

1 AN ACT in relation to health care.

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

4 Section 5. The Mental Health and Developmental
5 Disabilities Administrative Act is amended by changing
6 Sections 4, 7, and 15 as follows:

7 (20 ILCS 1705/4) (from Ch. 91 1/2, par. 100-4)

8 Sec. 4. Supervision of facilities and services;
9 quarterly reports.

10 (a) To exercise executive and administrative supervision
11 over all facilities, divisions, programs and services now
12 existing or hereafter acquired or created under the
13 jurisdiction of the Department, including, but not limited
14 to, the following:

15 The Alton Mental Health Center, at Alton

16 The Clyde L. Choate Mental Health and Developmental
17 Center, at Anna

18 The Chester Mental Health Center, at Chester

19 The Chicago-Read Mental Health Center, at Chicago

20 The Elgin Mental Health Center, at Elgin

21 The Metropolitan Children and Adolescents Center, at
22 Chicago

23 The Jacksonville Developmental Center, at
24 Jacksonville

25 The Governor Samuel H. Shapiro Developmental Center,
26 at Kankakee

27 The Tinley Park Mental Health Center, at Tinley Park

28 The Warren G. Murray Developmental Center, at
29 Centralia

30 The Jack Mabley Developmental Center, at Dixon

31 The Lincoln Developmental Center, at Lincoln

- 1 The H. Douglas Singer Mental Health and
- 2 Developmental Center, at Rockford
- 3 The John J. Madden Mental Health Center, at Chicago
- 4 The George A. Zeller Mental Health Center, at Peoria
- 5 The Andrew McFarland Mental Health Center, at
- 6 Springfield
- 7 The Adolf Meyer Mental Health Center, at Decatur
- 8 The William W. Fox Developmental Center, at Dwight
- 9 The Elisabeth Ludeman Developmental Center, at Park
- 10 Forest
- 11 The William A. Howe Developmental Center, at Tinley
- 12 Park
- 13 The Ann M. Kiley Developmental Center, at Waukegan.

14 (b) Beginning not later than July 1, 1977, the
 15 Department shall cause each of the facilities under its
 16 jurisdiction which provide in-patient care to comply with
 17 standards, rules and regulations of the Department of Public
 18 Health prescribed under Section 6.05 of the Hospital
 19 Licensing Act.

20 (c) The Department shall issue quarterly reports on
 21 admissions, deflections, discharges, bed closures,
 22 staff-resident ratios, census, and average length of stay,
 23 and any adverse federal certification or accreditation
 24 findings, if any, for each State-operated facility for the
 25 mentally ill and developmentally disabled.

26 (Source: P.A. 91-357, eff. 7-29-99; 91-652, eff. 12-1-99.)

27 (20 ILCS 1705/7) (from Ch. 91 1/2, par. 100-7)

28 Sec. 7. To receive and provide the highest possible
 29 quality of humane and rehabilitative care and treatment to
 30 all persons admitted or committed or transferred in
 31 accordance with law to the facilities, divisions, programs,
 32 and services under the jurisdiction of the Department. No
 33 resident of another state shall be received or retained to

1 the exclusion of any resident of this State. No resident of
2 another state shall be received or retained to the exclusion
3 of any resident of this State. All recipients of 17 years of
4 age and under in residence in a Department facility other
5 than a facility for the care of the mentally retarded shall
6 be housed in quarters separated from older recipients except
7 for: (a) recipients who are placed in medical-surgical units
8 because of physical illness; and (b) recipients between 13
9 and 18 years of age who need temporary security measures.

10 All recipients in a Department facility shall be given a
11 dental examination by a licensed dentist or registered dental
12 hygienist at least once every 18 months and shall be assigned
13 to a dentist for such dental care and treatment as is
14 necessary.

15 All medications administered to recipients shall be
16 administered only by those persons who are legally qualified
17 to do so by the laws of the State of Illinois. Medication
18 shall not be prescribed until a physical and mental
19 examination of the recipient has been completed. If, in the
20 clinical judgment of a physician, it is necessary to
21 administer medication to a recipient before the completion of
22 the physical and mental examination, he may prescribe such
23 medication but he must file a report with the facility
24 director setting forth the reasons for prescribing such
25 medication within 24 hours of the prescription. A copy of the
26 report shall be part of the recipient's record.

