

1 AN ACT in relation to health care.

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

4 Section 5. The Mental Health and Developmental  
5 Disabilities Administrative Act is amended by changing  
6 Sections 4, 7, and 15 as follows:

7 (20 ILCS 1705/4) (from Ch. 91 1/2, par. 100-4)

8 Sec. 4. Supervision of facilities and services;  
9 quarterly reports.

10 (a) To exercise executive and administrative supervision  
11 over all facilities, divisions, programs and services now  
12 existing or hereafter acquired or created under the  
13 jurisdiction of the Department, including, but not limited  
14 to, the following:

15 The Alton Mental Health Center, at Alton

16 The Clyde L. Choate Mental Health and Developmental  
17 Center, at Anna

18 The Chester Mental Health Center, at Chester

19 The Chicago-Read Mental Health Center, at Chicago

20 The Elgin Mental Health Center, at Elgin

21 The Metropolitan Children and Adolescents Center, at  
22 Chicago

23 The Jacksonville Developmental Center, at  
24 Jacksonville

25 The Governor Samuel H. Shapiro Developmental Center,  
26 at Kankakee

27 The Tinley Park Mental Health Center, at Tinley Park

28 The Warren G. Murray Developmental Center, at  
29 Centralia

30 The Jack Mabley Developmental Center, at Dixon

31 The Lincoln Developmental Center, at Lincoln

- 1           The     H.     Douglas     Singer     Mental     Health     and
- 2           Developmental Center, at Rockford
- 3           The John J. Madden Mental Health Center, at Chicago
- 4           The George A. Zeller Mental Health Center, at Peoria
- 5           The Andrew McFarland Mental Health Center, at
- 6           Springfield
- 7           The Adolf Meyer Mental Health Center, at Decatur
- 8           The William W. Fox Developmental Center, at Dwight
- 9           The Elisabeth Ludeman Developmental Center, at Park
- 10          Forest
- 11          The William A. Howe Developmental Center, at Tinley
- 12          Park
- 13          The Ann M. Kiley Developmental Center, at Waukegan.

14          (b) Beginning not later than July 1, 1977, the  
 15 Department shall cause each of the facilities under its  
 16 jurisdiction which provide in-patient care to comply with  
 17 standards, rules and regulations of the Department of Public  
 18 Health prescribed under Section 6.05 of the Hospital  
 19 Licensing Act.

20          (c) The Department shall issue quarterly reports on  
 21 admissions, deflections, discharges, bed closures,  
 22 staff-resident ratios, census, and average length of stay,  
 23 and any adverse federal certification or accreditation  
 24 findings, if any, for each State-operated facility for the  
 25 mentally ill and developmentally disabled.

26          (Source: P.A. 91-357, eff. 7-29-99; 91-652, eff. 12-1-99.)

27          (20 ILCS 1705/7) (from Ch. 91 1/2, par. 100-7)

28          Sec. 7. To receive and provide the highest possible  
 29 quality of humane and rehabilitative care and treatment to  
 30 all persons admitted or committed or transferred in  
 31 accordance with law to the facilities, divisions, programs,  
 32 and services under the jurisdiction of the Department. No  
 33 resident of another state shall be received or retained to

1 the exclusion of any resident of this State. No resident of  
2 another state shall be received or retained to the exclusion  
3 of any resident of this State. All recipients of 17 years of  
4 age and under in residence in a Department facility other  
5 than a facility for the care of the mentally retarded shall  
6 be housed in quarters separated from older recipients except  
7 for: (a) recipients who are placed in medical-surgical units  
8 because of physical illness; and (b) recipients between 13  
9 and 18 years of age who need temporary security measures.

10 All recipients in a Department facility shall be given a  
11 dental examination by a licensed dentist or registered dental  
12 hygienist at least once every 18 months and shall be assigned  
13 to a dentist for such dental care and treatment as is  
14 necessary.

15 All medications administered to recipients shall be  
16 administered only by those persons who are legally qualified  
17 to do so by the laws of the State of Illinois. Medication  
18 shall not be prescribed until a physical and mental  
19 examination of the recipient has been completed. If, in the  
20 clinical judgment of a physician, it is necessary to  
21 administer medication to a recipient before the completion of  
22 the physical and mental examination, he may prescribe such  
23 medication but he must file a report with the facility  
24 director setting forth the reasons for prescribing such  
25 medication within 24 hours of the prescription. A copy of the  
26 report shall be part of the recipient's record.

27 No later than January 1, 2005, the Department shall adopt  
28 a model protocol and forms for recording all patient  
29 diagnosis, care, and treatment at each State-operated  
30 facility for the mentally ill and developmentally disabled  
31 under the jurisdiction of the Department. The model protocol  
32 and forms shall be used by each facility unless the  
33 Department determines that equivalent alternatives justify an  
34 exemption.

1 Every facility under the jurisdiction of the Department  
 2 shall maintain a copy of each report of suspected abuse or  
 3 neglect of the patient. Copies of those reports shall be made  
 4 available to the State Auditor General in connection with his  
 5 biennial program audit of the facility as required by Section  
 6 3-2 of the Illinois State Auditing Act.

