



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3825

by Rep. Esther Golar

SYNOPSIS AS INTRODUCED:

20 ILCS 1305/1-17

Amends the Department of Human Services Act. Provides that nothing in a specified provision of the Act shall prohibit an employee from formally contesting any adverse employment action taken against the employee as a result of a substantiated finding by the Office of the Inspector General; however, such contest shall not prohibit the Inspector General from reporting the employee's name to the health care worker registry. Provides that the fact that an employee may be formally contesting an employer's adverse employment action in another forum shall not prohibit the employee from requesting an administrative hearing to contest the reporting of his or her name to the health care worker registry; that the outcome of an action filed with the Civil Service Commission or pursuant to any collective bargaining agreement shall have no bearing on the Inspector General's obligation to report a substantiated finding of physical abuse, sexual abuse, egregious neglect, or financial exploitation to the health care worker registry, or the outcome of the hearing, if any (rather than no reporting to the registry shall occur and no hearing shall be set or proceed if an employee notifies the Inspector General in writing, including any supporting documentation, that he or she is formally contesting an adverse employment action resulting from a substantiated finding by complaint filed with the Illinois Civil Service Commission, or which otherwise seeks to enforce the employee's rights pursuant to any applicable collective bargaining agreement; that if an action taken by an employer against an employee as a result of a finding of physical abuse, sexual abuse, or egregious neglect is overturned through an action filed with the Illinois Civil Service Commission or under any applicable collective bargaining agreement and if that employee's name has already been sent to the registry, the employee's name shall be removed from the registry).

LRB099 11079 KTG 31475 b

1 AN ACT concerning State government.

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

4 Section 5. The Department of Human Services Act is amended
5 by changing Section 1-17 as follows:

6 (20 ILCS 1305/1-17)

7 Sec. 1-17. Inspector General.

8 (a) Nature and purpose. It is the express intent of the
9 General Assembly to ensure the health, safety, and financial
10 condition of individuals receiving services in this State due
11 to mental illness, developmental disability, or both by
12 protecting those persons from acts of abuse, neglect, or both
13 by service providers. To that end, the Office of the Inspector
14 General for the Department of Human Services is created to
15 investigate and report upon allegations of the abuse, neglect,
16 or financial exploitation of individuals receiving services
17 within mental health facilities, developmental disabilities
18 facilities, and community agencies operated, licensed, funded
19 or certified by the Department of Human Services, but not
20 licensed or certified by any other State agency.

21 (b) Definitions. The following definitions apply to this
22 Section:

23 "Adult student with a disability" means an adult student,

1 age 18 through 21, inclusive, with an Individual Education
2 Program, other than a resident of a facility licensed by the
3 Department of Children and Family Services in accordance with
4 the Child Care Act of 1969. For purposes of this definition,
5 "through age 21, inclusive", means through the day before the
6 student's 22nd birthday.

7 "Agency" or "community agency" means (i) a community agency
8 licensed, funded, or certified by the Department, but not
9 licensed or certified by any other human services agency of the
10 State, to provide mental health service or developmental
11 disabilities service, or (ii) a program licensed, funded, or
12 certified by the Department, but not licensed or certified by
13 any other human services agency of the State, to provide mental
14 health service or developmental disabilities service.

15 "Aggravating circumstance" means a factor that is
16 attendant to a finding and that tends to compound or increase
17 the culpability of the accused.

18 "Allegation" means an assertion, complaint, suspicion, or
19 incident involving any of the following conduct by an employee,
20 facility, or agency against an individual or individuals:
21 mental abuse, physical abuse, sexual abuse, neglect, or
22 financial exploitation.

23 "Day" means working day, unless otherwise specified.

24 "Deflection" means a situation in which an individual is
25 presented for admission to a facility or agency, and the
26 facility staff or agency staff do not admit the individual.

1 "Deflection" includes triage, redirection, and denial of
2 admission.

3 "Department" means the Department of Human Services.

4 "Developmentally disabled" means having a developmental
5 disability.

6 "Developmental disability" means "developmental
7 disability" as defined in the Mental Health and Developmental
8 Disabilities Code.

9 "Egregious neglect" means a finding of neglect as
10 determined by the Inspector General that (i) represents a gross
11 failure to adequately provide for, or a callused indifference
12 to, the health, safety, or medical needs of an individual and
13 (ii) results in an individual's death or other serious
14 deterioration of an individual's physical condition or mental
15 condition.