27 No later than January 1, 2002, the Department shall adopt
28 a model protocol and forms for recording all patient
29 diagnosis, care, and treatment at every facility under the
30 jurisdiction of the Department. The model protocol and forms
31 shall be used by each facility unless the Department
32 determines that equivalent alternatives justify an exemption.

33 Every facility under the jurisdiction of the Department
34 shall maintain a copy of each report of suspected abuse or

1 neglect of the patient. Copies of those reports shall be made
2 available to the State Auditor General in connection with his
3 biennial program audit of the facility as required by Section
4 3-2 of the Illinois State Auditing Act.

5 No later than January 1, 2002, every facility under the
6 jurisdiction of the Department and all services provided in
7 those facilities shall comply with all of the applicable
8 standards adopted by the Social Security Administration under
9 Subchapter XVIII (Medicare) of the Social Security Act (42
10 U.S.C. 1395 - 1395ccc), if the facility and services may be
11 eligible for federal financial participation under that
12 federal law.

13 (Source: P.A. 86-922; 86-1013; 86-1475.)

14 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

15 Sec. 15. Before any person is released from a facility
16 operated by the State pursuant to an absolute discharge or a
17 conditional discharge from hospitalization under this Act,
18 the facility director of the facility in which such person is
19 hospitalized shall determine that such person is not
20 currently in need of hospitalization and:

21 (a) is able to live independently in the community;
22 or

23 (b) requires further oversight and supervisory care
24 for which arrangements have been made with responsible
25 relatives or supervised residential program approved by
26 the Department; or

27 (c) requires further personal care or general
28 oversight as defined by the Nursing Home Care Act, for
29 which placement arrangements have been made with a
30 suitable family home or other licensed facility approved
31 by the Department under this Section; or

32 (d) requires community mental health services for
33 which arrangements have been made with a suitable

1 community mental health provider in accordance with
 2 criteria, standards, and procedures promulgated by rule.
 3 The suitable community mental health provider shall be
 4 selected from among the Department's contractual
 5 designees.

6 Such determination shall be made in writing and shall
 7 become a part of the facility record of such absolutely or
 8 conditionally discharged person. When the determination
 9 indicates that the condition of the person to be granted an
 10 absolute discharge or a conditional discharge is described
 11 under subparagraph (c) or (d) of this Section, the name and
 12 address of the continuing care facility or home to which such
 13 person is to be released shall be entered in the facility
 14 record. Where a discharge from a mental health facility is
 15 made under subparagraph (c), the Department shall assign the
 16 person so discharged to an existing community based
 17 not-for-profit agency for participation in day activities
 18 suitable to the person's needs, such as but not limited to
 19 social and vocational rehabilitation, and other recreational,
 20 educational and financial activities unless the community
 21 based not-for-profit agency is unable unqualified to accept
 22 such assignment. Where the clientele of any not-for-profit
 23 agency increases as a result of assignments under this
 24 amendatory Act of 2001 ~~1977-by-more-than-3%-over-the-prior~~
 25 ~~year~~, the Department shall fully reimburse such agency for
 26 the increased costs of providing services to such persons in
 27 ~~excess-of-such-3%-increase~~. The Department shall keep written
 28 records detailing how many persons have been assigned to a
 29 community based not-for-profit agency and how many persons
 30 were not so assigned because the community based agency was
 31 unable to accept the assignments, in accordance with
 32 criteria, standards, and procedures promulgated by rule.
 33 Whenever a community based agency is found to be unable to
 34 accept the assignments, the name of the agency and the reason

1 for the finding shall be included in the report.