7 No later than January 1, 2005, each State-operated  
 8 facility for the mentally ill and developmentally disabled  
 9 under the jurisdiction of the Department and all services  
 10 provided in those facilities shall comply with all of the  
 11 applicable standards adopted by the Social Security  
 12 Administration under Subchapter XVIII (Medicare) of the  
 13 Social Security Act (42 U.S.C. 1395 - 1395ccc), if the  
 14 facility and services may be eligible for federal financial  
 15 participation under that federal law.

16 (Source: P.A. 86-922; 86-1013; 86-1475.)

17 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

18 Sec. 15. Before any person is released from a facility  
 19 operated by the State pursuant to an absolute discharge or a  
 20 conditional discharge from hospitalization under this Act,  
 21 the facility director of the facility in which such person is  
 22 hospitalized shall determine that such person is not  
 23 currently in need of hospitalization and:

24 (a) is able to live independently in the community;

25 or

26 (b) requires further oversight and supervisory care  
 27 for which arrangements have been made with responsible  
 28 relatives or supervised residential program approved by  
 29 the Department; or

30 (c) requires further personal care or general  
 31 oversight as defined by the Nursing Home Care Act, for  
 32 which placement arrangements have been made with a  
 33 suitable family home or other licensed facility approved

1 by the Department under this Section; or  
 2 (d) requires community mental health services for  
 3 which arrangements have been made with a community mental  
 4 health provider in accordance with criteria, standards,  
 5 and procedures promulgated by rule.

6 Such determination shall be made in writing and shall  
 7 become a part of the facility record of such absolutely or  
 8 conditionally discharged person. When the determination  
 9 indicates that the condition of the person to be granted an  
 10 absolute discharge or a conditional discharge is described  
 11 under subparagraph (c) or (d) of this Section, the name and  
 12 address of the continuing care facility or home to which such  
 13 person is to be released shall be entered in the facility  
 14 record. Where a discharge from a mental health facility is  
 15 made under subparagraph (c), the Department shall assign the  
 16 person so discharged to an existing community based  
 17 not-for-profit agency for participation in day activities  
 18 suitable to the person's needs, such as but not limited to  
 19 social and vocational rehabilitation, and other recreational,  
 20 educational and financial activities unless the community  
 21 based not-for-profit agency is unable unqualified to accept  
 22 such assignment. Where the clientele or services to existing  
 23 clientele of any not-for-profit agency increases as a result  
 24 of assignments under this amendatory Act of the 93rd General  
 25 Assembly 1977--by--more--than--3%--over--the-prior-year, the  
 26 Department shall fully reimburse such agency for the  
 27 reasonable increased costs of providing services to such  
 28 persons in-excess-of-such-3%-increase. The Department shall  
 29 keep written records detailing how many persons have been  
 30 assigned to a community based not-for-profit agency and how  
 31 many persons were not so assigned because the community based  
 32 agency was unable to accept the assignments, in accordance  
 33 with criteria, standards, and procedures promulgated by rule.  
 34 Whenever a community based agency is found to be unable to

1 accept the assignments, the name of the agency and the reason  
2 for the finding shall be included in the report.

3       Insofar as desirable in the interests of the former  
4 recipient, the facility, program or home in which the  
5 discharged person is to be placed shall be located in or near  
6 the community in which the person resided prior to  
7 hospitalization or in the community in which the person's  
8 family or nearest next of kin presently reside. Placement of  
9 the discharged person in facilities, programs or homes  
10 located outside of this State shall not be made by the  
11 Department unless there are no appropriate facilities,  
12 programs or homes available within this State. Out-of-state  
13 placements shall be subject to return of recipients so placed  
14 upon the availability of facilities, programs or homes within  
15 this State to accommodate these recipients, except where  
16 placement in a contiguous state results in locating a  
17 recipient in a facility or program closer to the recipient's  
18 home or family. If an appropriate facility or program  
19 becomes available equal to or closer to the recipient's home  
20 or family, the recipient shall be returned to and placed at  
21 the appropriate facility or program within this State.

22       To place any person who is under a program of the  
23 Department at board in a suitable family home or in such  
24 other facility or program as the Department may consider  
25 desirable. The Department may place in licensed nursing  
26 homes, sheltered care homes, or homes for the aged those  
27 persons whose behavioral manifestations and medical and  
28 nursing care needs are such as to be substantially  
29 indistinguishable from persons already living in such  
30 facilities. Prior to any placement by the Department under  
31 this Section, a determination shall be made by the personnel  
32 of the Department, as to the capability and suitability of  
33 such facility to adequately meet the needs of the person to  
34 be discharged. When specialized programs are necessary in