16 "Employee" means any person who provides services at the
17 facility or agency on-site or off-site. The service
18 relationship can be with the individual or with the facility or
19 agency. Also, "employee" includes any employee or contractual
20 agent of the Department of Human Services or the community
21 agency involved in providing or monitoring or administering
22 mental health or developmental disability services. This
23 includes but is not limited to: owners, operators, payroll
24 personnel, contractors, subcontractors, and volunteers.

25 "Facility" or "State-operated facility" means a mental
26 health facility or developmental disabilities facility

1 operated by the Department.

2 "Financial exploitation" means taking unjust advantage of
3 an individual's assets, property, or financial resources
4 through deception, intimidation, or conversion for the
5 employee's, facility's, or agency's own advantage or benefit.

6 "Finding" means the Office of Inspector General's
7 determination regarding whether an allegation is
8 substantiated, unsubstantiated, or unfounded.

9 "Health care worker registry" or "registry" means the
10 health care worker registry created by the Nursing Home Care
11 Act.

12 "Individual" means any person receiving mental health
13 service, developmental disabilities service, or both from a
14 facility or agency, while either on-site or off-site.

15 "Mental abuse" means the use of demeaning, intimidating, or
16 threatening words, signs, gestures, or other actions by an
17 employee about an individual and in the presence of an
18 individual or individuals that results in emotional distress or
19 maladaptive behavior, or could have resulted in emotional
20 distress or maladaptive behavior, for any individual present.

21 "Mental illness" means "mental illness" as defined in the
22 Mental Health and Developmental Disabilities Code.

23 "Mentally ill" means having a mental illness.

24 "Mitigating circumstance" means a condition that (i) is
25 attendant to a finding, (ii) does not excuse or justify the
26 conduct in question, but (iii) may be considered in evaluating

1 the severity of the conduct, the culpability of the accused, or
2 both the severity of the conduct and the culpability of the
3 accused.

4 "Neglect" means an employee's, agency's, or facility's
5 failure to provide adequate medical care, personal care, or
6 maintenance and that, as a consequence, (i) causes an
7 individual pain, injury, or emotional distress, (ii) results in
8 either an individual's maladaptive behavior or the
9 deterioration of an individual's physical condition or mental
10 condition, or (iii) places the individual's health or safety at
11 substantial risk.

12 "Physical abuse" means an employee's non-accidental and
13 inappropriate contact with an individual that causes bodily
14 harm. "Physical abuse" includes actions that cause bodily harm
15 as a result of an employee directing an individual or person to
16 physically abuse another individual.

17 "Recommendation" means an admonition, separate from a
18 finding, that requires action by the facility, agency, or
19 Department to correct a systemic issue, problem, or deficiency
20 identified during an investigation.

21 "Required reporter" means any employee who suspects,
22 witnesses, or is informed of an allegation of any one or more
23 of the following: mental abuse, physical abuse, sexual abuse,
24 neglect, or financial exploitation.

25 "Secretary" means the Chief Administrative Officer of the
26 Department.

1 "Sexual abuse" means any sexual contact or intimate
2 physical contact between an employee and an individual,
3 including an employee's coercion or encouragement of an
4 individual to engage in sexual behavior that results in sexual
5 contact, intimate physical contact, sexual behavior, or
6 intimate physical behavior.

7 "Substantiated" means there is a preponderance of the
8 evidence to support the allegation.

9 "Unfounded" means there is no credible evidence to support
10 the allegation.

11 "Unsubstantiated" means there is credible evidence, but
12 less than a preponderance of evidence to support the
13 allegation.

14 (c) Appointment. The Governor shall appoint, and the Senate
15 shall confirm, an Inspector General. The Inspector General
16 shall be appointed for a term of 4 years and shall function
17 within the Department of Human Services and report to the
18 Secretary and the Governor.

19 (d) Operation and appropriation. The Inspector General
20 shall function independently within the Department with
21 respect to the operations of the Office, including the
22 performance of investigations and issuance of findings and
23 recommendations. The appropriation for the Office of Inspector
24 General shall be separate from the overall appropriation for
25 the Department.

