

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 2004, the Department shall report
8 to the Governor and the General Assembly whether each
9 State-operated facility for the mentally ill and
10 developmentally disabled under the jurisdiction of the
11 Department and all services provided in those facilities
12 comply with all of the applicable standards adopted by the
13 Social Security Administration under Subchapter XVIII
14 (Medicare) of the Social Security Act (42 U.S.C.
15 1395-1395ccc), if the facility and services may be eligible
16 for federal financial participation under that federal law.
17 For those facilities that do comply, the report shall
18 indicate what actions need to be taken to ensure continued
19 compliance. For those facilities that do not comply, the
20 report shall indicate what actions need to be taken to bring
21 each facility into compliance.

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

23 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

24 Sec. 15. Before any person is released from a facility
25 operated by the State pursuant to an absolute discharge or a
26 conditional discharge from hospitalization under this Act,
27 the facility director of the facility in which such person is
28 hospitalized shall determine that such person is not
29 currently in need of hospitalization and:

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

31 or

32 (b) requires further oversight and supervisory care

33 for which arrangements have been made with responsible

1 relatives or supervised residential program approved by
2 the Department; or

3 (c) requires further personal care or general
4 oversight as defined by the Nursing Home Care Act, for
5 which placement arrangements have been made with a
6 suitable family home or other licensed facility approved
7 by the Department under this Section; or

8 (d) requires community mental health services for
9 which arrangements have been made with a community mental
10 health provider in accordance with criteria, standards,
11 and procedures promulgated by rule.

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

1 3%--increase. The Department shall keep written records
2 detailing how many persons have been assigned to a community
3 based not-for-profit agency and how many persons were not so
4 assigned because the community based agency was unable to
5 accept the assignments, in accordance with criteria,
6 standards, and procedures promulgated by rule. Whenever a
7 community based agency is found to be unable to accept the
8 assignments, the name of the agency and the reason for the
9 finding shall be included in the report.

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

29 To place any person who is under a program of the
30 Department at board in a suitable family home or in such
31 other facility or program as the Department may consider
32 desirable. The Department may place in licensed nursing
33 homes, sheltered care homes, or homes for the aged those
34 persons whose behavioral manifestations and medical and

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

1 such proposed transfer, and a psychiatrist who is familiar
2 with the record of the person to be transferred. Such person
3 to be transferred or a responsible relative may be
4 represented by such counsel or interested party as he may
5 appoint, who may present such testimony with respect to the
6 proposed transfer. Testimony presented at such hearing shall
7 become a part of the facility record of the
8 person-to-be-transferred. The record of testimony shall be
9 held in the person-to-be-transferred's record in the central
10 files of the facility. If such hearing is held a transfer may
11 only be implemented, if at all, in accordance with the
12 results of such hearing. Within 15 days after such hearing
13 the facility director shall deliver his findings based on the
14 record of the case and the testimony presented at the
15 hearing, by registered or certified mail, to the parties to
16 such hearing. The findings of the facility director shall be
17 deemed a final administrative decision of the Department. For
18 purposes of this Section, "case of emergency" means those
19 instances in which the health of the person to be transferred
20 is imperiled and the most appropriate mental health care or
21 medical care is available at a licensed nursing home,
22 sheltered care home or home for the aged or a specialized
23 residential care facility.

24 Prior to placement of any person in a facility under this
25 Section the Department shall ensure that an appropriate
26 training plan for staff is provided by the facility. Said
27 training may include instruction and demonstration by
28 Department personnel qualified in the area of mental illness
29 or mental retardation, as applicable to the person to be
30 placed. Training may be given both at the facility from
31 which the recipient is transferred and at the facility
32 receiving the recipient, and may be available on a continuing
33 basis subsequent to placement. In a facility providing
34 services to former Department recipients, training shall be

1 available as necessary for facility staff. Such training
2 will be on a continuing basis as the needs of the facility
3 and recipients change and further training is required.

4 The Department shall not place any person in a facility
5 which does not have appropriately trained staff in sufficient
6 numbers to accommodate the recipient population already at
7 the facility. As a condition of further or future placements
8 of persons, the Department shall require the employment of
9 additional trained staff members at the facility where said
10 persons are to be placed. The Secretary, or his or her
11 designate, shall establish written guidelines for placement
12 of persons in facilities under this Act. The Department shall
13 keep written records detailing which facilities have been
14 determined to have staff who have been appropriately trained
15 by the Department and all training which it has provided or
16 required under this Section.