1 order to enable persons in need of supervised living to  
2 develop and improve in the community, the Department shall  
3 place such persons only in specialized residential care  
4 facilities which shall meet Department standards including  
5 restricted admission policy, special staffing and programming  
6 for social and vocational rehabilitation, in addition to the  
7 requirements of the appropriate State licensing agency. The  
8 Department shall not place any new person in a facility the  
9 license of which has been revoked or not renewed on grounds  
10 of inadequate programming, staffing, or medical or adjunctive  
11 services, regardless of the pendency of an action for  
12 administrative review regarding such revocation or failure to  
13 renew. Before the Department may transfer any person to a  
14 licensed nursing home, sheltered care home or home for the  
15 aged or place any person in a specialized residential care  
16 facility the Department shall notify the person to be  
17 transferred, or a responsible relative of such person, in  
18 writing, at least 30 days before the proposed transfer, with  
19 respect to all the relevant facts concerning such transfer,  
20 except in cases of emergency when such notice is not  
21 required. If either the person to be transferred or a  
22 responsible relative of such person objects to such transfer,  
23 in writing to the Department, at any time after receipt of  
24 notice and before the transfer, the facility director of the  
25 facility in which the person was a recipient shall  
26 immediately schedule a hearing at the facility with the  
27 presence of the facility director, the person who objected to  
28 such proposed transfer, and a psychiatrist who is familiar  
29 with the record of the person to be transferred. Such person  
30 to be transferred or a responsible relative may be  
31 represented by such counsel or interested party as he may  
32 appoint, who may present such testimony with respect to the  
33 proposed transfer. Testimony presented at such hearing shall  
34 become a part of the facility record of the

1 person-to-be-transferred. The record of testimony shall be  
2 held in the person-to-be-transferred's record in the central  
3 files of the facility. If such hearing is held a transfer may  
4 only be implemented, if at all, in accordance with the  
5 results of such hearing. Within 15 days after such hearing  
6 the facility director shall deliver his findings based on the  
7 record of the case and the testimony presented at the  
8 hearing, by registered or certified mail, to the parties to  
9 such hearing. The findings of the facility director shall be  
10 deemed a final administrative decision of the Department. For  
11 purposes of this Section, "case of emergency" means those  
12 instances in which the health of the person to be transferred  
13 is imperiled and the most appropriate mental health care or  
14 medical care is available at a licensed nursing home,  
15 sheltered care home or home for the aged or a specialized  
16 residential care facility.

17 Prior to placement of any person in a facility under this  
18 Section the Department shall ensure that an appropriate  
19 training plan for staff is provided by the facility. Said  
20 training may include instruction and demonstration by  
21 Department personnel qualified in the area of mental illness  
22 or mental retardation, as applicable to the person to be  
23 placed. Training may be given both at the facility from  
24 which the recipient is transferred and at the facility  
25 receiving the recipient, and may be available on a continuing  
26 basis subsequent to placement. In a facility providing  
27 services to former Department recipients, training shall be  
28 available as necessary for facility staff. Such training  
29 will be on a continuing basis as the needs of the facility  
30 and recipients change and further training is required.

31 The Department shall not place any person in a facility  
32 which does not have appropriately trained staff in sufficient  
33 numbers to accommodate the recipient population already at  
34 the facility. As a condition of further or future placements



1 of persons, the Department shall require the employment of  
2 additional trained staff members at the facility where said  
3 persons are to be placed. The Secretary, or his or her  
4 designate, shall establish written guidelines for placement  
5 of persons in facilities under this Act. The Department shall  
6 keep written records detailing which facilities have been  
7 determined to have staff who have been appropriately trained  
8 by the Department and all training which it has provided or  
9 required under this Section.

10 Bills for the support for a person boarded out shall be  
11 payable monthly out of the proper maintenance funds and shall  
12 be audited as any other accounts of the Department. If a  
13 person is placed in a facility or program outside the  
14 Department, the Department may pay the actual costs of  
15 residence, treatment or maintenance in such facility and may  
16 collect such actual costs or a portion thereof from the  
17 recipient or the estate of a person placed in accordance with  
18 this Section.

19 Other than those placed in a family home the Department  
20 shall cause all persons who are placed in a facility, as  
21 defined by the Nursing Home Care Act, or in designated  
22 community living situations or programs, to be visited at  
23 least once during the first month following placement, and  
24 once every month thereafter for the first year following  
25 placement when indicated, but at least quarterly. After the  
26 first year, the Department shall determine at what point the  
27 appropriate licensing entity for the facility or designated  
28 community living situation or program will assume the  
29 responsibility of ensuring that appropriate services are  
30 being provided to the resident. Once that responsibility is  
31 assumed, the Department may discontinue such visits. If a  
32 long term care facility has periodic care plan conferences,  
33 the visitor may participate in those conferences, if such  
34 participation is approved by the resident or the resident's

1 guardian. Visits shall be made by qualified and trained  
 2 Department personnel, or their designee, in the area of  
 3 mental health or developmental disabilities applicable to the  
 4 person visited, and shall be made on a more frequent basis  
 5 when indicated. The Department may not use as designee any  
 6 personnel connected with or responsible to the  
 7 representatives of any facility in which persons who have  
 8 been transferred under this Section are placed. In the  
 9 course of such visit there shall be consideration of the  
 10 following areas, but not limited thereto: effects of  
 11 transfer on physical and mental health of the person,  
 12 sufficiency of nursing care and medical coverage required by  
 13 the person, sufficiency of staff personnel and ability to  
 14 provide basic care for the person, social, recreational and  
 15 programmatic activities available for the person, and other  
 16 appropriate aspects of the person's environment.

