integrated living arrangements may do so pursuant to
12 a license issued by the Department under this Act. However,
13 programs established under or otherwise subject to the Child
14 Care Act of 1969, the Nursing Home Care Act, the Specialized
15 Mental Health Rehabilitation Act of 2013, the ID/DD Community
16 Care Act, or the MC/DD Act, as now or hereafter amended, shall
17 remain subject thereto, and this Act shall not be construed to
18 limit the application of those Acts.

19 (b) The system of licensure established under this Act
20 shall be for the purposes of:

21 (1) Insuring that all recipients residing in
22 community-integrated living arrangements are receiving
23 appropriate community-based services, including treatment,
24 training and habilitation or rehabilitation;

1 (2) Insuring that recipients' rights are protected and
2 that all programs provided to and placements arranged for
3 recipients comply with this Act, the Mental Health and
4 Developmental Disabilities Code, and applicable Department
5 rules and regulations;

6 (3) Maintaining the integrity of communities by
7 requiring regular monitoring and inspection of placements
8 and other services provided in community-integrated living
9 arrangements.

10 The licensure system shall be administered by a quality
11 assurance unit within the Department which shall be
12 administratively independent of units responsible for funding
13 of agencies or community services.

14 (c) As a condition of being licensed by the Department as a
15 community mental health or developmental services agency under
16 this Act, the agency shall certify to the Department that:

17 (1) All recipients residing in community-integrated
18 living arrangements are receiving appropriate
19 community-based services, including treatment, training
20 and habilitation or rehabilitation;

21 (2) All programs provided to and placements arranged
22 for recipients are supervised by the agency; and

23 (3) All programs provided to and placements arranged
24 for recipients comply with this Act, the Mental Health and
25 Developmental Disabilities Code, and applicable Department
26 rules and regulations.

1 (d) An applicant for licensure as a community mental health
2 or developmental services agency under this Act shall submit an
3 application pursuant to the application process established by
4 the Department by rule and shall pay an application fee in an
5 amount established by the Department, which amount shall not be
6 more than \$200.

7 (e) If an applicant meets the requirements established by
8 the Department to be licensed as a community mental health or
9 developmental services agency under this Act, after payment of
10 the licensing fee, the Department shall issue a license valid
11 for 3 years from the date thereof unless suspended or revoked
12 by the Department or voluntarily surrendered by the agency.

13 (f) Upon application to the Department, the Department may
14 issue a temporary permit to an applicant for up to a 2-year ~~a~~
15 ~~6-month~~ period to allow the holder of such permit reasonable
16 time to become eligible for a license under this Act.

17 (g) (1) The Department may conduct site visits to an agency
18 licensed under this Act, or to any program or placement
19 certified by the agency, and inspect the records or premises,
20 or both, of such agency, program or placement as it deems
21 appropriate, for the purpose of determining compliance with
22 this Act, the Mental Health and Developmental Disabilities
23 Code, and applicable Department rules and regulations.

24 (2) If the Department determines that an agency licensed
25 under this Act is not in compliance with this Act or the rules
26 and regulations promulgated under this Act, the Department

1 shall serve a notice of violation upon the licensee. Each
2 notice of violation shall be prepared in writing and shall
3 specify the nature of the violation, the statutory provision or
4 rule alleged to have been violated, and that the licensee
5 submit a plan of correction to the Department if required. The
6 notice shall also inform the licensee of any other action which
7 the Department might take pursuant to this Act and of the right
8 to a hearing.

9 (g-5) As determined by the Department, a disproportionate
10 number or percentage of licensure complaints; a
11 disproportionate number or percentage of substantiated cases
12 of abuse, neglect, or exploitation involving an agency; an
13 apparent unnatural death of an individual served by an agency;
14 any egregious or life-threatening abuse or neglect within an
15 agency; or any other significant event as determined by the
16 Department shall initiate a review of the agency's license by
17 the Department, as well as a review of its service agreement
18 for funding. The Department shall adopt rules to establish the
19 process by which the determination to initiate a review shall
20 be made and the timeframe to initiate a review upon the making
21 of such determination.

22 (h) Upon the expiration of any license issued under this
23 Act, a license renewal application shall be required of and a
24 license renewal fee in an amount established by the Department
25 shall be charged to a community mental health or developmental
26 services agency, provided that such fee shall not be more than

1 \$200.

2 (i) A public or private agency, association, partnership,
3 corporation, or organization that has had a license revoked
4 under subsection (b) of Section 6 of this Act may not apply for
5 or possess a license under a different name.

6 (Source: P.A. 98-104, eff. 7-22-13; 99-180, eff. 7-29-15.)

