

1 AN ACT concerning health facilities.

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

4 Section 5. The Abused and Neglected Long Term Care
5 Facility Residents Reporting Act is amended by changing
6 Section 6.2 as follows:

7 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)
8 (Section scheduled to be repealed on January 1, 2004)
9 Sec. 6.2. Inspector General.

10 (a) The Governor shall appoint, and the Senate shall
11 confirm, an Inspector General who shall function within the
12 Department of Human Services and report to the Secretary of
13 Human Services and the Governor. The Inspector General shall
14 investigate reports of suspected abuse or neglect (as those
15 terms are defined in Section 3 of this Act) of patients or
16 residents in any mental health or developmental disabilities
17 facility operated by the Department of Human Services and
18 shall have authority to investigate and take immediate action
19 on reports of abuse or neglect of recipients, whether
20 patients or residents, in any mental health or developmental
21 disabilities facility or program that is licensed or
22 certified by the Department of Human Services (as successor
23 to the Department of Mental Health and Developmental
24 Disabilities) or that is funded by the Department of Human
25 Services (as successor to the Department of Mental Health and
26 Developmental Disabilities) and is not licensed or certified
27 by any agency of the State. At the specific, written request
28 of an agency of the State other than the Department of Human
29 Services (as successor to the Department of Mental Health and
30 Developmental Disabilities), the Inspector General may
31 cooperate in investigating reports of abuse and neglect of

1 persons with mental illness or persons with developmental
2 disabilities. The Inspector General shall have no
3 supervision over or involvement in routine, programmatic,
4 licensure, or certification operations of the Department of
5 Human Services or any of its funded agencies.

6 The Inspector General shall promulgate rules establishing
7 minimum requirements for reporting allegations of abuse and
8 neglect and initiating, conducting, and completing
9 investigations. The promulgated rules shall clearly set
10 forth that in instances where 2 or more State agencies could
11 investigate an allegation of abuse or neglect, the Inspector
12 General shall not conduct an investigation that is redundant
13 to an investigation conducted by another State agency. The
14 rules shall establish criteria for determining, based upon
15 the nature of the allegation, the appropriate method of
16 investigation, which may include, but need not be limited to,
17 site visits, telephone contacts, or requests for written
18 responses from agencies. The rules shall also clarify how the
19 Office of the Inspector General shall interact with the
20 licensing unit of the Department of Human Services in
21 investigations of allegations of abuse or neglect. Any
22 allegations or investigations of reports made pursuant to
23 this Act shall remain confidential until a final report is
24 completed. The resident or patient who allegedly was abused
25 or neglected and his or her legal guardian shall be informed
26 by the facility or agency of the report of alleged abuse or
27 neglect. Final reports regarding unsubstantiated or unfounded
28 allegations shall remain confidential, except that final
29 reports may be disclosed pursuant to Section 6 of this Act.

30 The Inspector General shall be appointed for a term of 4
31 years.

32 When the Office of the Inspector General has
33 substantiated a case of abuse or neglect, the Inspector
34 General shall include in the final report any mitigating or

1 aggravating circumstances that were identified during the
2 investigation. Upon determination that a report of neglect
3 is substantiated, the Inspector General shall then determine
4 whether such neglect rises to the level of egregious neglect.

5 (b) The Inspector General shall within 24 hours after
6 receiving a report of suspected abuse or neglect determine
7 whether the evidence indicates that any possible criminal act
8 has been committed. If he determines that a possible criminal
9 act has been committed, or that special expertise is required
10 in the investigation, he shall immediately notify the
11 Department of State Police. The Department of State Police
12 shall investigate any report indicating a possible murder,
13 rape, or other felony. All investigations conducted by the
14 Inspector General shall be conducted in a manner designed to
15 ensure the preservation of evidence for possible use in a
16 criminal prosecution.

17 (b-5) The Inspector General shall make a determination
18 to accept or reject a preliminary report of the investigation
19 of alleged abuse or neglect based on established
20 investigative procedures. Notice of the Inspector General's
21 determination must be given to the person who claims to be
22 the victim of the abuse or neglect, to the person or persons
23 alleged to have been responsible for abuse or neglect, and to
24 the facility or agency. The facility or agency or the person
25 or persons alleged to have been responsible for the abuse or
26 neglect and the person who claims to be the victim of the
27 abuse or neglect may request clarification or reconsideration
28 based on additional information. For cases where the
29 allegation of abuse or neglect is substantiated, the
30 Inspector General shall require the facility or agency to
31 submit a written response. The written response from a
32 facility or agency shall address in a concise and reasoned
33 manner the actions that the agency or facility will take or
34 has taken to protect the resident or patient from abuse or

1 neglect, prevent reoccurrences, and eliminate problems
2 identified and shall include implementation and completion
3 dates for all such action.