17 A report containing the above observations shall be made  
 18 to the Department, to the licensing agency, and to any other  
 19 appropriate agency subsequent to each visitation. The report  
 20 shall contain recommendations to improve the care and  
 21 treatment of the resident, as necessary, which shall be  
 22 reviewed by the facility's interdisciplinary team and the  
 23 resident or the resident's legal guardian. ~~At the conclusion~~  
 24 ~~of one year following absolute or conditional discharge, or a~~  
 25 ~~longer period of time if required by the Department, the~~  
 26 ~~Department may terminate the visitation requirements of this~~  
 27 ~~Section as to a person placed in accordance with this~~  
 28 ~~Section, by filing a written statement of termination setting~~  
 29 ~~forth reasons to substantiate the termination of visitations~~  
 30 ~~in the person's file, and sending a copy thereof to the~~  
 31 ~~person, and to his guardian or next of kin.~~

32 Upon the complaint of any person placed in accordance  
 33 with this Section or any responsible citizen or upon  
 34 discovery that such person has been abused, neglected, or

1 improperly cared for, or that the placement does not provide  
2 the type of care required by the recipient's current  
3 condition, the Department immediately shall investigate, and  
4 determine if the well-being, health, care, or safety of any  
5 person is affected by any of the above occurrences, and if  
6 any one of the above occurrences is verified, the Department  
7 shall remove such person at once to a facility of the  
8 Department or to another facility outside the Department,  
9 provided such person's needs can be met at said facility.  
10 The Department may also provide any person placed in  
11 accordance with this Section who is without available funds,  
12 and who is permitted to engage in employment outside the  
13 facility, such sums for the transportation, and other  
14 expenses as may be needed by him until he receives his wages  
15 for such employment.

16 The Department shall promulgate rules and regulations  
17 governing the purchase of care for persons who are wards of  
18 or who are receiving services from the Department. Such  
19 rules and regulations shall apply to all monies expended by  
20 any agency of the State of Illinois for services rendered by  
21 any person, corporate entity, agency, governmental agency or  
22 political subdivision whether public or private outside of  
23 the Department whether payment is made through a contractual,  
24 per-diem or other arrangement. No funds shall be paid to any  
25 person, corporation, agency, governmental entity or political  
26 subdivision without compliance with such rules and  
27 regulations.

28 The rules and regulations governing purchase of care  
29 shall describe categories and types of service deemed  
30 appropriate for purchase by the Department.

31 Any provider of services under this Act may elect to  
32 receive payment for those services, and the Department is  
33 authorized to arrange for that payment, by means of direct  
34 deposit transmittals to the service provider's account

1 maintained at a bank, savings and loan association, or other  
2 financial institution. The financial institution shall be  
3 approved by the Department, and the deposits shall be in  
4 accordance with rules and regulations adopted by the  
5 Department.

6 (Source: P.A. 89-507, eff. 7-1-97; 90-423, eff. 8-15-97.)

7 Section 10. The Abused and Neglected Long Term Care  
8 Facility Residents Reporting Act is amended by changing  
9 Sections 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, and 6.8 as follows:

10 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)

11 (Section scheduled to be repealed on January 1, 2004)

12 Sec. 6.2. Inspector General.

13 (a) The Governor shall appoint, and the Senate shall  
14 confirm, an Inspector General. The Inspector General shall  
15 be appointed for a term of 4 years and who shall function  
16 within the Department of Human Services and report to the  
17 Secretary of Human Services and the Governor. The Inspector  
18 General shall function independently within the Department of  
19 Human Services with respect to the operations of the office,  
20 including the performance of investigations and issuance of  
21 findings and recommendations. The Inspector General shall  
22 independently submit to the Governor any request for  
23 appropriations necessary for the ordinary and contingent  
24 expenses of the Office of Inspector General, and  
25 appropriations for that office shall be separate from the  
26 Department of Human Services. The Inspector General shall  
27 investigate reports of suspected abuse or neglect (as those  
28 terms are defined in Section 3 of this Act) of patients or  
29 residents in any mental health or developmental disabilities  
30 facility operated by the Department of Human Services and  
31 shall have authority to investigate and take immediate action  
32 on reports of abuse or neglect of recipients, whether

1 patients or residents, in any mental health or developmental  
2 disabilities facility or program that is licensed or  
3 certified by the Department of Human Services (as successor  
4 to the Department of Mental Health and Developmental  
5 Disabilities) or that is funded by the Department of Human  
6 Services (as successor to the Department of Mental Health and  
7 Developmental Disabilities) and is not licensed or certified  
8 by any agency of the State. At the specific, written request  
9 of an agency of the State other than the Department of Human  
10 Services (as successor to the Department of Mental Health and  
11 Developmental Disabilities), the Inspector General may  
12 cooperate in investigating reports of abuse and neglect of  
13 persons with mental illness or persons with developmental  
14 disabilities. The Inspector General shall have no  
15 supervision over or involvement in routine, programmatic,  
16 licensure, or certification operations of the Department of  
17 Human Services or any of its funded agencies.