26 (e) Powers and duties. The Inspector General shall

1 investigate reports of suspected mental abuse, physical abuse,
2 sexual abuse, neglect, or financial exploitation of
3 individuals in any mental health or developmental disabilities
4 facility or agency and shall have authority to take immediate
5 action to prevent any one or more of the following from
6 happening to individuals under its jurisdiction: mental abuse,
7 physical abuse, sexual abuse, neglect, or financial
8 exploitation. Upon written request of an agency of this State,
9 the Inspector General may assist another agency of the State in
10 investigating reports of the abuse, neglect, or abuse and
11 neglect of persons with mental illness, persons with
12 developmental disabilities, or persons with both. To comply
13 with the requirements of subsection (k) of this Section, the
14 Inspector General shall also review all reportable deaths for
15 which there is no allegation of abuse or neglect. Nothing in
16 this Section shall preempt any duties of the Medical Review
17 Board set forth in the Mental Health and Developmental
18 Disabilities Code. The Inspector General shall have no
19 authority to investigate alleged violations of the State
20 Officials and Employees Ethics Act. Allegations of misconduct
21 under the State Officials and Employees Ethics Act shall be
22 referred to the Office of the Governor's Executive Inspector
23 General for investigation.

24 (f) Limitations. The Inspector General shall not conduct an
25 investigation within an agency or facility if that
26 investigation would be redundant to or interfere with an

1 investigation conducted by another State agency. The Inspector
2 General shall have no supervision over, or involvement in, the
3 routine programmatic, licensing, funding, or certification
4 operations of the Department. Nothing in this subsection limits
5 investigations by the Department that may otherwise be required
6 by law or that may be necessary in the Department's capacity as
7 central administrative authority responsible for the operation
8 of the State's mental health and developmental disabilities
9 facilities.

10 (g) Rulemaking authority. The Inspector General shall
11 promulgate rules establishing minimum requirements for
12 reporting allegations as well as for initiating, conducting,
13 and completing investigations based upon the nature of the
14 allegation or allegations. The rules shall clearly establish
15 that if 2 or more State agencies could investigate an
16 allegation, the Inspector General shall not conduct an
17 investigation that would be redundant to, or interfere with, an
18 investigation conducted by another State agency. The rules
19 shall further clarify the method and circumstances under which
20 the Office of Inspector General may interact with the
21 licensing, funding, or certification units of the Department in
22 preventing further occurrences of mental abuse, physical
23 abuse, sexual abuse, neglect, egregious neglect, and financial
24 exploitation.

25 (h) Training programs. The Inspector General shall (i)
26 establish a comprehensive program to ensure that every person

1 authorized to conduct investigations receives ongoing training
2 relative to investigation techniques, communication skills,
3 and the appropriate means of interacting with persons receiving
4 treatment for mental illness, developmental disability, or
5 both mental illness and developmental disability, and (ii)
6 establish and conduct periodic training programs for facility
7 and agency employees concerning the prevention and reporting of
8 any one or more of the following: mental abuse, physical abuse,
9 sexual abuse, neglect, egregious neglect, or financial
10 exploitation. Nothing in this Section shall be deemed to
11 prevent the Office of Inspector General from conducting any
12 other training as determined by the Inspector General to be
13 necessary or helpful.

14 (i) Duty to cooperate.

15 (1) The Inspector General shall at all times be granted
16 access to any facility or agency for the purpose of
17 investigating any allegation, conducting unannounced site
18 visits, monitoring compliance with a written response, or
19 completing any other statutorily assigned duty. The
20 Inspector General shall conduct unannounced site visits to
21 each facility at least annually for the purpose of
22 reviewing and making recommendations on systemic issues
23 relative to preventing, reporting, investigating, and
24 responding to all of the following: mental abuse, physical
25 abuse, sexual abuse, neglect, egregious neglect, or
26 financial exploitation.

1 (2) Any employee who fails to cooperate with an Office
2 of the Inspector General investigation is in violation of
3 this Act. Failure to cooperate with an investigation
4 includes, but is not limited to, any one or more of the
5 following: (i) creating and transmitting a false report to
6 the Office of the Inspector General hotline, (ii) providing
7 false information to an Office of the Inspector General
8 Investigator during an investigation, (iii) colluding with
9 other employees to cover up evidence, (iv) colluding with
10 other employees to provide false information to an Office
11 of the Inspector General investigator, (v) destroying
12 evidence, (vi) withholding evidence, or (vii) otherwise
13 obstructing an Office of the Inspector General
14 investigation. Additionally, any employee who, during an
15 unannounced site visit or written response compliance
16 check, fails to cooperate with requests from the Office of
17 the Inspector General is in violation of this Act.

