

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 Emergency Medical Services (EMS) Systems Act  
5 is amended by adding Section 32.6 as follows:

6 (210 ILCS 50/32.6 new)

7 Sec. 32.6. Freestanding Emergency Center; patient  
8 protection from abuse.

9 (a) No administrator, agent, or employee of an FEC or a  
10 member of its medical staff may abuse a patient in the FEC.

11 (b) Any FEC administrator, agent, employee, or medical  
12 staff member who has reasonable cause to believe that any  
13 patient with whom he or she has direct contact has been  
14 subjected to abuse in the FEC shall promptly report or cause a  
15 report to be made to a designated FEC administrator responsible  
16 for providing such reports to the Department as required by  
17 this Section.

18 (c) Retaliation against a person who lawfully and in good  
19 faith makes a report under this Section is prohibited.

20 (d) Upon receiving a report under subsection (b) of this  
21 Section, the FEC shall submit the report to the Department  
22 within 24 hours of obtaining such report. In the event that the  
23 FEC receives multiple reports involving a single alleged

1 instance of abuse, the FEC shall submit one report to the  
2 Department.

3 (e) Upon receiving a report under this Section, the FEC  
4 shall promptly conduct an internal review to ensure the alleged  
5 victim's safety. Measures to protect the alleged victim shall  
6 be taken as deemed necessary by the FEC's administrator and may  
7 include, but are not limited to, removing suspected violators  
8 from further patient contact during the FEC's internal review.  
9 If the alleged victim lacks decision-making capacity under the  
10 Health Care Surrogate Act and no health care surrogate is  
11 available, the FEC may contact the Illinois Guardianship and  
12 Advocacy Commission to determine the need for a temporary  
13 guardian of that person.

14 (f) All internal FEC reviews shall be conducted by a  
15 designated FEC employee or agent who is qualified to detect  
16 abuse and is not involved in the alleged victim's treatment.  
17 All internal review findings must be documented and filed  
18 according to FEC procedures and shall be made available to the  
19 Department upon request.

20 (g) Any other person may make a report of patient abuse to  
21 the Department if that person has reasonable cause to believe  
22 that a patient has been abused in the FEC.

23 (h) The report required under this Section shall include:  
24 the name of the patient; the name and address of the FEC  
25 treating the patient; the age of the patient; the nature of the  
26 patient's condition, including any evidence of previous

1 injuries or disabilities; and any other information that the  
2 reporter believes might be helpful in establishing the cause of  
3 the reported abuse and the identity of the person believed to  
4 have caused the abuse.

5 (i) Any individual, person, institution, or agency  
6 participating in good faith in the making of a report under  
7 this Section, or in the investigation of such a report or in  
8 making a disclosure of information concerning reports of abuse  
9 under this Section, shall have immunity from any liability,  
10 whether civil, professional, or criminal, that otherwise might  
11 result by reason of such actions. For the purpose of any  
12 proceedings, whether civil, professional, or criminal, the  
13 good faith of any persons required to report cases of suspected  
14 abuse under this Section or who disclose information concerning  
15 reports of abuse in compliance with this Section, shall be  
16 presumed.

17 (j) No administrator, agent, or employee of an FEC shall  
18 adopt or employ practices or procedures designed to discourage  
19 good faith reporting of patient abuse under this Section.

20 (k) Every FEC shall ensure that all new and existing  
21 employees are trained in the detection and reporting of abuse  
22 of patients and retrained at least every 2 years thereafter.

23 (l) The Department shall investigate each report of patient  
24 abuse made under this Section according to the procedures of  
25 the Department, except that a report of abuse which indicates  
26 that a patient's life or safety is in imminent danger shall be

1 investigated within 24 hours of such report. Under no  
2 circumstances may an FEC's internal review of an allegation of  
3 abuse replace an investigation of the allegation by the  
4 Department.