18 The Inspector General shall promulgate rules establishing  
19 minimum requirements for reporting allegations of abuse and  
20 neglect and initiating, conducting, and completing  
21 investigations. The promulgated rules shall clearly set  
22 forth that in instances where 2 or more State agencies could  
23 investigate an allegation of abuse or neglect, the Inspector  
24 General shall not conduct an investigation that is redundant  
25 to an investigation conducted by another State agency. The  
26 rules shall establish criteria for determining, based upon  
27 the nature of the allegation, the appropriate method of  
28 investigation, which may include, but need not be limited to,  
29 site visits, telephone contacts, or requests for written  
30 responses from agencies. The rules shall also clarify how the  
31 Office of the Inspector General shall interact with the  
32 licensing unit of the Department of Human Services in  
33 investigations of allegations of abuse or neglect. Any  
34 allegations or investigations of reports made pursuant to

1 this Act shall remain confidential until a final report is  
2 completed. The resident or patient who allegedly was abused  
3 or neglected and his or her legal guardian shall be informed  
4 by the facility or agency of the report of alleged abuse or  
5 neglect. Final reports regarding unsubstantiated or unfounded  
6 allegations shall remain confidential, except that final  
7 reports may be disclosed pursuant to Section 6 of this Act.

8 ~~The Inspector General shall be appointed for a term of 4~~  
9 ~~years.~~

10 When the Office of the Inspector General has  
11 substantiated a case of abuse or neglect, the Inspector  
12 General shall include in the final report any mitigating or  
13 aggravating circumstances that were identified during the  
14 investigation. Upon determination that a report of neglect  
15 is substantiated, the Inspector General shall then determine  
16 whether such neglect rises to the level of egregious neglect.

17 (b) The Inspector General shall within 24 hours after  
18 receiving a report of suspected abuse or neglect determine  
19 whether the evidence indicates that any possible criminal act  
20 has been committed. If he determines that a possible criminal  
21 act has been committed, or that special expertise is required  
22 in the investigation, he shall immediately notify the  
23 Department of State Police. The Department of State Police  
24 shall investigate any report indicating a possible murder,  
25 rape, or other felony. All investigations conducted by the  
26 Inspector General shall be conducted in a manner designed to  
27 ensure the preservation of evidence for possible use in a  
28 criminal prosecution.

29 (b-5) The Inspector General shall make a determination  
30 to accept or reject a preliminary report of the investigation  
31 of alleged abuse or neglect based on established  
32 investigative procedures. Notice of the Inspector General's  
33 determination must be given to the person who claims to be  
34 the victim of the abuse or neglect, to the person or persons

1 alleged to have been responsible for abuse or neglect, and to  
2 the facility or agency. The facility or agency or the person  
3 or persons alleged to have been responsible for the abuse or  
4 neglect and the person who claims to be the victim of the  
5 abuse or neglect may request clarification or reconsideration  
6 based on additional information. For cases where the  
7 allegation of abuse or neglect is substantiated, the  
8 Inspector General shall require the facility or agency to  
9 submit a written response. The written response from a  
10 facility or agency shall address in a concise and reasoned  
11 manner the actions that the agency or facility will take or  
12 has taken to protect the resident or patient from abuse or  
13 neglect, prevent reoccurrences, and eliminate problems  
14 identified and shall include implementation and completion  
15 dates for all such action.

16 (c) The Inspector General shall, within 10 calendar days  
17 after the transmittal date of a completed investigation where  
18 abuse or neglect is substantiated or administrative action is  
19 recommended, provide a complete report on the case to the  
20 Secretary of Human Services and to the agency in which the  
21 abuse or neglect is alleged to have happened. The complete  
22 report shall include a written response from the agency or  
23 facility operated by the State to the Inspector General that  
24 addresses in a concise and reasoned manner the actions that  
25 the agency or facility will take or has taken to protect the  
26 resident or patient from abuse or neglect, prevent  
27 reoccurrences, and eliminate problems identified and shall  
28 include implementation and completion dates for all such  
29 action. The Secretary of Human Services shall accept or  
30 reject the response and establish how the Department will  
31 determine whether the facility or program followed the  
32 approved response. The Secretary may require Department  
33 personnel to visit the facility or agency for training,  
34 technical assistance, programmatic, licensure, or

1 certification purposes. Administrative action, including  
2 sanctions, may be applied should the Secretary reject the  
3 response or should the facility or agency fail to follow the  
4 approved response. Within 30 days after the Secretary has  
5 approved a response, the facility or agency making the  
6 response shall provide an implementation report to the  
7 Inspector General on the status of the corrective action  
8 implemented. Within 60 days after receiving the  
9 implementation report, the Inspector General shall conduct an  
10 investigation, which may include, but need not be limited to,  
11 site visits, telephone contacts, or requests for written  
12 documentation from the facility or agency, to determine  
13 whether the facility or agency is in compliance with the  
14 approved response. The facility or agency shall inform the  
15 resident or patient and the legal guardian whether the  
16 reported allegation was substantiated, unsubstantiated, or  
17 unfounded. There shall be an appeals process for any person  
18 or agency that is subject to any action based on a  
19 recommendation or recommendations.

20 (d) The Inspector General may recommend to the  
21 Departments of Public Health and Human Services sanctions to  
22 be imposed against mental health and developmental  
23 disabilities facilities under the jurisdiction of the  
24 Department of Human Services for the protection of residents,  
25 including appointment of on-site monitors or receivers,  
26 transfer or relocation of residents, and closure of units.  
27 The Inspector General may seek the assistance of the Attorney  
28 General or any of the several State's attorneys in imposing  
29 such sanctions. Whenever the Inspector General issues any  
30 recommendations to the Secretary of Human Services, the  
31 Secretary shall provide a written response.