2 Insofar as desirable in the interests of the former
3 recipient, the facility, program or home in which the
4 discharged person is to be placed shall be located in or near
5 the community in which the person resided prior to
6 hospitalization or in the community in which the person's
7 family or nearest next of kin presently reside. Placement of
8 the discharged person in facilities, programs or homes
9 located outside of this State shall not be made by the
10 Department unless there are no appropriate facilities,
11 programs or homes available within this State. Out-of-state
12 placements shall be subject to return of recipients so placed
13 upon the availability of facilities, programs or homes within
14 this State to accommodate these recipients, except where
15 placement in a contiguous state results in locating a
16 recipient in a facility or program closer to the recipient's
17 home or family. If an appropriate facility or program
18 becomes available equal to or closer to the recipient's home
19 or family, the recipient shall be returned to and placed at
20 the appropriate facility or program within this State.

21 To place any person who is under a program of the
22 Department at board in a suitable family home or in such
23 other facility or program as the Department may consider
24 desirable. The Department may place in licensed nursing
25 homes, sheltered care homes, or homes for the aged those
26 persons whose behavioral manifestations and medical and
27 nursing care needs are such as to be substantially
28 indistinguishable from persons already living in such
29 facilities. Prior to any placement by the Department under
30 this Section, a determination shall be made by the personnel
31 of the Department, as to the capability and suitability of
32 such facility to adequately meet the needs of the person to
33 be discharged. When specialized programs are necessary in
34 order to enable persons in need of supervised living to

1 develop and improve in the community, the Department shall
2 place such persons only in specialized residential care
3 facilities which shall meet Department standards including
4 restricted admission policy, special staffing and programming
5 for social and vocational rehabilitation, in addition to the
6 requirements of the appropriate State licensing agency. The
7 Department shall not place any new person in a facility the
8 license of which has been revoked or not renewed on grounds
9 of inadequate programming, staffing, or medical or adjunctive
10 services, regardless of the pendency of an action for
11 administrative review regarding such revocation or failure to
12 renew. Before the Department may transfer any person to a
13 licensed nursing home, sheltered care home or home for the
14 aged or place any person in a specialized residential care
15 facility the Department shall notify the person to be
16 transferred, or a responsible relative of such person, in
17 writing, at least 30 days before the proposed transfer, with
18 respect to all the relevant facts concerning such transfer,
19 except in cases of emergency when such notice is not
20 required. If either the person to be transferred or a
21 responsible relative of such person objects to such transfer,
22 in writing to the Department, at any time after receipt of
23 notice and before the transfer, the facility director of the
24 facility in which the person was a recipient shall
25 immediately schedule a hearing at the facility with the
26 presence of the facility director, the person who objected to
27 such proposed transfer, and a psychiatrist who is familiar
28 with the record of the person to be transferred. Such person
29 to be transferred or a responsible relative may be
30 represented by such counsel or interested party as he may
31 appoint, who may present such testimony with respect to the
32 proposed transfer. Testimony presented at such hearing shall
33 become a part of the facility record of the
34 person-to-be-transferred. The record of testimony shall be

1 held in the person-to-be-transferred's record in the central
2 files of the facility. If such hearing is held a transfer may
3 only be implemented, if at all, in accordance with the
4 results of such hearing. Within 15 days after such hearing
5 the facility director shall deliver his findings based on the
6 record of the case and the testimony presented at the
7 hearing, by registered or certified mail, to the parties to
8 such hearing. The findings of the facility director shall be
9 deemed a final administrative decision of the Department. For
10 purposes of this Section, "case of emergency" means those
11 instances in which the health of the person to be transferred
12 is imperiled and the most appropriate mental health care or
13 medical care is available at a licensed nursing home,
14 sheltered care home or home for the aged or a specialized
15 residential care facility.

16 Prior to placement of any person in a facility under this
17 Section the Department shall ensure that an appropriate
18 training plan for staff is provided by the facility. Said
19 training may include instruction and demonstration by
20 Department personnel qualified in the area of mental illness
21 or mental retardation, as applicable to the person to be
22 placed. Training may be given both at the facility from
23 which the recipient is transferred and at the facility
24 receiving the recipient, and may be available on a continuing
25 basis subsequent to placement. In a facility providing
26 services to former Department recipients, training shall be
27 available as necessary for facility staff. Such training
28 will be on a continuing basis as the needs of the facility
29 and recipients change and further training is required.