5 (m) The Department shall keep a continuing record of all  
6 reports made pursuant to this Section, including indications of  
7 the final determination of any investigation and the final  
8 disposition of all reports. The Department shall inform the  
9 investigated FEC and any other person making a report under  
10 subsection (g) of its final determination or disposition in  
11 writing.

12 (n) The Department shall not disclose to the public any  
13 information regarding any reports and investigations under  
14 this Section unless and until the report of abuse is  
15 substantiated following a full and proper investigation.

16 (o) All patient identifiable information in any report or  
17 investigation under this Section shall be confidential and  
18 shall not be disclosed except as authorized by this Act or  
19 other applicable law.

20 (p) Nothing in this Section relieves an FEC administrator,  
21 employee, agent, or medical staff member from contacting  
22 appropriate law enforcement authorities as required by law.

23 (q) Nothing in this Section shall be construed to mean that  
24 a patient is a victim of abuse because of health care services  
25 provided or not provided by health care professionals.

26 (r) Nothing in this Section shall require an FEC, including

1 its employees, agents, and medical staff members, to provide  
2 any services to a patient in contravention of his or her stated  
3 or implied objection thereto upon grounds that such services  
4 conflict with his or her religious beliefs or practices, nor  
5 shall such a patient be considered abused under this Section  
6 for the exercise of such beliefs or practices.

7 (s) As used in this Section, the following terms have the  
8 following meanings:

9 "Abuse" means any physical or mental injury or sexual abuse  
10 intentionally inflicted by an FEC employee, agent, or medical  
11 staff member on a patient of the FEC and does not include any  
12 FEC, medical, health care, or other personal care services done  
13 in good faith in the interest of the patient according to  
14 established medical and clinical standards of care.

15 "FEC" means a Freestanding Emergency Center licensed under  
16 Section 32.5.

17 "Mental injury" means intentionally caused emotional  
18 distress in a patient from words or gestures that would be  
19 considered by a reasonable person to be humiliating, harassing,  
20 or threatening and which causes observable and substantial  
21 impairment.

22 "Sexual abuse" means any intentional act of sexual contact  
23 or sexual penetration of a patient in the hospital.

24 "Substantiated", with respect to a report of abuse, means  
25 that a preponderance of the evidence indicates that abuse  
26 occurred.

1       (t) Notwithstanding any other rulemaking authority that  
2 may exist, neither the Governor nor any agency or agency head  
3 under the jurisdiction of the Governor has any authority to  
4 make or promulgate rules to implement or enforce the provisions  
5 of this Section. If, however, the Governor believes that rules  
6 are necessary to implement or enforce the provisions of this  
7 Section, the Governor may suggest rules to the General Assembly  
8 by filing them with the Clerk of the House and the Secretary of  
9 the Senate and by requesting that the General Assembly  
10 authorize such rulemaking by law, enact those suggested rules  
11 into law, or take any other appropriate action in the General  
12 Assembly's discretion. Nothing in this Section shall be  
13 interpreted to grant rulemaking authority under any other  
14 Illinois statute where such authority is not otherwise  
15 explicitly given. For the purposes of this Section, "rules" is  
16 given the meaning contained in Section 1-70 of the Illinois  
17 Administrative Procedure Act, and "agency" and "agency head"  
18 are given the meanings contained in Sections 1-20 and 1-25 of  
19 the Illinois Administrative Procedure Act to the extent that  
20 such definitions apply to agencies and agency heads under the  
21 jurisdiction of the Governor.