32 (e) The Inspector General shall establish and conduct  
33 periodic training programs for Department of Human Services  
34 employees concerning the prevention and reporting of neglect



1 and abuse.

2 (f) The Inspector General shall at all times be granted  
3 access to any mental health or developmental disabilities  
4 facility operated by the Department of Human Services, shall  
5 establish and conduct unannounced site visits to those  
6 facilities at least once annually, and shall be granted  
7 access, for the purpose of investigating a report of abuse or  
8 neglect, to the records of the Department of Human Services  
9 and to any facility or program funded by the Department of  
10 Human Services that is subject under the provisions of this  
11 Section to investigation by the Inspector General for a  
12 report of abuse or neglect.

13 (g) Nothing in this Section shall limit investigations  
14 by the Department of Human Services that may otherwise be  
15 required by law or that may be necessary in that Department's  
16 capacity as the central administrative authority responsible  
17 for the operation of State mental health and developmental  
18 disability facilities.

19 (g-5) After notice and an opportunity for a hearing that  
20 is separate and distinct from the Office of the Inspector  
21 General's appeals process as implemented under subsection (c)  
22 of this Section, the Inspector General shall report to the  
23 Department of Public Health's nurse aide registry under  
24 Section 3-206.01 of the Nursing Home Care Act the identity of  
25 individuals against whom there has been a substantiated  
26 finding of physical or sexual abuse or egregious neglect of a  
27 service recipient.

28 Nothing in this subsection shall diminish or impair the  
29 rights of a person who is a member of a collective bargaining  
30 unit pursuant to the Illinois Public Labor Relations Act or  
31 pursuant to any federal labor statute. An individual who is a  
32 member of a collective bargaining unit as described above  
33 shall not be reported to the Department of Public Health's  
34 nurse aide registry until the exhaustion of that individual's

1 grievance and arbitration rights, or until 3 months after the  
2 initiation of the grievance process, whichever occurs first,  
3 provided that the Department of Human Services' hearing under  
4 subsection (c), that is separate and distinct from the Office  
5 of the Inspector General's appeals process, has concluded.  
6 Notwithstanding anything hereinafter or previously provided,  
7 if an action taken by an employer against an individual as a  
8 result of the circumstances that led to a finding of physical  
9 or sexual abuse or egregious neglect is later overturned  
10 under a grievance or arbitration procedure provided for in  
11 Section 8 of the Illinois Public Labor Relations Act or under  
12 a collective bargaining agreement, the report must be removed  
13 from the registry.

14 The Department of Human Services shall promulgate or  
15 amend rules as necessary or appropriate to establish  
16 procedures for reporting to the registry, including the  
17 definition of egregious neglect, procedures for notice to the  
18 individual and victim, appeal and hearing procedures, and  
19 petition for removal of the report from the registry. The  
20 portion of the rules pertaining to hearings shall provide  
21 that, at the hearing, both parties may present written and  
22 oral evidence. The Department shall be required to establish  
23 by a preponderance of the evidence that the Office of the  
24 Inspector General's finding of physical or sexual abuse or  
25 egregious neglect warrants reporting to the Department of  
26 Public Health's nurse aide registry under Section 3-206.01 of  
27 the Nursing Home Care Act.

28 Notice to the individual shall include a clear and  
29 concise statement of the grounds on which the report to the  
30 registry is based and notice of the opportunity for a hearing  
31 to contest the report. The Department of Human Services shall  
32 provide the notice by certified mail to the last known  
33 address of the individual. The notice shall give the  
34 individual an opportunity to contest the report in a hearing

1 before the Department of Human Services or to submit a  
2 written response to the findings instead of requesting a  
3 hearing. If the individual does not request a hearing or if  
4 after notice and a hearing the Department of Human Services  
5 finds that the report is valid, the finding shall be included  
6 as part of the registry, as well as a brief statement from  
7 the reported individual if he or she chooses to make a  
8 statement. The Department of Public Health shall make  
9 available to the public information reported to the registry.  
10 In a case of inquiries concerning an individual listed in the  
11 registry, any information disclosed concerning a finding of  
12 abuse or neglect shall also include disclosure of the  
13 individual's brief statement in the registry relating to the  
14 reported finding or include a clear and accurate summary of  
15 the statement.

16 At any time after the report of the registry, an  
17 individual may petition the Department of Human Services for  
18 removal from the registry of the finding against him or her.  
19 Upon receipt of such a petition, the Department of Human  
20 Services shall conduct an investigation and hearing on the  
21 petition. Upon completion of the investigation and hearing,  
22 the Department of Human Services shall report the removal of  
23 the finding to the registry unless the Department of Human  
24 Services determines that removal is not in the public  
25 interest.

26 ~~{h}--This-Section-is-repealed-on-January-17-2004.~~

27 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01;  
28 92-473, eff. 1-1-02; 92-651, eff. 7-11-02.)

29 (210 ILCS 30/6.3) (from Ch. 111 1/2, par. 4166.3)

30 (Section scheduled to be repealed on January 1, 2004)

31 Sec. 6.3. Quality Care Board. There is created, within  
32 the ~~Department of Human Services~~ Office of the Inspector  
33 General, a Quality Care Board to be composed of 7 members

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

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

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

24 ~~This Section is repealed on January 17, 2004.~~  
 25 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.)