17 Bills for the support for a person boarded out shall be
18 payable monthly out of the proper maintenance funds and shall
19 be audited as any other accounts of the Department. If a
20 person is placed in a facility or program outside the
21 Department, the Department may pay the actual costs of
22 residence, treatment or maintenance in such facility and may
23 collect such actual costs or a portion thereof from the
24 recipient or the estate of a person placed in accordance with
25 this Section.

26 Other than those placed in a family home the Department
27 shall cause all persons who are placed in a facility, as
28 defined by the Nursing Home Care Act, or in designated
29 community living situations or programs, to be visited at
30 least once during the first month following placement, and
31 once every month thereafter for the first year following
32 placement when indicated, but at least quarterly. After the
33 first year, the Department shall determine at what point the
34 appropriate licensing entity for the facility or designated

1 community living situation or program will assume the
2 responsibility of ensuring that appropriate services are
3 being provided to the resident. Once that responsibility is
4 assumed, the Department may discontinue such visits. If a
5 long term care facility has periodic care plan conferences,
6 the visitor may participate in those conferences, if such
7 participation is approved by the resident or the resident's
8 guardian. Visits shall be made by qualified and trained
9 Department personnel, or their designee, in the area of
10 mental health or developmental disabilities applicable to the
11 person visited, and shall be made on a more frequent basis
12 when indicated. The Department may not use as designee any
13 personnel connected with or responsible to the
14 representatives of any facility in which persons who have
15 been transferred under this Section are placed. In the
16 course of such visit there shall be consideration of the
17 following areas, but not limited thereto: effects of
18 transfer on physical and mental health of the person,
19 sufficiency of nursing care and medical coverage required by
20 the person, sufficiency of staff personnel and ability to
21 provide basic care for the person, social, recreational and
22 programmatic activities available for the person, and other
23 appropriate aspects of the person's environment.

24 A report containing the above observations shall be made
25 to the Department, to the licensing agency, and to any other
26 appropriate agency subsequent to each visitation. The report
27 shall contain recommendations to improve the care and
28 treatment of the resident, as necessary, which shall be
29 reviewed by the facility's interdisciplinary team and the
30 resident or the resident's legal guardian. ~~At the conclusion~~
31 ~~of one year following absolute or conditional discharge, or a~~
32 ~~longer period of time if required by the Department, the~~
33 ~~Department may terminate the visitation requirements of this~~
34 ~~Section as to a person placed in accordance with this~~

1 Section, by filing a written statement of termination setting
2 forth--reasons-to-substantiate-the-termination-of-visitations
3 in-the-person's-file, and--sending--a--copy--thereof--to--the
4 person, and to his guardian or next of kin.

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

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

1 The rules and regulations governing purchase of care
2 shall describe categories and types of service deemed
3 appropriate for purchase by the Department.

4 Any provider of services under this Act may elect to
5 receive payment for those services, and the Department is
6 authorized to arrange for that payment, by means of direct
7 deposit transmittals to the service provider's account
8 maintained at a bank, savings and loan association, or other
9 financial institution. The financial institution shall be
10 approved by the Department, and the deposits shall be in
11 accordance with rules and regulations adopted by the
12 Department.

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

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

17 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)

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

19 Sec. 6.2. Inspector General.

20 (a) The Governor shall appoint, and the Senate shall
21 confirm, an Inspector General. The Inspector General shall
22 be appointed for a term of 4 years and who shall function
23 within the Department of Human Services and report to the
24 Secretary of Human Services and the Governor. The Inspector
25 General shall function independently within the Department of
26 Human Services with respect to the operations of the office,
27 including the performance of investigations and issuance of
28 findings and recommendations. The appropriation for the
29 Office of Inspector General shall be separate from the
30 overall appropriation for the Department of Human Services.
31 The Inspector General shall investigate reports of suspected
32 abuse or neglect (as those terms are defined in Section 3 of

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

23 The Inspector General shall promulgate rules establishing
24 minimum requirements for reporting allegations of abuse and
25 neglect and initiating, conducting, and completing
26 investigations. The promulgated rules shall clearly set
27 forth that in instances where 2 or more State agencies could
28 investigate an allegation of abuse or neglect, the Inspector
29 General shall not conduct an investigation that is redundant
30 to an investigation conducted by another State agency. The
31 rules shall establish criteria for determining, based upon
32 the nature of the allegation, the appropriate method of
33 investigation, which may include, but need not be limited to,
34 site visits, telephone contacts, or requests for written

