



Rep. Kathleen A. Ryg

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09500HB5492ham003

LRB095 15957 DRJ 50008 a

1 AMENDMENT TO HOUSE BILL 5492

2 AMENDMENT NO. _____. Amend House Bill 5492, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

7 (210 ILCS 50/32.6 new)

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

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

12 (b) Any FEC administrator, agent, employee, or medical
13 staff member who has reasonable cause to believe that any
14 patient with whom he or she has direct contact has been
15 subjected to abuse in the FEC shall promptly report or cause a
16 report to be made to a designated FEC administrator responsible

1 for providing such reports to the Department as required by
2 this Section.

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

5 (d) Upon receiving a report under subsection (b) of this
6 Section, the FEC shall submit the report to the Department
7 within 24 hours of obtaining such report. In the event that the
8 FEC receives multiple reports involving a single alleged
9 instance of abuse, the FEC shall submit one report to the
10 Department.

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

22 (f) All internal FEC reviews shall be conducted by a
23 designated FEC employee or agent who is qualified to detect
24 abuse and is not involved in the alleged victim's treatment.
25 All internal review findings must be documented and filed
26 according to FEC procedures and shall be made available to the

1 Department upon request.

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

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

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

25 (j) No administrator, agent, or employee of an FEC shall
26 adopt or employ practices or procedures designed to discourage

1 good faith reporting of patient abuse under this Section.

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

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

13 (m) The Department shall keep a continuing record of all
14 reports made pursuant to this Section, including indications of
15 the final determination of any investigation and the final
16 disposition of all reports. The Department shall inform the
17 investigated FEC and any other person making a report under
18 subsection (g) of its final determination or disposition in
19 writing.

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

24 (o) All patient identifiable information in any report or
25 investigation under this Section shall be confidential and
26 shall not be disclosed except as authorized by this Act or

1 other applicable law.

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

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

8 (r) Nothing in this Section shall require an FEC, including
9 its employees, agents, and medical staff members, to provide
10 any services to a patient in contravention of his or her stated
11 or implied objection thereto upon grounds that such services
12 conflict with his or her religious beliefs or practices, nor
13 shall such a patient be considered abused under this Section
14 for the exercise of such beliefs or practices.

15 (s) As used in this Section, the following terms have the
16 following meanings:

17 "Abuse" means any physical or mental injury or sexual abuse
18 intentionally inflicted by an FEC employee, agent, or medical
19 staff member on a patient of the FEC and does not include any
20 FEC, medical, health care, or other personal care services done
21 in good faith in the interest of the patient according to
22 established medical and clinical standards of care.

23 "FEC" means a Freestanding Emergency Center licensed under
24 Section 32.5.

25 "Mental injury" means intentionally caused emotional
26 distress in a patient from words or gestures that would be

1 considered by a reasonable person to be humiliating, harassing,
2 or threatening and which causes observable and substantial
3 impairment.

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

6 "Substantiated", with respect to a report of abuse, means
7 that a preponderance of the evidence indicates that abuse
8 occurred.

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

1 the Illinois Administrative Procedure Act to the extent that
2 such definitions apply to agencies and agency heads under the
3 jurisdiction of the Governor.

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

6 (210 ILCS 85/9) (from Ch. 111 1/2, par. 150)

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

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

2 (210 ILCS 85/9.6 new)

3 Sec. 9.6. Patient protection from abuse.

4 (a) No administrator, agent, or employee of a hospital or a
5 member of its medical staff may abuse a patient in the
6 hospital.

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

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

16 (d) Upon receiving a report under subsection (b) of this
17 Section, the hospital shall submit the report to the Department
18 within 24 hours of obtaining such report. In the event that the
19 hospital receives multiple reports involving a single alleged
20 instance of abuse, the hospital shall submit one report to the
21 Department.

22 (e) Upon receiving a report under this Section, the
23 hospital shall promptly conduct an internal review to ensure
24 the alleged victim's safety. Measures to protect the alleged
25 victim shall be taken as deemed necessary by the hospital's

1 administrator and may include, but are not limited to, removing
2 suspected violators from further patient contact during the
3 hospital's internal review. If the alleged victim lacks
4 decision-making capacity under the Health Care Surrogate Act
5 and no health care surrogate is available, the hospital may
6 contact the Illinois Guardianship and Advocacy Commission to
7 determine the need for a temporary guardian of that person.