26 (210 ILCS 30/6.4) (from Ch. 111 1/2, par. 4166.4)  
 27 (Section scheduled to be repealed on January 1, 2004)  
 28 Sec. 6.4. Scope and function of the Quality Care Board.  
 29 The Board shall monitor and oversee the operations, policies,  
 30 and procedures of the Inspector General to assure the prompt  
 31 and thorough investigation of allegations of neglect and  
 32 abuse. In fulfilling these responsibilities, the Board may  
 33 do the following:

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

4 (2) Review existing regulations relating to the  
5 operation of facilities under the control of the  
6 Department of Human Services.

7 (3) Advise the Inspector General as to the content  
8 of training activities authorized under Section 6.2.

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

13 ~~This Section is repealed on January 17, 2004.~~

14 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.)

15 (210 ILCS 30/6.5) (from Ch. 111 1/2, par. 4166.5)

16 (Section scheduled to be repealed on January 1, 2004)

17 Sec. 6.5. Investigators. ~~Within 60 days after the~~  
18 ~~effective date of this amendatory Act of 1992,~~ The Inspector  
19 General shall establish a comprehensive program to ensure  
20 that every person employed or newly hired to conduct  
21 investigations shall receive training on an on-going basis  
22 concerning investigative techniques, communication skills,  
23 and the appropriate means of contact with persons admitted or  
24 committed to the mental health or developmental disabilities  
25 facilities under the jurisdiction of the Department of Human  
26 Services.

27 ~~This Section is repealed on January 17, 2004.~~

28 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.)

29 (210 ILCS 30/6.6) (from Ch. 111 1/2, par. 4166.6)

30 (Section scheduled to be repealed on January 1, 2004)

31 Sec. 6.6. Subpoenas; testimony; penalty. The Inspector  
32 General shall have the power to subpoena witnesses and compel

1 the production of books and papers pertinent to an  
2 investigation authorized by this Act, provided that the power  
3 to subpoena or to compel the production of books and papers  
4 shall not extend to the person or documents of a labor  
5 organization or its representatives insofar as the person or  
6 documents of a labor organization relate to the function of  
7 representing an employee subject to investigation under this  
8 Act. Mental health records of patients shall be confidential  
9 as provided under the Mental Health and Developmental  
10 Disabilities Confidentiality Act. Any person who fails to  
11 appear in response to a subpoena or to answer any question or  
12 produce any books or papers pertinent to an investigation  
13 under this Act, except as otherwise provided in this Section,  
14 or who knowingly gives false testimony in relation to an  
15 investigation under this Act is guilty of a Class A  
16 misdemeanor.

17 ~~This Section is repealed on January 17, 2004.~~

18 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.)

19 (210 ILCS 30/6.7) (from Ch. 111 1/2, par. 4166.7)

20 (Section scheduled to be repealed on January 1, 2004)

21 Sec. 6.7. Annual report. The Inspector General shall  
22 provide to the General Assembly and the Governor, no later  
23 than January 1 of each year, a summary of reports and  
24 investigations made under this Act for the prior fiscal year  
25 with respect to residents of institutions under the  
26 jurisdiction of the Department of Human Services. The report  
27 shall detail the imposition of sanctions and the final  
28 disposition of those recommendations. The summaries shall  
29 not contain any confidential or identifying information  
30 concerning the subjects of the reports and investigations.  
31 The report shall also include a trend analysis of the number  
32 of reported allegations and their disposition, for each  
33 facility and Department-wide, for the most recent 3-year time

1 period and a statement, for each facility, of the  
2 staffing-to-patient ratios. The ratios shall include only  
3 the number of direct care staff. The report shall also  
4 include detailed recommended administrative actions and  
5 matters for consideration by the General Assembly.

6 ~~This Section is repealed on January 17, 2004.~~

7 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.)

8 (210 ILCS 30/6.8) (from Ch. 111 1/2, par. 4166.8)

9 (Section scheduled to be repealed on January 1, 2004)

10 Sec. 6.8. Program audit. The Auditor General shall  
11 conduct a biennial program audit of the office of the  
12 Inspector General in relation to the Inspector General's  
13 compliance with this Act. The audit shall specifically  
14 include the Inspector General's effectiveness in  
15 investigating reports of alleged neglect or abuse of  
16 residents in any facility operated by the Department of Human  
17 Services and in making recommendations for sanctions to the  
18 Departments of Human Services and Public Health. The Auditor  
19 General shall conduct the program audit according to the  
20 provisions of the Illinois State Auditing Act and shall  
21 report its findings to the General Assembly no later than  
22 January 1 of each odd-numbered year.

23 ~~This Section is repealed on January 17, 2004.~~

24 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.).