1 responses from agencies. The rules shall also clarify how the
2 Office of the Inspector General shall interact with the
3 licensing unit of the Department of Human Services in
4 investigations of allegations of abuse or neglect. Any
5 allegations or investigations of reports made pursuant to
6 this Act shall remain confidential until a final report is
7 completed. The resident or patient who allegedly was abused
8 or neglected and his or her legal guardian shall be informed
9 by the facility or agency of the report of alleged abuse or
10 neglect. Final reports regarding unsubstantiated or unfounded
11 allegations shall remain confidential, except that final
12 reports may be disclosed pursuant to Section 6 of this Act.

13 ~~The Inspector General shall be appointed for a term of 4~~
14 ~~years.~~

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

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

34 (b-5) The Inspector General shall make a determination

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

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

1 reject the response and establish how the Department will
2 determine whether the facility or program followed the
3 approved response. The Secretary may require Department
4 personnel to visit the facility or agency for training,
5 technical assistance, programmatic, licensure, or
6 certification purposes. Administrative action, including
7 sanctions, may be applied should the Secretary reject the
8 response or should the facility or agency fail to follow the
9 approved response. Within 30 days after the Secretary has
10 approved a response, the facility or agency making the
11 response shall provide an implementation report to the
12 Inspector General on the status of the corrective action
13 implemented. Within 60 days after the Secretary has approved
14 the response, the facility or agency shall send notice of the
15 completion of the corrective action or shall send an updated
16 implementation report. The facility or agency shall continue
17 sending updated implementation reports every 60 days until
18 the facility or agency sends a notice of the completion of
19 the corrective action. The Inspector General shall review any
20 implementation plan that takes more than 120 days. The
21 Inspector General shall monitor compliance through a random
22 review of completed corrective actions. This monitoring may
23 include, but need not be limited to, site visits, telephone
24 contacts, or requests for written documentation from the
25 facility or agency to determine whether the facility or
26 agency is in compliance with the approved response. The
27 facility or agency shall inform the resident or patient and
28 the legal guardian whether the reported allegation was
29 substantiated, unsubstantiated, or unfounded. There shall be
30 an appeals process for any person or agency that is subject
31 to any action based on a recommendation or recommendations.

32 (d) The Inspector General may recommend to the
33 Departments of Public Health and Human Services sanctions to
34 be imposed against mental health and developmental

1 disabilities facilities under the jurisdiction of the
2 Department of Human Services for the protection of residents,
3 including appointment of on-site monitors or receivers,
4 transfer or relocation of residents, and closure of units.
5 The Inspector General may seek the assistance of the Attorney
6 General or any of the several State's attorneys in imposing
7 such sanctions. Whenever the Inspector General issues any
8 recommendations to the Secretary of Human Services, the
9 Secretary shall provide a written response.

10 (e) The Inspector General shall establish and conduct
11 periodic training programs for Department of Human Services
12 employees concerning the prevention and reporting of neglect
13 and abuse.

14 (f) The Inspector General shall at all times be granted
15 access to any mental health or developmental disabilities
16 facility operated by the Department of Human Services, shall
17 establish and conduct unannounced site visits to those
18 facilities at least once annually, and shall be granted
19 access, for the purpose of investigating a report of abuse or
20 neglect, to the records of the Department of Human Services
21 and to any facility or program funded by the Department of
22 Human Services that is subject under the provisions of this
23 Section to investigation by the Inspector General for a
24 report of abuse or neglect.

25 (g) Nothing in this Section shall limit investigations
26 by the Department of Human Services that may otherwise be
27 required by law or that may be necessary in that Department's
28 capacity as the central administrative authority responsible
29 for the operation of State mental health and developmental
30 disability facilities.

31 (g-5) After notice and an opportunity for a hearing that
32 is separate and distinct from the Office of the Inspector
33 General's appeals process as implemented under subsection (c)
34 of this Section, the Inspector General shall report to the

1 Department of Public Health's nurse aide registry under
2 Section 3-206.01 of the Nursing Home Care Act the identity of
3 individuals against whom there has been a substantiated
4 finding of physical or sexual abuse or egregious neglect of a
5 service recipient.