7 (210 ILCS 135/6) (from Ch. 91 1/2, par. 1706)

8 Sec. 6. (a) The Department shall deny an application for a
9 license, or revoke or refuse to renew the license of a
10 community mental health or developmental services agency, or
11 refuse to issue a license to the holder of a temporary permit,
12 if the Department determines that the applicant, agency or
13 permit holder has not complied with a provision of this Act,
14 the Mental Health and Developmental Disabilities Code, or
15 applicable Department rules and regulations. Specific grounds
16 for denial or revocation of a license, or refusal to renew a
17 license or to issue a license to the holder of a temporary
18 permit, shall include but not be limited to:

19 (1) Submission of false information either on
20 Department licensure forms or during an inspection;

21 (2) Refusal to allow an inspection to occur;

22 (3) Violation of this Act or rules and regulations
23 promulgated under this Act;

24 (4) Violation of the rights of a recipient;

25 (5) Failure to submit or implement a plan of correction

1 within the specified time period; or

2 (6) Failure to submit a workplace violence prevention
3 plan in compliance with the Health Care Workplace Violence
4 Prevention Act.

5 (b) If the Department determines that the operation of a
6 community mental health or developmental services agency or one
7 or more of the programs or placements certified by the agency
8 under this Act jeopardizes the health, safety or welfare of the
9 recipients served by the agency, the Department may immediately
10 revoke the agency's license and may direct the agency to
11 withdraw recipients from any such program or placement. If an
12 agency's license is revoked under this subsection, then the
13 Department or the Department's agents shall have unimpeded,
14 immediate, and full access to the recipients served by that
15 agency and the recipients' medications, records, and personal
16 possessions in order to ensure a timely, safe, and smooth
17 transition of those individuals from the program or placement.

18 (c) Upon revocation of an agency's license under subsection
19 (b) of this Section, the agency shall continue providing for
20 the health, safety, and welfare of the individuals that the
21 agency was serving at the time the agency's license was revoked
22 during the period of transition. The private, not-for-profit
23 corporation designated by the Governor to administer the State
24 plan to protect and advocate for the rights of persons with
25 developmental disabilities under Section 1 of the Protection
26 and Advocacy for Persons with Developmental Disabilities Act,

1 contingent on State funding from the Department, shall have
2 unimpeded, immediate, and full access to recipients and
3 recipients' guardians to inform them of the recipients' and
4 recipients' guardians' rights and options during the
5 revocation and transition process.

6 (d) The Office of Inspector General of the Department of
7 Human Services shall continue to have jurisdiction over an
8 agency and the individuals it served at the time the agency's
9 license was revoked for up to one year after the date that the
10 license was revoked.

11 (Source: P.A. 94-347, eff. 7-28-05.)

12 (210 ILCS 135/9.2 new)

13 Sec. 9.2. Emergency contacts and required records. An
14 agency shall collect and securely store identifying and contact
15 information for each resident. Unless otherwise required by
16 statute or an agency's rules or policies, this information may
17 include, but not be limited to, a current photograph, personal
18 contact information, guardian or emergency contact
19 information, a log of all off-site overnight visits, current
20 identification card, medical card, social security number, and
21 birth certificate. A resident's individual service
22 coordination agency shall maintain copies of the documents as
23 well. The log of all off-site overnight visits shall not apply
24 to intermittent community-integrated living arrangements or in
25 situations where the resident leaves to stay with parents and

1 family. This information shall be updated periodically.

2 (210 ILCS 135/13)

3 Sec. 13. Fire inspections; authority.

4 (a) Per the requirements of Public Act 96-1141, on January
5 1, 2011 a report titled "Streamlined Auditing and Monitoring
6 for Community Based Services: First Steps Toward a More
7 Efficient System for Providers, State Government, and the
8 Community" was provided for members of the General Assembly.
9 The report, which was developed by a steering committee of
10 community providers, trade associations, and designated
11 representatives from the Departments of Children and Family
12 Services, Healthcare and Family Services, Human Services, and
13 Public Health, issued a series of recommendations, including
14 recommended changes to Administrative Rules and Illinois
15 statutes, on the categories of deemed status for accreditation,
16 fiscal audits, centralized repository of information,
17 Medicaid, technology, contracting, and streamlined monitoring
18 procedures. It is the intent of the 97th General Assembly to
19 pursue implementation of those recommendations that have been
20 determined to require Acts of the General Assembly.

21 (b) For community-integrated living arrangements licensed
22 under this Act, ~~code the Office of the State Fire Marshal shall~~
23 ~~provide the necessary fire inspection to comply with licensing~~
24 ~~requirements. The Office of the State Fire Marshal may enter~~
25 ~~into an agreement with another State agency to conduct this~~

1 ~~inspection if qualified personnel are employed by that agency.~~
2 Code enforcement inspection of the facility by the local
3 authority may ~~shall only~~ occur if the local authority having
4 jurisdiction enforces code requirements that are equal to ~~more~~
5 ~~stringent than~~ those enforced by the State Fire Marshal.
6 Nothing in this Section shall prohibit a local fire authority
7 from conducting fire incident planning activities.

8 (Source: P.A. 97-321, eff. 8-12-11; 97-813, eff. 7-13-12.)

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