30 The Department shall not place any person in a facility
31 which does not have appropriately trained staff in sufficient
32 numbers to accommodate the recipient population already at
33 the facility. As a condition of further or future placements
34 of persons, the Department shall require the employment of

1 additional trained staff members at the facility where said
2 persons are to be placed. The Secretary, or his or her
3 designate, shall establish written guidelines for placement
4 of persons in facilities under this Act. The Department shall
5 keep written records detailing which facilities have been
6 determined to have appropriately trained staff, which
7 facilities have been determined not to have such staff, and
8 all training which it has provided or required under this
9 Section.

10 Bills for the support for a person boarded out shall be
11 payable monthly out of the proper maintenance funds and shall
12 be audited as any other accounts of the Department. If a
13 person is placed in a facility or program outside the
14 Department, the Department may pay the actual costs of
15 residence, treatment or maintenance in such facility and may
16 collect such actual costs or a portion thereof from the
17 recipient or the estate of a person placed in accordance with
18 this Section.

19 Other than those placed in a family home the Department
20 shall cause all persons who are placed in a facility, as
21 defined by the Nursing Home Care Act, or in designated
22 community living situations or programs, to be visited at
23 least once during the first month following placement, and
24 once every month thereafter for the first year following
25 placement when indicated, but at least quarterly. After the
26 first year, visits shall be made at least once per year for
27 as long as the placement continues. If a long term care
28 facility has periodic care plan conferences, the visitor may
29 participate in those conferences. Visits shall be made by
30 qualified and trained Department personnel, or their
31 designee, in the area of mental health or developmental
32 disabilities applicable to the person visited, and shall be
33 made on a more frequent basis when indicated. The Department
34 may not use as designee any personnel connected with or

1 responsible to the representatives of any facility in which
 2 persons who have been transferred under this Section are
 3 placed. In the course of such visit there shall be
 4 consideration of the following areas, but not limited
 5 thereto: effects of transfer on physical and mental health
 6 of the person, sufficiency of nursing care and medical
 7 coverage required by the person, sufficiency of staff
 8 personnel and ability to provide basic care for the person,
 9 social, recreational and programmatic activities available
 10 for the person, and other appropriate aspects of the person's
 11 environment.

12 A report containing the above observations shall be made
 13 to the Department and to any other appropriate agency
 14 subsequent to each visitation. The report shall contain a
 15 detailed assessment of whether the recipient is receiving
 16 necessary services in the least restrictive environment. If
 17 the recipient is not receiving those services, the Department
 18 shall either require that the facility modify the treatment
 19 plan to ensure that those services are provided or make
 20 arrangements necessary to provide those services elsewhere.
 21 ~~At the conclusion of one year following absolute or~~
 22 ~~conditional discharge, or a longer period of time if required~~
 23 ~~by the Department, the Department may terminate the~~
 24 ~~visitation requirements of this Section as to a person placed~~
 25 ~~in accordance with this Section, by filing a written~~
 26 ~~statement of termination setting forth reasons to~~
 27 ~~substantiate the termination of visitations in the person's~~
 28 ~~file, and sending a copy thereof to the person, and to his~~
 29 ~~guardian or next of kin.~~

30 Upon the complaint of any person placed in accordance
 31 with this Section or any responsible citizen or upon
 32 discovery that such person has been abused, neglected, or
 33 improperly cared for, or that the placement does not provide
 34 the type of care required by the recipient's current

1 condition, the Department immediately shall investigate, and
2 determine if the well-being, health, care, or safety of any
3 person is affected by any of the above occurrences, and if
4 any one of the above occurrences is verified, the Department
5 shall remove such person at once to a facility of the
6 Department or to another facility outside the Department,
7 provided such person's needs can be met at said facility.
8 The Department may also provide any person placed in
9 accordance with this Section who is without available funds,
10 and who is permitted to engage in employment outside the
11 facility, such sums for the transportation, and other
12 expenses as may be needed by him until he receives his wages
13 for such employment.