8 (f) All internal hospital reviews shall be conducted by a
9 designated hospital employee or agent who is qualified to
10 detect abuse and is not involved in the alleged victim's
11 treatment. All internal review findings must be documented and
12 filed according to hospital procedures and shall be made
13 available to the Department upon request.

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

17 (h) The report required under this Section shall include:
18 the name of the patient; the name and address of the hospital
19 treating the patient; the age of the patient; the nature of the
20 patient's condition, including any evidence of previous
21 injuries or disabilities; and any other information that the
22 reporter believes might be helpful in establishing the cause of
23 the reported abuse and the identity of the person believed to
24 have caused the abuse.

25 (i) Any individual, person, institution, or agency
26 participating in good faith in the making of a report under

1 this Section, or in the investigation of such a report or in
2 making a disclosure of information concerning reports of abuse
3 under this Section, shall have immunity from any liability,
4 whether civil, professional, or criminal, that otherwise might
5 result by reason of such actions. For the purpose of any
6 proceedings, whether civil, professional, or criminal, the
7 good faith of any persons required to report cases of suspected
8 abuse under this Section or who disclose information concerning
9 reports of abuse in compliance with this Section, shall be
10 presumed.

11 (j) No administrator, agent, or employee of a hospital
12 shall adopt or employ practices or procedures designed to
13 discourage good faith reporting of patient abuse under this
14 Section.

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

18 (l) The Department shall investigate each report of patient
19 abuse made under this Section according to the procedures of
20 the Department, except that a report of abuse which indicates
21 that a patient's life or safety is in imminent danger shall be
22 investigated within 24 hours of such report. Under no
23 circumstances may a hospital's internal review of an allegation
24 of abuse replace an investigation of the allegation by the
25 Department.

26 (m) The Department shall keep a continuing record of all

1 reports made pursuant to this Section, including indications of
2 the final determination of any investigation and the final
3 disposition of all reports. The Department shall inform the
4 investigated hospital and any other person making a report
5 under subsection (g) of its final determination or disposition
6 in writing.

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

11 (o) All patient identifiable information in any report or
12 investigation under this Section shall be confidential and
13 shall not be disclosed except as authorized by this Act or
14 other applicable law.

15 (p) Nothing in this Section relieves a hospital
16 administrator, employee, agent, or medical staff member from
17 contacting appropriate law enforcement authorities as required
18 by law.

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

22 (r) Nothing in this Section shall require a hospital,
23 including its employees, agents, and medical staff members, to
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25 her stated or implied objection thereto upon grounds that such
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3 (s) As used in this Section, the following terms have the
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6 intentionally inflicted by a hospital employee, agent, or
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8 include any hospital, medical, health care, or other personal
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10 according to established medical and clinical standards of
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18 or sexual penetration of a patient in the hospital.

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20 that a preponderance of the evidence indicates that abuse
21 occurred.

22 (t) Notwithstanding any other rulemaking authority that
23 may exist, neither the Governor nor any agency or agency head
24 under the jurisdiction of the Governor has any authority to
25 make or promulgate rules to implement or enforce the provisions
26 of this Section. If, however, the Governor believes that rules

1 are necessary to implement or enforce the provisions of this
2 Section, the Governor may suggest rules to the General Assembly
3 by filing them with the Clerk of the House and the Secretary of
4 the Senate and by requesting that the General Assembly
5 authorize such rulemaking by law, enact those suggested rules
6 into law, or take any other appropriate action in the General
7 Assembly's discretion. Nothing in this Section shall be
8 interpreted to grant rulemaking authority under any other
9 Illinois statute where such authority is not otherwise
10 explicitly given. For the purposes of this Section, "rules" is
11 given the meaning contained in Section 1-70 of the Illinois
12 Administrative Procedure Act, and "agency" and "agency head"
13 are given the meanings contained in Sections 1-20 and 1-25 of
14 the Illinois Administrative Procedure Act to the extent that
15 such definitions apply to agencies and agency heads under the
16 jurisdiction of the Governor.".