4 (c) The Inspector General shall, within 10 calendar days
5 after the transmittal date of a completed investigation where
6 abuse or neglect is substantiated or administrative action is
7 recommended, provide a complete report on the case to the
8 Secretary of Human Services and to the agency in which the
9 abuse or neglect is alleged to have happened. The complete
10 report shall include a written response from the agency or
11 facility operated by the State to the Inspector General that
12 addresses in a concise and reasoned manner the actions that
13 the agency or facility will take or has taken to protect the
14 resident or patient from abuse or neglect, prevent
15 reoccurrences, and eliminate problems identified and shall
16 include implementation and completion dates for all such
17 action. The Secretary of Human Services shall accept or
18 reject the response and establish how the Department will
19 determine whether the facility or program followed the
20 approved response. The Secretary may require Department
21 personnel to visit the facility or agency for training,
22 technical assistance, programmatic, licensure, or
23 certification purposes. Administrative action, including
24 sanctions, may be applied should the Secretary reject the
25 response or should the facility or agency fail to follow the
26 approved response. The facility or agency shall inform the
27 resident or patient and the legal guardian whether the
28 reported allegation was substantiated, unsubstantiated, or
29 unfounded. There shall be an appeals process for any person
30 or agency against whom there is a substantiated finding of
31 abuse or neglect or for any person or agency that-is subject
32 to any action based on a recommendation or recommendations.
33 Any person who is a member of a collective bargaining unit
34 pursuant to the Illinois Public Labor Relations Act or any

1 federal labor statute may elect to use the grievance or
2 arbitration process under subsection (g-5) of this Section as
3 an alternative to the appeal process described in this
4 subsection (c). The hearings under this Section shall be
5 conducted in accordance with the Department of Human
6 Services' rules on the conduct of hearing and appeals in 89
7 Ill. Adm. Code 508. At such hearing the Inspector General
8 shall be required to establish by a preponderance of the
9 evidence that the reported incident did occur and that the
10 actions of the person or agency met the general standard for
11 a finding of abuse or neglect. If, as a result of such
12 hearing, the Inspector General's substantiated finding of
13 abuse or neglect is overturned, the Department shall in no
14 case report such finding to the Department of Public Health's
15 nurse aide registry. If a finding that has already been
16 reported to the Department of Public Health's nurse aide
17 registry is later overturned as a result of such hearing, the
18 report must be removed from the registry.

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

29 (e) The Inspector General shall establish and conduct
30 periodic training programs for Department employees
31 concerning the prevention and reporting of neglect and abuse.

32 (f) The Inspector General shall at all times be granted
33 access to any mental health or developmental disabilities
34 facility operated by the Department, shall establish and

1 conduct unannounced site visits to those facilities at least
2 once annually, and shall be granted access, for the purpose
3 of investigating a report of abuse or neglect, to any
4 facility or program funded by the Department that is subject
5 under the provisions of this Section to investigation by the
6 Inspector General for a report of abuse or neglect.

7 (g) Nothing in this Section shall limit investigations
8 by the Department of Human Services that may otherwise be
9 required by law or that may be necessary in that Department's
10 capacity as the central administrative authority responsible
11 for the operation of State mental health and developmental
12 disability facilities.

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

22 Nothing in this subsection shall diminish or impair the
23 rights of a person who is a member of a collective bargaining
24 unit pursuant to the Illinois Public Labor Relations Act or
25 pursuant to any federal labor statute. An individual who is a
26 member of a collective bargaining unit as described above
27 shall not be reported to the Department of Public Health's
28 nurse aide registry until the exhaustion of that individual's
29 grievance and arbitration rights, or until 3 months after the
30 initiation of the grievance process, whichever occurs first,
31 provided that the Department of Human Services' hearing under
32 this subsection (e), that is separate and distinct from the
33 Office of the Inspector General's appeals process as
34 implemented under subsection (c) of this Section, has

1 concluded. Notwithstanding anything hereinafter or previously
2 provided, if an action taken by an employer against an
3 individual as a result of the circumstances that led to a
4 finding of physical or sexual abuse or egregious neglect is
5 later overturned under a grievance or arbitration procedure
6 provided for in Section 8 of the Illinois Public Labor
7 Relations Act or under a collective bargaining agreement, the
8 report must be removed from the registry.

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

23 Notice to the individual shall include a clear and
24 concise statement of the grounds on which the report to the
25 registry is based and notice of the opportunity for a hearing
26 to contest the report. The Department of Human Services shall
27 provide the notice by certified mail to the last known
28 address of the individual. The notice shall give the
29 individual an opportunity to contest the report in a hearing
30 before the Department of Human Services or to submit a
31 written response to the findings instead of requesting a
32 hearing. If the individual does not request a hearing or if
33 after notice and a hearing the Department of Human Services
34 finds that the report is valid, the finding shall be included

1 as part of the registry, as well as a brief statement from
2 the reported individual if he or she chooses to make a
3 statement. The Department of Public Health shall make
4 available to the public information reported to the registry.
5 In a case of inquiries concerning an individual listed in the
6 registry, any information disclosed concerning a finding of
7 abuse or neglect shall also include disclosure of the
8 individual's brief statement in the registry relating to the
9 reported finding or include a clear and accurate summary of
10 the statement.

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

21 (h) This Section is repealed on January 1, 2004.

22 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01;
23 92-473, eff. 1-1-02; 92-651, eff. 7-11-02.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.