18 (j) Subpoena powers. The Inspector General shall have the
19 power to subpoena witnesses and compel the production of all
20 documents and physical evidence relating to his or her
21 investigations and any hearings authorized by this Act. This
22 subpoena power shall not extend to persons or documents of a
23 labor organization or its representatives insofar as the
24 persons are acting in a representative capacity to an employee
25 whose conduct is the subject of an investigation or the
26 documents relate to that representation. Any person who

1 otherwise fails to respond to a subpoena or who knowingly
2 provides false information to the Office of the Inspector
3 General by subpoena during an investigation is guilty of a
4 Class A misdemeanor.

5 (k) Reporting allegations and deaths.

6 (1) Allegations. If an employee witnesses, is told of,
7 or has reason to believe an incident of mental abuse,
8 physical abuse, sexual abuse, neglect, or financial
9 exploitation has occurred, the employee, agency, or
10 facility shall report the allegation by phone to the Office
11 of the Inspector General hotline according to the agency's
12 or facility's procedures, but in no event later than 4
13 hours after the initial discovery of the incident,
14 allegation, or suspicion of any one or more of the
15 following: mental abuse, physical abuse, sexual abuse,
16 neglect, or financial exploitation. A required reporter as
17 defined in subsection (b) of this Section who knowingly or
18 intentionally fails to comply with these reporting
19 requirements is guilty of a Class A misdemeanor.

20 (2) Deaths. Absent an allegation, a required reporter
21 shall, within 24 hours after initial discovery, report by
22 phone to the Office of the Inspector General hotline each
23 of the following:

24 (i) Any death of an individual occurring within 14
25 calendar days after discharge or transfer of the
26 individual from a residential program or facility.

1 (ii) Any death of an individual occurring within 24
2 hours after deflection from a residential program or
3 facility.

4 (iii) Any other death of an individual occurring at
5 an agency or facility or at any Department-funded site.

6 (3) Retaliation. It is a violation of this Act for any
7 employee or administrator of an agency or facility to take
8 retaliatory action against an employee who acts in good
9 faith in conformance with his or her duties as a required
10 reporter.

11 (1) Reporting to law enforcement.

12 (1) Reporting criminal acts. Within 24 hours after
13 determining that there is credible evidence indicating
14 that a criminal act may have been committed or that special
15 expertise may be required in an investigation, the
16 Inspector General shall notify the Department of State
17 Police or other appropriate law enforcement authority, or
18 ensure that such notification is made. The Department of
19 State Police shall investigate any report from a
20 State-operated facility indicating a possible murder,
21 sexual assault, or other felony by an employee. All
22 investigations conducted by the Inspector General shall be
23 conducted in a manner designed to ensure the preservation
24 of evidence for possible use in a criminal prosecution.

25 (2) Reporting allegations of adult students with
26 disabilities. Upon receipt of a reportable allegation

1 regarding an adult student with a disability, the
2 Department's Office of the Inspector General shall
3 determine whether the allegation meets the criteria for the
4 Domestic Abuse Program under the Abuse of Adults with
5 Disabilities Intervention Act. If the allegation is
6 reportable to that program, the Office of the Inspector
7 General shall initiate an investigation. If the allegation
8 is not reportable to the Domestic Abuse Program, the Office
9 of the Inspector General shall make an expeditious referral
10 to the respective law enforcement entity. If the alleged
11 victim is already receiving services from the Department,
12 the Office of the Inspector General shall also make a
13 referral to the respective Department of Human Services'
14 Division or Bureau.

15 (m) Investigative reports. Upon completion of an
16 investigation, the Office of Inspector General shall issue an
17 investigative report identifying whether the allegations are
18 substantiated, unsubstantiated, or unfounded. Within 10
19 business days after the transmittal of a completed
20 investigative report substantiating an allegation, or if a
21 recommendation is made, the Inspector General shall provide the
22 investigative report on the case to the Secretary and to the
23 director of the facility or agency where any one or more of the
24 following occurred: mental abuse, physical abuse, sexual
25 abuse, neglect, egregious neglect, or financial exploitation.
26 In a substantiated case, the investigative report shall include