22       Section 10. The Hospital Licensing Act is amended by  
23 changing Section 9 and by adding Section 9.6 as follows:

24       (210 ILCS 85/9) (from Ch. 111 1/2, par. 150)

1           Sec. 9. Inspections and investigations. The Department  
2 shall make or cause to be made such inspections and  
3 investigations as it deems necessary, except that the  
4 Department shall investigate every allegation of abuse of a  
5 patient received by the Department. Information received by the  
6 Department through filed reports, inspection, or as otherwise  
7 authorized under this Act shall not be disclosed publicly in  
8 such manner as to identify individuals or hospitals, except (i)  
9 in a proceeding involving the denial, suspension, or revocation  
10 of a permit to establish a hospital or a proceeding involving  
11 the denial, suspension, or revocation of a license to open,  
12 conduct, operate, and maintain a hospital, (ii) to the  
13 Department of Children and Family Services in the course of a  
14 child abuse or neglect investigation conducted by that  
15 Department or by the Department of Public Health, (iii) in  
16 accordance with Section 6.14a of this Act, or (iv) in other  
17 circumstances as may be approved by the Hospital Licensing  
18 Board.

19           (Source: P.A. 90-608, eff. 6-30-98; 91-242, eff. 1-1-00.)

20           (210 ILCS 85/9.6 new)

21           Sec. 9.6. Patient protection from abuse.

22           (a) No administrator, agent, or employee of a hospital or a  
23 member of its medical staff may abuse a patient in the  
24 hospital.

25           (b) Any hospital administrator, agent, employee, or

1 medical staff member who has reasonable cause to believe that  
2 any patient with whom he or she has direct contact has been  
3 subjected to abuse in the hospital shall promptly report or  
4 cause a report to be made to a designated hospital  
5 administrator responsible for providing such reports to the  
6 Department as required by this Section.

7 (c) Retaliation against a person who lawfully and in good  
8 faith makes a report under this Section is prohibited.

9 (d) Upon receiving a report under subsection (b) of this  
10 Section, the hospital shall submit the report to the Department  
11 within 24 hours of obtaining such report. In the event that the  
12 hospital receives multiple reports involving a single alleged  
13 instance of abuse, the hospital shall submit one report to the  
14 Department.

15 (e) Upon receiving a report under this Section, the  
16 hospital shall promptly conduct an internal review to ensure  
17 the alleged victim's safety. Measures to protect the alleged  
18 victim shall be taken as deemed necessary by the hospital's  
19 administrator and may include, but are not limited to, removing  
20 suspected violators from further patient contact during the  
21 hospital's internal review. If the alleged victim lacks  
22 decision-making capacity under the Health Care Surrogate Act  
23 and no health care surrogate is available, the hospital may  
24 contact the Illinois Guardianship and Advocacy Commission to  
25 determine the need for a temporary guardian of that person.

26 (f) All internal hospital reviews shall be conducted by a



1 designated hospital employee or agent who is qualified to  
2 detect abuse and is not involved in the alleged victim's  
3 treatment. All internal review findings must be documented and  
4 filed according to hospital procedures and shall be made  
5 available to the Department upon request.

6 (g) Any other person may make a report of patient abuse to  
7 the Department if that person has reasonable cause to believe  
8 that a patient has been abused in the hospital.

9 (h) The report required under this Section shall include:  
10 the name of the patient; the name and address of the hospital  
11 treating the patient; the age of the patient; the nature of the  
12 patient's condition, including any evidence of previous  
13 injuries or disabilities; and any other information that the  
14 reporter believes might be helpful in establishing the cause of  
15 the reported abuse and the identity of the person believed to  
16 have caused the abuse.

17 (i) Any individual, person, institution, or agency  
18 participating in good faith in the making of a report under  
19 this Section, or in the investigation of such a report or in  
20 making a disclosure of information concerning reports of abuse  
21 under this Section, shall have immunity from any liability,  
22 whether civil, professional, or criminal, that otherwise might  
23 result by reason of such actions. For the purpose of any  
24 proceedings, whether civil, professional, or criminal, the  
25 good faith of any persons required to report cases of suspected  
26 abuse under this Section or who disclose information concerning

1 reports of abuse in compliance with this Section, shall be  
2 presumed.

3 (j) No administrator, agent, or employee of a hospital  
4 shall adopt or employ practices or procedures designed to  
5 discourage good faith reporting of patient abuse under this  
6 Section.

