

1 AN ACT concerning regulation.

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 Facility  
5 Residents Reporting Act is amended by changing Sections 4 and  
6 6.2 as follows:

7 (210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

8 Sec. 4. Any long term care facility administrator, agent or  
9 employee or any physician, hospital, surgeon, dentist,  
10 osteopath, chiropractor, podiatrist, accredited religious  
11 practitioner who provides treatment by spiritual means alone  
12 through prayer in accordance with the tenets and practices of  
13 the accrediting church (except as to information received in  
14 any confession or sacred communication enjoined by the  
15 discipline of the accrediting church to be held confidential)  
16 ~~Christian Science practitioner~~, coroner, social worker, social  
17 services administrator, registered nurse, law enforcement  
18 officer, field personnel of the ~~Illinois~~ Department of  
19 Healthcare and Family Services ~~Public Aid~~, field personnel of  
20 the Illinois Department of Public Health and County or  
21 Municipal Health Departments, personnel of the Department of  
22 Human Services (acting as the successor to the Department of  
23 Mental Health and Developmental Disabilities or the Department  
24 of Public Aid), personnel of the Guardianship and Advocacy  
25 Commission, personnel of the State Fire Marshal, local fire  
26 department inspectors or other personnel, or personnel of the  
27 Illinois Department on Aging, or its subsidiary Agencies on  
28 Aging, or employee of a facility licensed under the Assisted  
29 Living and Shared Housing Act, having reasonable cause to  
30 believe any resident with whom they have direct contact has  
31 been subjected to abuse or neglect shall immediately report or  
32 cause a report to be made to the Department. Persons required

1 to make reports or cause reports to be made under this Section  
2 include all employees of the State of Illinois who are involved  
3 in providing services to residents, including professionals  
4 providing medical or rehabilitation services and all other  
5 persons having direct contact with residents; and further  
6 include all employees of community service agencies who provide  
7 services to a resident of a public or private long term care  
8 facility outside of that facility. Any long term care surveyor  
9 of the Illinois Department of Public Health who has reasonable  
10 cause to believe in the course of a survey that a resident has  
11 been abused or neglected and initiates an investigation while  
12 on site at the facility shall be exempt from making a report  
13 under this Section but the results of any such investigation  
14 shall be forwarded to the central register in a manner and form  
15 described by the Department.

16 The requirement of this Act shall not relieve any long term  
17 care facility administrator, agent or employee of  
18 responsibility to report the abuse or neglect of a resident  
19 under Section 3-610 of the Nursing Home Care Act.

20 In addition to the above persons required to report  
21 suspected resident abuse and neglect, any other person may make  
22 a report to the Department, or to any law enforcement officer,  
23 if such person has reasonable cause to suspect a resident has  
24 been abused or neglected.

25 This Section also applies to residents whose death occurs  
26 from suspected abuse or neglect before being found or brought  
27 to a hospital.

28 A person required to make reports or cause reports to be  
29 made under this Section who fails to comply with the  
30 requirements of this Section is guilty of a Class A  
31 misdemeanor.

32 (Source: P.A. 91-656, eff. 1-1-01; revised 12-15-05.)

33 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)

34 Sec. 6.2. Inspector General.

35 (a) The Governor shall appoint, and the Senate shall

1 confirm, an Inspector General. The Inspector General shall be  
2 appointed for a term of 4 years and shall function within the  
3 Department of Human Services and report to the Secretary of  
4 Human Services and the Governor. The Inspector General shall  
5 function independently within the Department of Human Services  
6 with respect to the operations of the office, including the  
7 performance of investigations and issuance of findings and  
8 recommendations. The appropriation for the Office of Inspector  
9 General shall be separate from the overall appropriation for  
10 the Department of Human Services. The Inspector General shall  
11 investigate reports of suspected abuse or neglect (as those  
12 terms are defined in Section 3 of this Act) of patients or  
13 residents in any mental health or developmental disabilities  
14 facility operated by the Department of Human Services and shall  
15 have authority to investigate and take immediate action on  
16 reports of abuse or neglect of recipients, whether patients or  
17 residents, in any mental health or developmental disabilities  
18 facility or program that is licensed or certified by the  
19 Department of Human Services (as successor to the Department of  
20 Mental Health and Developmental Disabilities) or that is funded  
21 by the Department of Human Services (as successor to the  
22 Department of Mental Health and Developmental Disabilities)  
23 and is not licensed or certified by any agency of the State. At  
24 the specific, written request of an agency of the State other  
25 than the Department of Human Services (as successor to the  
26 Department of Mental Health and Developmental Disabilities),  
27 the Inspector General may cooperate in investigating reports of  
28 abuse and neglect of persons with mental illness or persons  
29 with developmental disabilities. The Inspector General shall  
30 have no supervision over or involvement in routine,  
31 programmatic, licensure, or certification operations of the  
32 Department of Human Services or any of its funded agencies.