1 any mitigating or aggravating circumstances that were
2 identified during the investigation. If the case involves
3 substantiated neglect, the investigative report shall also
4 state whether egregious neglect was found. An investigative
5 report may also set forth recommendations. All investigative
6 reports prepared by the Office of the Inspector General shall
7 be considered confidential and shall not be released except as
8 provided by the law of this State or as required under
9 applicable federal law. Unsubstantiated and unfounded reports
10 shall not be disclosed except as allowed under Section 6 of the
11 Abused and Neglected Long Term Care Facility Residents
12 Reporting Act. Raw data used to compile the investigative
13 report shall not be subject to release unless required by law
14 or a court order. "Raw data used to compile the investigative
15 report" includes, but is not limited to, any one or more of the
16 following: the initial complaint, witness statements,
17 photographs, investigator's notes, police reports, or incident
18 reports. If the allegations are substantiated, the accused
19 shall be provided with a redacted copy of the investigative
20 report. Death reports where there was no allegation of abuse or
21 neglect shall only be released pursuant to applicable State or
22 federal law or a valid court order.

23 (n) Written responses and reconsideration requests.

24 (1) Written responses. Within 30 calendar days from
25 receipt of a substantiated investigative report or an
26 investigative report which contains recommendations,

1 absent a reconsideration request, the facility or agency
2 shall file a written response that addresses, in a concise
3 and reasoned manner, the actions taken to: (i) protect the
4 individual; (ii) prevent recurrences; and (iii) eliminate
5 the problems identified. The response shall include the
6 implementation and completion dates of such actions. If the
7 written response is not filed within the allotted 30
8 calendar day period, the Secretary shall determine the
9 appropriate corrective action to be taken.

10 (2) Reconsideration requests. The facility, agency,
11 victim or guardian, or the subject employee may request
12 that the Office of Inspector General reconsider or clarify
13 its finding based upon additional information.

14 (o) Disclosure of the finding by the Inspector General. The
15 Inspector General shall disclose the finding of an
16 investigation to the following persons: (i) the Governor, (ii)
17 the Secretary, (iii) the director of the facility or agency,
18 (iv) the alleged victims and their guardians, (v) the
19 complainant, and (vi) the accused. This information shall
20 include whether the allegations were deemed substantiated,
21 unsubstantiated, or unfounded.

22 (p) Secretary review. Upon review of the Inspector
23 General's investigative report and any agency's or facility's
24 written response, the Secretary shall accept or reject the
25 written response and notify the Inspector General of that
26 determination. The Secretary may further direct that other

1 administrative action be taken, including, but not limited to,
2 any one or more of the following: (i) additional site visits,
3 (ii) training, (iii) provision of technical assistance
4 relative to administrative needs, licensure or certification,
5 or (iv) the imposition of appropriate sanctions.

6 (q) Action by facility or agency. Within 30 days of the
7 date the Secretary approves the written response or directs
8 that further administrative action be taken, the facility or
9 agency shall provide an implementation report to the Inspector
10 General that provides the status of the action taken. The
11 facility or agency shall be allowed an additional 30 days to
12 send notice of completion of the action or to send an updated
13 implementation report. If the action has not been completed
14 within the additional 30 day period, the facility or agency
15 shall send updated implementation reports every 60 days until
16 completion. The Inspector General shall conduct a review of any
17 implementation plan that takes more than 120 days after
18 approval to complete, and shall monitor compliance through a
19 random review of approved written responses, which may include,
20 but are not limited to: (i) site visits, (ii) telephone
21 contact, and (iii) requests for additional documentation
22 evidencing compliance.

23 (r) Sanctions. Sanctions, if imposed by the Secretary under
24 Subdivision (p)(iv) of this Section, shall be designed to
25 prevent further acts of mental abuse, physical abuse, sexual
26 abuse, neglect, egregious neglect, or financial exploitation

1 or some combination of one or more of those acts at a facility
2 or agency, and may include any one or more of the following:

3 (1) Appointment of on-site monitors.

4 (2) Transfer or relocation of an individual or
5 individuals.

6 (3) Closure of units.

7 (4) Termination of any one or more of the following:

8 (i) Department licensing, (ii) funding, or (iii)
9 certification.

10 The Inspector General may seek the assistance of the
11 Illinois Attorney General or the office of any State's Attorney
12 in implementing sanctions.

13 (s) Health care worker registry.

14 (1) Reporting to the registry. The Inspector General
15 shall report to the Department of Public Health's health
16 care worker registry, a public registry, the identity and
17 finding of each employee of a facility or agency against
18 whom there is a final investigative report containing a
19 substantiated allegation of physical or sexual abuse,
20 financial exploitation, or egregious neglect of an
21 individual.