6 Nothing in this subsection shall diminish or impair the
7 rights of a person who is a member of a collective bargaining
8 unit pursuant to the Illinois Public Labor Relations Act or
9 pursuant to any federal labor statute. An individual who is a
10 member of a collective bargaining unit as described above
11 shall not be reported to the Department of Public Health's
12 nurse aide registry until the exhaustion of that individual's
13 grievance and arbitration rights, or until 3 months after the
14 initiation of the grievance process, whichever occurs first,
15 provided that the Department of Human Services' hearing under
16 subsection (c), that is separate and distinct from the Office
17 of the Inspector General's appeals process, has concluded.
18 Notwithstanding anything hereinafter or previously provided,
19 if an action taken by an employer against an individual as a
20 result of the circumstances that led to a finding of physical
21 or sexual abuse or egregious neglect is later overturned
22 under a grievance or arbitration procedure provided for in
23 Section 8 of the Illinois Public Labor Relations Act or under
24 a collective bargaining agreement, the report must be removed
25 from the registry.

26 The Department of Human Services shall promulgate or
27 amend rules as necessary or appropriate to establish
28 procedures for reporting to the registry, including the
29 definition of egregious neglect, procedures for notice to the
30 individual and victim, appeal and hearing procedures, and
31 petition for removal of the report from the registry. The
32 portion of the rules pertaining to hearings shall provide
33 that, at the hearing, both parties may present written and
34 oral evidence. The Department shall be required to establish

1 by a preponderance of the evidence that the Office of the
2 Inspector General's finding of physical or sexual abuse or
3 egregious neglect warrants reporting to the Department of
4 Public Health's nurse aide registry under Section 3-206.01 of
5 the Nursing Home Care Act.

6 Notice to the individual shall include a clear and
7 concise statement of the grounds on which the report to the
8 registry is based and notice of the opportunity for a hearing
9 to contest the report. The Department of Human Services shall
10 provide the notice by certified mail to the last known
11 address of the individual. The notice shall give the
12 individual an opportunity to contest the report in a hearing
13 before the Department of Human Services or to submit a
14 written response to the findings instead of requesting a
15 hearing. If the individual does not request a hearing or if
16 after notice and a hearing the Department of Human Services
17 finds that the report is valid, the finding shall be included
18 as part of the registry, as well as a brief statement from
19 the reported individual if he or she chooses to make a
20 statement. The Department of Public Health shall make
21 available to the public information reported to the registry.
22 In a case of inquiries concerning an individual listed in the
23 registry, any information disclosed concerning a finding of
24 abuse or neglect shall also include disclosure of the
25 individual's brief statement in the registry relating to the
26 reported finding or include a clear and accurate summary of
27 the statement.

28 At any time after the report of the registry, an
29 individual may petition the Department of Human Services for
30 removal from the registry of the finding against him or her.
31 Upon receipt of such a petition, the Department of Human
32 Services shall conduct an investigation and hearing on the
33 petition. Upon completion of the investigation and hearing,
34 the Department of Human Services shall report the removal of

1 the finding to the registry unless the Department of Human
2 Services determines that removal is not in the public
3 interest.

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

5 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01;
6 92-473, eff. 1-1-02; 92-651, eff. 7-11-02.)

7 (210 ILCS 30/6.3) (from Ch. 111 1/2, par. 4166.3)

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

9 Sec. 6.3. Quality Care Board. There is created, within
10 the ~~Department--of--Human--Services~~¹ Office of the Inspector
11 General, a Quality Care Board to be composed of 7 members
12 appointed by the Governor with the advice and consent of the
13 Senate. One of the members shall be designated as chairman
14 by the Governor. Of the initial appointments made by the
15 Governor, 4 Board members shall each be appointed for a term
16 of 4 years and 3 members shall each be appointed for a term
17 of 2 years. Upon the expiration of each member's term, a
18 successor shall be appointed for a term of 4 years. In the
19 case of a vacancy in the office of any member, the Governor
20 shall appoint a successor for the remainder of the unexpired
21 term.

22 Members appointed by the Governor shall be qualified by
23 professional knowledge or experience in the area of law,
24 investigatory techniques, or in the area of care of the
25 mentally ill or developmentally disabled. Two members
26 appointed by the Governor shall be persons with a disability
27 or a parent of a person with a disability. Members shall
28 serve without compensation, but shall be reimbursed for
29 expenses incurred in connection with the performance of their
30 duties as members.

31 The Board shall meet quarterly, and may hold other
32 meetings on the call of the chairman. Four members shall
33 constitute a quorum. The Board may adopt rules and

1 regulations it deems necessary to govern its own procedures.

