

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 unqualified to accept such  
28 assignment. Where the clientele of any not-for-profit agency  
29 increases as a result of assignments under this amendatory  
30 Act of 1977 by more than 3% over the prior year, the  
31 Department shall fully reimburse such agency for the costs of  
32 providing services to such persons in excess of such 3%  
33 increase. The Department shall keep written records detailing  
34 how many persons have been assigned to a community based

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

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

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

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

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

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



1 and recipients change and further training is required.

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

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

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

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

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

1 in--the--person's--file,--and--sending--a--copy--thereof--to--the  
2 person,--and--to--his--guardian--or--next--of--kin.

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

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

33 The rules and regulations governing purchase of care  
34 shall describe categories and types of service deemed

1 appropriate for purchase by the Department.

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

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

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

15 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)

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

17 Sec. 6.2. Inspector General.

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

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

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

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

11 ~~The--Inspector-General-shall-be-appointed-for-a-term-of-4~~  
12 ~~years-~~

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

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

32 (b-5) The Inspector General shall make a determination  
33 to accept or reject a preliminary report of the investigation  
34 of alleged abuse or neglect based on established

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

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

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

30 (d) The Inspector General may recommend to the  
31 Departments of Public Health and Human Services sanctions to  
32 be imposed against mental health and developmental  
33 disabilities facilities under the jurisdiction of the  
34 Department of Human Services for the protection of residents,



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

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

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

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

29 (g-5) After notice and an opportunity for a hearing that  
30 is separate and distinct from the Office of the Inspector  
31 General's appeals process as implemented under subsection (c)  
32 of this Section, the Inspector General shall report to the  
33 Department of Public Health's nurse aide registry under  
34 Section 3-206.01 of the Nursing Home Care Act the identity of

1 individuals against whom there has been a substantiated  
2 finding of physical or sexual abuse or egregious neglect of a  
3 service recipient.

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

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

1 egregious neglect warrants reporting to the Department of  
2 Public Health's nurse aide registry under Section 3-206.01 of  
3 the Nursing Home Care Act.

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

26 At any time after the report of the registry, an  
27 individual may petition the Department of Human Services for  
28 removal from the registry of the finding against him or her.  
29 Upon receipt of such a petition, the Department of Human  
30 Services shall conduct an investigation and hearing on the  
31 petition. Upon completion of the investigation and hearing,  
32 the Department of Human Services shall report the removal of  
33 the finding to the registry unless the Department of Human  
34 Services determines that removal is not in the public

1 interest.

2 ~~{h}--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 92-473, eff. 1-1-02; 92-651, eff. 7-11-02.)

5 (210 ILCS 30/6.3) (from Ch. 111 1/2, par. 4166.3)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (210 ILCS 30/6.5) (from Ch. 111 1/2, par. 4166.5)

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

26 Sec. 6.5. Investigators. ~~Within 60 days after the~~  
27 ~~effective date of this amendatory Act of 1992,~~ The Inspector  
28 General shall establish a comprehensive program to ensure  
29 that every person employed or newly hired to conduct  
30 investigations shall receive training on an on-going basis  
31 concerning investigative techniques, communication skills,  
32 and the appropriate means of contact with persons admitted or

1 committed to the mental health or developmental disabilities  
2 facilities under the jurisdiction of the Department of Human  
3 Services.

4 ~~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 (210 ILCS 30/6.6) (from Ch. 111 1/2, par. 4166.6)

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

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

26 ~~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 (210 ILCS 30/6.7) (from Ch. 111 1/2, par. 4166.7)

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

30 Sec. 6.7. Annual report. The Inspector General shall  
31 provide to the General Assembly and the Governor, no later  
32 than January 1 of each year, a summary of reports and

1 investigations made under this Act for the prior fiscal year  
2 with respect to residents of institutions under the  
3 jurisdiction of the Department of Human Services. The report  
4 shall detail the imposition of sanctions and the final  
5 disposition of those recommendations. The summaries shall  
6 not contain any confidential or identifying information  
7 concerning the subjects of the reports and investigations.  
8 The report shall also include a trend analysis of the number  
9 of reported allegations and their disposition, for each  
10 facility and Department-wide, for the most recent 3-year time  
11 period and a statement, for each facility, of the  
12 staffing-to-patient ratios. The ratios shall include only  
13 the number of direct care staff. The report shall also  
14 include detailed recommended administrative actions and  
15 matters for consideration by the General Assembly.

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

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

18 (210 ILCS 30/6.8) (from Ch. 111 1/2, par. 4166.8)

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

20 Sec. 6.8. Program audit. The Auditor General shall  
21 conduct a biennial program audit of the office of the  
22 Inspector General in relation to the Inspector General's  
23 compliance with this Act. The audit shall specifically  
24 include the Inspector General's effectiveness in  
25 investigating reports of alleged neglect or abuse of  
26 residents in any facility operated by the Department of Human  
27 Services and in making recommendations for sanctions to the  
28 Departments of Human Services and Public Health. The Auditor  
29 General shall conduct the program audit according to the  
30 provisions of the Illinois State Auditing Act and shall  
31 report its findings to the General Assembly no later than  
32 January 1 of each odd-numbered year.

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

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

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

4 (210 ILCS 45/2-106) (from Ch. 111 1/2, par. 4152-106)

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

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



1 use of restraints.

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

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

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

1 circumstances of the restraint and whether further action is  
2 warranted.

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

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

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

14 (210 ILCS 45/2-106.1)

15 Sec. 2-106.1. Drug treatment.

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

27 (b) Psychotropic medication shall not be prescribed  
28 without the informed consent of the resident, the resident's  
29 guardian, or other authorized representative. "Psychotropic  
30 medication" means medication that is used for or listed as  
31 used for antipsychotic, antidepressant, antimanic, or  
32 antianxiety behavior modification or behavior management  
33 purposes in the latest editions of the AMA Drug Evaluations

1 or the Physician's Desk Reference.

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

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

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

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