22 (2) Notice to employee. Prior to reporting the name of
23 an employee, the employee shall be notified of the
24 Department's obligation to report and shall be granted an
25 opportunity to request an administrative hearing, the sole
26 purpose of which is to determine if the substantiated

1 finding warrants reporting to the registry. Notice to the
2 employee shall contain a clear and concise statement of the
3 grounds on which the report to the registry is based, offer
4 the employee an opportunity for a hearing, and identify the
5 process for requesting such a hearing. Notice is sufficient
6 if provided by certified mail to the employee's last known
7 address. If the employee fails to request a hearing within
8 30 days from the date of the notice, the Inspector General
9 shall report the name of the employee to the registry.
10 Nothing in this subdivision (s) (2) shall diminish or impair
11 the rights of a person who is a member of a collective
12 bargaining unit under the Illinois Public Labor Relations
13 Act or under any other federal labor statute.

14 (3) Registry hearings. If the employee requests an
15 administrative hearing, the employee shall be granted an
16 opportunity to appear before an administrative law judge to
17 present reasons why the employee's name should not be
18 reported to the registry. The Department shall bear the
19 burden of presenting evidence that establishes, by a
20 preponderance of the evidence, that the substantiated
21 finding warrants reporting to the registry. After
22 considering all the evidence presented, the administrative
23 law judge shall make a recommendation to the Secretary as
24 to whether the substantiated finding warrants reporting
25 the name of the employee to the registry. The Secretary
26 shall render the final decision. The Department and the

1 employee shall have the right to request that the
2 administrative law judge consider a stipulated disposition
3 of these proceedings.

4 (4) Testimony at registry hearings. A person who makes
5 a report or who investigates a report under this Act shall
6 testify fully in any judicial proceeding resulting from
7 such a report, as to any evidence of abuse or neglect, or
8 the cause thereof. No evidence shall be excluded by reason
9 of any common law or statutory privilege relating to
10 communications between the alleged perpetrator of abuse or
11 neglect, or the individual alleged as the victim in the
12 report, and the person making or investigating the report.
13 Testimony at hearings is exempt from the confidentiality
14 requirements of subsection (f) of Section 10 of the Mental
15 Health and Developmental Disabilities Confidentiality Act.

16 (5) Employee's rights to collateral action. Nothing in
17 this subsection shall prohibit an employee from formally
18 contesting any adverse employment action taken against the
19 employee as a result of a substantiated finding by the
20 Office of the Inspector General. However, such contest
21 shall not prohibit the Inspector General from reporting the
22 employee's name to the health care worker registry in
23 accordance with paragraph (1). In addition, the fact that
24 an employee may be formally contesting an employer's
25 adverse employment action in another forum shall not
26 prohibit the employee from requesting an administrative

1 hearing under paragraph (3) to contest the reporting of his
2 or her name to the health care worker registry. The outcome
3 of an action filed with the Civil Service Commission or
4 pursuant to any collective bargaining agreement shall have
5 no bearing on the Inspector General's obligation to report
6 a substantiated finding of physical abuse, sexual abuse,
7 egregious neglect, or financial exploitation to the health
8 care worker registry, or the outcome of the hearing, if
9 any, under paragraph (3). No reporting to the registry
10 shall occur and no hearing shall be set or proceed if an
11 employee notifies the Inspector General in writing,
12 including any supporting documentation, that he or she is
13 formally contesting an adverse employment action resulting
14 from a substantiated finding by complaint filed with the
15 Illinois Civil Service Commission, or which otherwise
16 seeks to enforce the employee's rights pursuant to any
17 applicable collective bargaining agreement. If an action
18 taken by an employer against an employee as a result of a
19 finding of physical abuse, sexual abuse, or egregious
20 neglect is overturned through an action filed with the
21 Illinois Civil Service Commission or under any applicable
22 collective bargaining agreement and if that employee's
23 name has already been sent to the registry, the employee's
24 name shall be removed from the registry.

25 (6) Removal from registry. At any time after the report
26 to the registry, but no more than once in any 12-month

1 period, an employee may petition the Department in writing
2 to remove his or her name from the registry. Upon receiving
3 notice of such request, the Inspector General shall conduct
4 an investigation into the petition. Upon receipt of such
5 request, an administrative hearing will be set by the
6 Department. At the hearing, the employee shall bear the
7 burden of presenting evidence that establishes, by a
8 preponderance of the evidence, that removal of the name
9 from the registry is in the public interest. The parties
10 may jointly request that the administrative law judge
11 consider a stipulated disposition of these proceedings.