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

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

4 (210 ILCS 30/6.4) (from Ch. 111 1/2, par. 4166.4)

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

6 Sec. 6.4. Scope and function of the Quality Care Board.

7 The Board shall monitor and oversee the operations, policies,
8 and procedures of the Inspector General to assure the prompt
9 and thorough investigation of allegations of neglect and
10 abuse. In fulfilling these responsibilities, the Board may
11 do the following:

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

15 (2) Review existing regulations relating to the
16 operation of facilities under the control of the
17 Department of Human Services.

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

20 (4) Recommend policies concerning methods for
21 improving the intergovernmental relationships between the
22 office of the Inspector General and other State or
23 federal agencies.

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

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

28 Sec. 6.5. Investigators. ~~Within 60 days after the~~
29 ~~effective date of this amendatory Act of 1992,~~ The Inspector
30 General shall establish a comprehensive program to ensure
31 that every person employed or newly hired to conduct
32 investigations shall receive training on an on-going basis

1 concerning investigative techniques, communication skills,
2 and the appropriate means of contact with persons admitted or
3 committed to the mental health or developmental disabilities
4 facilities under the jurisdiction of the Department of Human
5 Services.

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

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

10 Sec. 6.6. Subpoenas; testimony; penalty. The Inspector
11 General shall have the power to subpoena witnesses and compel
12 the production of books and papers pertinent to an
13 investigation authorized by this Act, provided that the power
14 to subpoena or to compel the production of books and papers
15 shall not extend to the person or documents of a labor
16 organization or its representatives insofar as the person or
17 documents of a labor organization relate to the function of
18 representing an employee subject to investigation under this
19 Act. Mental health records of patients shall be confidential
20 as provided under the Mental Health and Developmental
21 Disabilities Confidentiality Act. Any person who fails to
22 appear in response to a subpoena or to answer any question or
23 produce any books or papers pertinent to an investigation
24 under this Act, except as otherwise provided in this Section,
25 or who knowingly gives false testimony in relation to an
26 investigation under this Act is guilty of a Class A
27 misdemeanor.

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

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

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

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

32 Sec. 6.7. Annual report. The Inspector General shall

1 provide to the General Assembly and the Governor, no later
2 than January 1 of each year, a summary of reports and
3 investigations made under this Act for the prior fiscal year
4 with respect to residents of institutions under the
5 jurisdiction of the Department of Human Services. The report
6 shall detail the imposition of sanctions and the final
7 disposition of those recommendations. The summaries shall
8 not contain any confidential or identifying information
9 concerning the subjects of the reports and investigations.
10 The report shall also include a trend analysis of the number
11 of reported allegations and their disposition, for each
12 facility and Department-wide, for the most recent 3-year time
13 period and a statement, for each facility, of the
14 staffing-to-patient ratios. The ratios shall include only
15 the number of direct care staff. The report shall also
16 include detailed recommended administrative actions and
17 matters for consideration by the General Assembly.

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

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

20 (210 ILCS 30/6.8) (from Ch. 111 1/2, par. 4166.8)

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

22 Sec. 6.8. Program audit. The Auditor General shall
23 conduct a biennial program audit of the office of the
24 Inspector General in relation to the Inspector General's
25 compliance with this Act. The audit shall specifically
26 include the Inspector General's effectiveness in
27 investigating reports of alleged neglect or abuse of
28 residents in any facility operated by the Department of Human
29 Services and in making recommendations for sanctions to the
30 Departments of Human Services and Public Health. The Auditor
31 General shall conduct the program audit according to the
32 provisions of the Illinois State Auditing Act and shall
33 report its findings to the General Assembly no later than

1 January 1 of each odd-numbered year.

2 ~~This Section is repealed on January 1, 2004.~~

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

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

6 (210 ILCS 45/2-106) (from Ch. 111 1/2, par. 4152-106)

7 Sec. 2-106. (a) For purposes of this Act, (i) a physical
8 restraint is any manual method or physical or mechanical
9 device, material, or equipment attached or adjacent to a
10 resident's body that the resident cannot remove easily and
11 restricts freedom of movement or normal access to one's body.
12 Devices used for safety precautions and positioning,
13 including but not limited to bed rails, lap belts, gait
14 belts, and cushions, shall not be considered to be restraints
15 for purposes of this Section; (ii) a chemical restraint is
16 any drug used for discipline or convenience and not required
17 to treat medical symptoms. The Department shall by rule,
18 designate certain devices as restraints, including at least
19 all those devices which have been determined to be restraints
20 by the United States Department of Health and Human Services
21 in interpretive guidelines issued for the purposes of
22 administering Titles 18 and 19 of the Social Security Acts.