33 The Inspector General shall promulgate rules establishing  
34 minimum requirements for reporting allegations of abuse and  
35 neglect and initiating, conducting, and completing  
36 investigations. The promulgated rules shall clearly set forth

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

21 For purposes of this Section, "required reporter" means a  
22 person who suspects, witnesses, or is informed of an allegation  
23 of abuse or neglect at a State-operated facility or a community  
24 agency and who is either: (i) a person employed at a  
25 State-operated facility or a community agency on or off site  
26 who is providing or monitoring services to an individual or  
27 individuals or is providing services to the State-operated  
28 facility or the community agency; or (ii) any person or  
29 contractual agent of the Department of Human Services involved  
30 in providing, monitoring, or administering mental health or  
31 developmental disability services, including, but not limited  
32 to, payroll personnel, contractors, subcontractors, and  
33 volunteers. "Required reporter" does not, however, include an  
34 accredited religious practitioner who provides treatment by  
35 spiritual means alone through prayer in accordance with the  
36 tenets and practices of the accrediting church, to the extent

1 that such a practitioner receives information concerning an  
2 allegation of abuse or neglect in any confession or sacred  
3 communication enjoined by the discipline of the accrediting  
4 church to be held confidential. A required reporter shall  
5 report the allegation of abuse or neglect, or cause a report to  
6 be made, to the Office of the Inspector General (OIG) Hotline  
7 no later than 4 hours after the initial discovery of the  
8 incident of alleged abuse or neglect. A required reporter as  
9 defined in this paragraph who willfully fails to comply with  
10 the reporting requirement is guilty of a Class A misdemeanor.

11 For purposes of this Section, "State-operated facility"  
12 means a mental health facility or a developmental disability  
13 facility as defined in Sections 1-114 and 1-107 of the Mental  
14 Health and Developmental Disabilities Code.

15 For purposes of this Section, "community agency" or  
16 "agency" means any community entity or program providing mental  
17 health or developmental disabilities services that is  
18 licensed, certified, or funded by the Department of Human  
19 Services and is not licensed or certified by any other human  
20 services agency of the State (for example, the Department of  
21 Public Health, the Department of Children and Family Services,  
22 or the Department of Healthcare and Family Services).

23 When the Office of the Inspector General has substantiated  
24 a case of abuse or neglect, the Inspector General shall include  
25 in the final report any mitigating or aggravating circumstances  
26 that were identified during the investigation. Upon  
27 determination that a report of neglect is substantiated, the  
28 Inspector General shall then determine whether such neglect  
29 rises to the level of egregious neglect.

30 (b) The Inspector General shall, within 24 hours after  
31 determining that a reported allegation of suspected abuse or  
32 neglect indicates that any possible criminal act has been  
33 committed or that special expertise is required in the  
34 investigation, immediately notify the Department of State  
35 Police or the appropriate law enforcement entity. The  
36 Department of State Police shall investigate any report from a

1 State-operated facility indicating a possible murder, rape, or  
2 other felony. All investigations conducted by the Inspector  
3 General shall be conducted in a manner designed to ensure the  
4 preservation of evidence for possible use in a criminal  
5 prosecution.

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

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

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

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

1 facilities under the jurisdiction of the Department of Human  
2 Services for the protection of residents, including  
3 appointment of on-site monitors or receivers, transfer or  
4 relocation of residents, and closure of units. The Inspector  
5 General may seek the assistance of the Attorney General or any  
6 of the several State's attorneys in imposing such sanctions.  
7 Whenever the Inspector General issues any recommendations to  
8 the Secretary of Human Services, the Secretary shall provide a  
9 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 access,  
19 for the purpose of investigating a report of abuse or neglect,  
20 to the records of the Department of Human Services and to any  
21 facility or program funded by the Department of Human Services  
22 that is subject under the provisions of this Section to  
23 investigation by the Inspector General for a report of abuse or  
24 neglect.

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

31 (g-5) After notice and an opportunity for a hearing that is  
32 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  
35 Department of Public Health's nurse aide registry under Section  
36 3-206.01 of the Nursing Home Care Act the identity of



1 individuals against whom there has been a substantiated finding  
2 of physical or sexual abuse or egregious neglect of a service  
3 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 shall  
9 not be reported to the Department of Public Health's nurse aide  
10 registry until the exhaustion of that individual's grievance  
11 and arbitration rights, or until 3 months after the initiation  
12 of the grievance process, whichever occurs first, provided that  
13 the Department of Human Services' hearing under subsection (c),  
14 that is separate and distinct from the Office of the Inspector  
15 General's appeals process, has concluded. Notwithstanding  
16 anything hereinafter or previously provided, if an action taken  
17 by an employer against an individual as a result of the  
18 circumstances that led to a finding of physical or sexual abuse  
19 or egregious neglect is later overturned under a grievance or  
20 arbitration procedure provided for in Section 8 of the Illinois  
21 Public Labor Relations Act or under a collective bargaining  
22 agreement, the report must be removed from the registry.

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

36 Notice to the individual shall include a clear and concise

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

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

30 (Source: P.A. 93-636, eff. 12-31-03; 94-428, eff. 8-2-05.)

31 Section 99. Effective date. This Act takes effect upon  
32 becoming law.