14 The Department shall promulgate rules and regulations
15 governing the purchase of care for persons who are wards of
16 or who are receiving services from the Department. Such
17 rules and regulations shall apply to all monies expended by
18 any agency of the State of Illinois for services rendered by
19 any person, corporate entity, agency, governmental agency or
20 political subdivision whether public or private outside of
21 the Department whether payment is made through a contractual,
22 per-diem or other arrangement. No funds shall be paid to any
23 person, corporation, agency, governmental entity or political
24 subdivision without compliance with such rules and
25 regulations.

26 The rules and regulations governing purchase of care
27 shall describe categories and types of service deemed
28 appropriate for purchase by the Department.

29 Any provider of services under this Act may elect to
30 receive payment for those services, and the Department is
31 authorized to arrange for that payment, by means of direct
32 deposit transmittals to the service provider's account
33 maintained at a bank, savings and loan association, or other
34 financial institution. The financial institution shall be

1 approved by the Department, and the deposits shall be in
2 accordance with rules and regulations adopted by the
3 Department.

4 (Source: P.A. 89-507, eff. 7-1-97; 90-423, eff. 8-15-97.)

5 Section 10. The Hospital Licensing Act is amended by
6 adding Section 6.19 as follows:

7 (210 ILCS 5/6.19 new)

8 Sec. 6.19. Use of restraints. Each hospital licensed
9 under this Act must have a written policy to address the use
10 of restraints and seclusion in the hospital. The Department
11 shall establish, by rule, the provisions that the policy must
12 include, which, to the extent practicable, should be
13 consistent with the requirements of the federal Medicare
14 program.

15 For freestanding psychiatric hospitals and psychiatric
16 units in general hospitals, restraints or seclusion shall
17 only be ordered by persons as authorized under the Mental
18 Health and Developmental Disabilities Code.

19 For general hospitals, excluding freestanding psychiatric
20 hospitals and psychiatric units in general hospitals,
21 restraints or seclusion may only be employed upon the written
22 order of:

23 (1) a physician licensed to practice medicine in
24 all its branches;

25 (2) a physician assistant as authorized under the
26 Physician Assistant Practice Act of 1987 or an advanced
27 practice nurse as authorized under the Nursing and
28 Advanced Practice Nursing Act; or

29 (3) a registered nurse, provided that the medical
30 staff of the hospital has adopted a policy authorizing
31 such practice and specifying the requirements that a
32 registered nurse must satisfy to order the use of

1 restraints or seclusion.

2 Section 15. The Abused and Neglected Long Term Care
3 Facility Residents Reporting Act is amended by changing
4 Sections 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, and 6.8 as follows:

5 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)
6 (Section scheduled to be repealed on January 1, 2002)

7 Sec. 6.2. Inspector General.

8 (a) The Governor shall appoint, and the Senate shall
9 confirm, an Inspector General. The Inspector General shall
10 be appointed for a term of 4 years and who shall function
11 within the Department of Human Services and report to the
12 Secretary of Human Services and the Governor. The Inspector
13 General shall function independently within the Department of
14 Human Services with respect to the operations of the office,
15 including the performance of investigations and issuance of
16 findings and recommendations. The Inspector General shall
17 independently submit to the Governor any request for
18 appropriations necessary for the ordinary and contingent
19 expenses of the Office of Inspector General, and
20 appropriations for that office shall be separate from the
21 Department of Human Services. The Inspector General shall
22 investigate reports of suspected abuse or neglect (as those
23 terms are defined in Section 3 of this Act) of patients or
24 residents in any mental health or developmental disabilities
25 facility operated by the Department of Human Services and
26 shall have authority to investigate and take immediate action
27 on reports of abuse or neglect of recipients, whether
28 patients or residents, in any mental health or developmental
29 disabilities facility or program that is licensed or
30 certified by the Department of Human Services (as successor
31 to the Department of Mental Health and Developmental
32 Disabilities) or that is funded by the Department of Human

1 Services (as successor to the Department of Mental Health and
2 Developmental Disabilities) and is not licensed or certified
3 by any agency of the State. At the specific, written request
4 of an agency of the State other than the Department of Human
5 Services (as successor to the Department of Mental Health and
6 Developmental Disabilities), the Inspector General may
7 cooperate in investigating reports of abuse and neglect of
8 persons with mental illness or persons with developmental
9 disabilities. The Inspector General shall have no
10 supervision over or involvement in routine, programmatic,
11 licensure, or certification operations of the Department of
12 Human Services or any of its funded agencies.