23 (b) Neither restraints nor confinements shall be
24 employed for the purpose of punishment or for the convenience
25 of any facility personnel. No restraints or confinements
26 shall be employed except as ordered by a physician who
27 documents the need for such restraints or confinements in the
28 resident's clinical record. Each facility licensed under
29 this Act must have a written policy to address the use of
30 restraints and seclusion. The Department shall establish by
31 rule the provisions that the policy must include, which, to
32 the extent practicable, should be consistent with the

1 requirements for participation in the federal Medicare
2 program. Each policy shall include periodic review of the
3 use of restraints.

4 (c) A restraint may be used only with the informed
5 consent of the resident, the resident's guardian, or other
6 authorized representative. A restraint may be used only for
7 specific periods, if it is the least restrictive means
8 necessary to attain and maintain the resident's highest
9 practicable physical, mental or psychosocial well-being,
10 including brief periods of time to provide necessary
11 life-saving treatment. A restraint may be used only after
12 consultation with appropriate health professionals, such as
13 occupational or physical therapists, and a trial of less
14 restrictive measures has led to the determination that the
15 use of less restrictive measures would not attain or maintain
16 the resident's highest practicable physical, mental or
17 psychosocial well-being. However, if the resident needs
18 emergency care, restraints may be used for brief periods to
19 permit medical treatment to proceed unless the facility has
20 notice that the resident has previously made a valid refusal
21 of the treatment in question.

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

24 (e) Whenever a period of use of a restraint is
25 initiated, the resident shall be advised of his or her right
26 to have a person or organization of his or her choosing,
27 including the Guardianship and Advocacy Commission, notified
28 of the use of the restraint. A recipient who is under
29 guardianship may request that a person or organization of his
30 or her choosing be notified of the restraint, whether or not
31 the guardian approves the notice. If the resident so
32 chooses, the facility shall make the notification within 24
33 hours, including any information about the period of time
34 that the restraint is to be used. Whenever the Guardianship

1 and Advocacy Commission is notified that a resident has been
2 restrained, it shall contact the resident to determine the
3 circumstances of the restraint and whether further action is
4 warranted.

5 (f) Whenever a restraint is used on a resident whose
6 primary mode of communication is sign language, the resident
7 shall be permitted to have his or her hands free from
8 restraint for brief periods each hour, except when this
9 freedom may result in physical harm to the resident or
10 others.

11 (g) The requirements of this Section are intended to
12 control in any conflict with the requirements of Sections
13 1-126 and 2-108 of the Mental Health and Developmental
14 Disabilities Code.

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

16 (210 ILCS 45/2-106.1)

17 Sec. 2-106.1. Drug treatment.

18 (a) A resident shall not be given unnecessary drugs. An
19 unnecessary drug is any drug used in an excessive dose,
20 including in duplicative therapy; for excessive duration;
21 without adequate monitoring; without adequate indications for
22 its use; or in the presence of adverse consequences that
23 indicate the drugs should be reduced or discontinued. The
24 Department shall adopt, by rule, the standards for
25 unnecessary drugs contained in interpretive guidelines issued
26 by the United States Department of Health and Human Services
27 for the purposes of administering titles 18 and 19 of the
28 Social Security Act.

29 (b) Psychotropic medication shall not be prescribed
30 without the informed consent of the resident, the resident's
31 guardian, or other authorized representative. "Psychotropic
32 medication" means medication that is used for or listed as
33 used for antipsychotic, antidepressant, antimanic, or

1 antianxiety behavior modification or behavior management
2 purposes in the latest editions of the AMA Drug Evaluations
3 or the Physician's Desk Reference.

4 (c) The requirements of this Section are intended to
5 control in a conflict with the requirements of Sections 2-102
6 ~~1-102~~ and 2-107.2 of the Mental Health and Developmental
7 Disabilities Code with respect to the administration of
8 psychotropic medication.

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

10 Section 99. Effective date. This Section, Section 10,
11 the changes to Sections 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, and 6.8
12 of the Abused and Neglected Long Term Care Facility Residents
13 Reporting Act, and the changes to Section 3-203 of the
14 Nursing Home Care Act take effect upon becoming law.

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