12 (t) Review of Administrative Decisions. The Department
13 shall preserve a record of all proceedings at any formal
14 hearing conducted by the Department involving health care
15 worker registry hearings. Final administrative decisions of
16 the Department are subject to judicial review pursuant to
17 provisions of the Administrative Review Law.

18 (u) Quality Care Board. There is created, within the Office
19 of the Inspector General, a Quality Care Board to be composed
20 of 7 members appointed by the Governor with the advice and
21 consent of the Senate. One of the members shall be designated
22 as chairman by the Governor. Of the initial appointments made
23 by the Governor, 4 Board members shall each be appointed for a
24 term of 4 years and 3 members shall each be appointed for a
25 term of 2 years. Upon the expiration of each member's term, a
26 successor shall be appointed for a term of 4 years. In the case

1 of a vacancy in the office of any member, the Governor shall
2 appoint a successor for the remainder of the unexpired term.

3 Members appointed by the Governor shall be qualified by
4 professional knowledge or experience in the area of law,
5 investigatory techniques, or in the area of care of the
6 mentally ill or developmentally disabled. Two members
7 appointed by the Governor shall be persons with a disability or
8 a parent of a person with a disability. Members shall serve
9 without compensation, but shall be reimbursed for expenses
10 incurred in connection with the performance of their duties as
11 members.

12 The Board shall meet quarterly, and may hold other meetings
13 on the call of the chairman. Four members shall constitute a
14 quorum allowing the Board to conduct its business. The Board
15 may adopt rules and regulations it deems necessary to govern
16 its own procedures.

17 The Board shall monitor and oversee the operations,
18 policies, and procedures of the Inspector General to ensure the
19 prompt and thorough investigation of allegations of neglect and
20 abuse. In fulfilling these responsibilities, the Board may do
21 the following:

22 (1) Provide independent, expert consultation to the
23 Inspector General on policies and protocols for
24 investigations of alleged abuse, neglect, or both abuse and
25 neglect.

26 (2) Review existing regulations relating to the

1 operation of facilities.

2 (3) Advise the Inspector General as to the content of
3 training activities authorized under this Section.

4 (4) Recommend policies concerning methods for
5 improving the intergovernmental relationships between the
6 Office of the Inspector General and other State or federal
7 offices.

8 (v) Annual report. The Inspector General shall provide to
9 the General Assembly and the Governor, no later than January 1
10 of each year, a summary of reports and investigations made
11 under this Act for the prior fiscal year with respect to
12 individuals receiving mental health or developmental
13 disabilities services. The report shall detail the imposition
14 of sanctions, if any, and the final disposition of any
15 corrective or administrative action directed by the Secretary.
16 The summaries shall not contain any confidential or identifying
17 information of any individual, but shall include objective data
18 identifying any trends in the number of reported allegations,
19 the timeliness of the Office of the Inspector General's
20 investigations, and their disposition, for each facility and
21 Department-wide, for the most recent 3-year time period. The
22 report shall also identify, by facility, the staff-to-patient
23 ratios taking account of direct care staff only. The report
24 shall also include detailed recommended administrative actions
25 and matters for consideration by the General Assembly.

26 (w) Program audit. The Auditor General shall conduct a

1 program audit of the Office of the Inspector General on an
2 as-needed basis, as determined by the Auditor General. The
3 audit shall specifically include the Inspector General's
4 compliance with the Act and effectiveness in investigating
5 reports of allegations occurring in any facility or agency. The
6 Auditor General shall conduct the program audit according to
7 the provisions of the Illinois State Auditing Act and shall
8 report its findings to the General Assembly no later than
9 January 1 following the audit period.

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

14 (y) Nothing in this Section shall require a facility,
15 including its employees, agents, medical staff members, and
16 health care professionals, to provide a service to a patient in
17 contravention of that patient's stated or implied objection to
18 the provision of that service on the ground that that service
19 conflicts with the patient's religious beliefs or practices,
20 nor shall the failure to provide a service to a patient be
21 considered abuse under this Section if the patient has objected
22 to the provision of that service based on his or her religious
23 beliefs or practices.

24 (Source: P.A. 98-49, eff. 7-1-13; 98-711, eff. 7-16-14.)