25 Section 15. The Nursing Home Care Act is amended by  
26 changing Sections 2-106 and 2-106.1 as follows:

27 (210 ILCS 45/2-106) (from Ch. 111 1/2, par. 4152-106)

28 Sec. 2-106. (a) For purposes of this Act, (i) a physical  
29 restraint is any manual method or physical or mechanical  
30 device, material, or equipment attached or adjacent to a  
31 resident's body that the resident cannot remove easily and

1 restricts freedom of movement or normal access to one's body.  
2 Devices used for safety precautions and positioning,  
3 including but not limited to bed rails, lap belts, gait  
4 belts, and cushions, shall not be considered to be restraints  
5 for purposes of this Section; (ii) a chemical restraint is  
6 any drug used for discipline or convenience and not required  
7 to treat medical symptoms. The Department shall by rule,  
8 designate certain devices as restraints, including at least  
9 all those devices which have been determined to be restraints  
10 by the United States Department of Health and Human Services  
11 in interpretive guidelines issued for the purposes of  
12 administering Titles 18 and 19 of the Social Security Acts.

13 (b) Neither restraints nor confinements shall be  
14 employed for the purpose of punishment or for the convenience  
15 of any facility personnel. No restraints or confinements  
16 shall be employed except as ordered by a physician who  
17 documents the need for such restraints or confinements in the  
18 resident's clinical record. Each facility licensed under  
19 this Act must have a written policy to address the use of  
20 restraints and seclusion. The Department shall establish by  
21 rule the provisions that the policy must include, which, to  
22 the extent practicable, should be consistent with the  
23 requirements for participation in the federal Medicare  
24 program. Each policy shall include periodic review of the  
25 use of restraints.

26 (c) A restraint may be used only with the informed  
27 consent of the resident, the resident's guardian, or other  
28 authorized representative. A restraint may be used only for  
29 specific periods, if it is the least restrictive means  
30 necessary to attain and maintain the resident's highest  
31 practicable physical, mental or psychosocial well-being,  
32 including brief periods of time to provide necessary  
33 life-saving treatment. A restraint may be used only after  
34 consultation with appropriate health professionals, such as



1 occupational or physical therapists, and a trial of less  
2 restrictive measures has led to the determination that the  
3 use of less restrictive measures would not attain or maintain  
4 the resident's highest practicable physical, mental or  
5 psychosocial well-being. However, if the resident needs  
6 emergency care, restraints may be used for brief periods to  
7 permit medical treatment to proceed unless the facility has  
8 notice that the resident has previously made a valid refusal  
9 of the treatment in question.

10 (d) A restraint may be applied only by a person trained  
11 in the application of the particular type of restraint.

12 (e) Whenever a period of use of a restraint is  
13 initiated, the resident shall be advised of his or her right  
14 to have a person or organization of his or her choosing,  
15 including the Guardianship and Advocacy Commission, notified  
16 of the use of the restraint. A recipient who is under  
17 guardianship may request that a person or organization of his  
18 or her choosing be notified of the restraint, whether or not  
19 the guardian approves the notice. If the resident so  
20 chooses, the facility shall make the notification within 24  
21 hours, including any information about the period of time  
22 that the restraint is to be used. Whenever the Guardianship  
23 and Advocacy Commission is notified that a resident has been  
24 restrained, it shall contact the resident to determine the  
25 circumstances of the restraint and whether further action is  
26 warranted.

27 (f) Whenever a restraint is used on a resident whose  
28 primary mode of communication is sign language, the resident  
29 shall be permitted to have his or her hands free from  
30 restraint for brief periods each hour, except when this  
31 freedom may result in physical harm to the resident or  
32 others.

33 (g) The requirements of this Section are intended to  
34 control in any conflict with the requirements of Sections

1 1-126 and 2-108 of the Mental Health and Developmental  
2 Disabilities Code.

3 (Source: P.A. 88-413.)

4 (210 ILCS 45/2-106.1)

5 Sec. 2-106.1. Drug treatment.

6 (a) A resident shall not be given unnecessary drugs. An  
7 unnecessary drug is any drug used in an excessive dose,  
8 including in duplicative therapy; for excessive duration;  
9 without adequate monitoring; without adequate indications for  
10 its use; or in the presence of adverse consequences that  
11 indicate the drugs should be reduced or discontinued. The  
12 Department shall adopt, by rule, the standards for  
13 unnecessary drugs contained in interpretive guidelines issued  
14 by the United States Department of Health and Human Services  
15 for the purposes of administering titles 18 and 19 of the  
16 Social Security Act.

17 (b) Psychotropic medication shall not be prescribed  
18 without the informed consent of the resident, the resident's  
19 guardian, or other authorized representative. "Psychotropic  
20 medication" means medication that is used for or listed as  
21 used for antipsychotic, antidepressant, antimanic, or  
22 antianxiety behavior modification or behavior management  
23 purposes in the latest editions of the AMA Drug Evaluations  
24 or the Physician's Desk Reference.

25 (c) The requirements of this Section are intended to  
26 control in a conflict with the requirements of Sections 2-102  
27 ~~1-102~~ and 2-107.2 of the Mental Health and Developmental  
28 Disabilities Code with respect to the administration of  
29 psychotropic medication.

30 (Source: P.A. 88-413.)

31 Section 99. Effective date. This Section, Section 10,  
32 the changes to Sections 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, and 6.8

1 of the Abused and Neglected Long Term Care Facility Residents  
2 Reporting Act, and the changes to Section 3-203 of the  
3 Nursing Home Care Act take effect upon becoming law.

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- 20 ILCS 1705/15 from Ch. 91 1/2, par. 100-15
- 210 ILCS 30/6.2 from Ch. 111 1/2, par. 4166.2
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