7 (k) Every hospital shall ensure that all new and existing  
8 employees are trained in the detection and reporting of abuse  
9 of patients and retrained at least every 2 years thereafter.

10 (l) The Department shall investigate each report of patient  
11 abuse made under this Section according to the procedures of  
12 the Department, except that a report of abuse which indicates  
13 that a patient's life or safety is in imminent danger shall be  
14 investigated within 24 hours of such report. Under no  
15 circumstances may a hospital's internal review of an allegation  
16 of abuse replace an investigation of the allegation by the  
17 Department.

18 (m) The Department shall keep a continuing record of all  
19 reports made pursuant to this Section, including indications of  
20 the final determination of any investigation and the final  
21 disposition of all reports. The Department shall inform the  
22 investigated hospital and any other person making a report  
23 under subsection (g) of its final determination or disposition  
24 in writing.

25 (n) The Department shall not disclose to the public any  
26 information regarding any reports and investigations under

1 this Section unless and until the report of abuse is  
2 substantiated following a full and proper investigation.

3 (o) All patient identifiable information in any report or  
4 investigation under this Section shall be confidential and  
5 shall not be disclosed except as authorized by this Act or  
6 other applicable law.

7 (p) Nothing in this Section relieves a hospital  
8 administrator, employee, agent, or medical staff member from  
9 contacting appropriate law enforcement authorities as required  
10 by law.

11 (q) Nothing in this Section shall be construed to mean that  
12 a patient is a victim of abuse because of health care services  
13 provided or not provided by health care professionals.

14 (r) Nothing in this Section shall require a hospital,  
15 including its employees, agents, and medical staff members, to  
16 provide any services to a patient in contravention of his or  
17 her stated or implied objection thereto upon grounds that such  
18 services conflict with his or her religious beliefs or  
19 practices, nor shall such a patient be considered abused under  
20 this Section for the exercise of such beliefs or practices.

21 (s) As used in this Section, the following terms have the  
22 following meanings:

23 "Abuse" means any physical or mental injury or sexual abuse  
24 intentionally inflicted by a hospital employee, agent, or  
25 medical staff member on a patient of the hospital and does not  
26 include any hospital, medical, health care, or other personal

1 care services done in good faith in the interest of the patient  
2 according to established medical and clinical standards of  
3 care.

4 "Mental injury" means intentionally caused emotional  
5 distress in a patient from words or gestures that would be  
6 considered by a reasonable person to be humiliating, harassing,  
7 or threatening and which causes observable and substantial  
8 impairment.

9 "Sexual abuse" means any intentional act of sexual contact  
10 or sexual penetration of a patient in the hospital.

11 "Substantiated", with respect to a report of abuse, means  
12 that a preponderance of the evidence indicates that abuse  
13 occurred.

14 (t) Notwithstanding any other rulemaking authority that  
15 may exist, neither the Governor nor any agency or agency head  
16 under the jurisdiction of the Governor has any authority to  
17 make or promulgate rules to implement or enforce the provisions  
18 of this Section. If, however, the Governor believes that rules  
19 are necessary to implement or enforce the provisions of this  
20 Section, the Governor may suggest rules to the General Assembly  
21 by filing them with the Clerk of the House and the Secretary of  
22 the Senate and by requesting that the General Assembly  
23 authorize such rulemaking by law, enact those suggested rules  
24 into law, or take any other appropriate action in the General  
25 Assembly's discretion. Nothing in this Section shall be  
26 interpreted to grant rulemaking authority under any other

1 Illinois statute where such authority is not otherwise  
2 explicitly given. For the purposes of this Section, "rules" is  
3 given the meaning contained in Section 1-70 of the Illinois  
4 Administrative Procedure Act, and "agency" and "agency head"  
5 are given the meanings contained in Sections 1-20 and 1-25 of  
6 the Illinois Administrative Procedure Act to the extent that  
7 such definitions apply to agencies and agency heads under the  
8 jurisdiction of the Governor.