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

1 allegations shall remain confidential, except that final
2 reports may be disclosed pursuant to Section 6 of this Act.

3 ~~The-Inspector-General-shall-be-appointed-for-a-term-of--4~~
4 ~~years-~~

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

17 (b-5) The Inspector General shall make a determination
18 to accept or reject a preliminary report of the investigation
19 of alleged abuse or neglect based on established
20 investigative procedures. The facility or agency may request
21 clarification or reconsideration based on additional
22 information. For cases where the allegation of abuse or
23 neglect is substantiated, the Inspector General shall require
24 the facility or agency to submit a written response. The
25 written response from a facility or agency shall address in a
26 concise and reasoned manner the actions that the agency or
27 facility will take or has taken to protect the resident or
28 patient from abuse or neglect, prevent reoccurrences, and
29 eliminate problems identified and shall include
30 implementation and completion dates for all such action.

31 (c) The Inspector General shall, within 10 calendar days
32 after the transmittal date of a completed investigation where
33 abuse or neglect is substantiated or administrative action is
34 recommended, provide a complete report on the case to the

1 Secretary of Human Services and to the agency in which the
2 abuse or neglect is alleged to have happened. The complete
3 report shall include a written response from the agency or
4 facility operated by the State to the Inspector General that
5 addresses in a concise and reasoned manner the actions that
6 the agency or facility will take or has taken to protect the
7 resident or patient from abuse or neglect, prevent
8 reoccurrences, and eliminate problems identified and shall
9 include implementation and completion dates for all such
10 action. The Secretary of Human Services shall accept or
11 reject the response and establish how the Department will
12 determine whether the facility or program followed the
13 approved response. The Secretary may require Department
14 personnel to visit the facility or agency for training,
15 technical assistance, programmatic, licensure, or
16 certification purposes. Administrative action, including
17 sanctions, may be applied should the Secretary reject the
18 response or should the facility or agency fail to follow the
19 approved response. Within 30 days after the Secretary has
20 approved a response, the facility or agency making the
21 response shall provide an implementation report to the
22 Inspector General on the status of the corrective action
23 implemented. Within 60 days after receiving the
24 implementation report, the Inspector General shall conduct an
25 investigation, which may include, but need not be limited to,
26 site visits, telephone contacts, or requests for written
27 documentation from the facility or agency, to determine
28 whether the facility or agency is in compliance with the
29 approved response. The facility or agency shall inform the
30 resident or patient and the legal guardian whether the
31 reported allegation was substantiated, unsubstantiated, or
32 unfounded. There shall be an appeals process for any person
33 or agency that is subject to any action based on a
34 recommendation or recommendations.

1 (d) The Inspector General may recommend to the
2 Departments of Public Health and Human Services sanctions to
3 be imposed against mental health and developmental
4 disabilities facilities under the jurisdiction of the
5 Department of Human Services for the protection of residents,
6 including appointment of on-site monitors or receivers,
7 transfer or relocation of residents, and closure of units.
8 The Inspector General may seek the assistance of the Attorney
9 General or any of the several State's attorneys in imposing
10 such sanctions. Whenever the Inspector General issues any
11 recommendations to the Secretary of Human Services, the
12 Secretary shall provide a written response.

13 (e) The Inspector General shall establish and conduct
14 periodic training programs for Department of Human Services
15 employees concerning the prevention and reporting of neglect
16 and abuse.

17 (f) The Inspector General shall at all times be granted
18 access to any mental health or developmental disabilities
19 facility operated by the Department of Human Services, shall
20 establish and conduct unannounced site visits to those
21 facilities at least once annually, and shall be granted
22 access, for the purpose of investigating a report of abuse or
23 neglect, to the records of the Department of Human Services
24 and to any facility or program funded by the Department of
25 Human Services that is subject under the provisions of this
26 Section to investigation by the Inspector General for a
27 report of abuse or neglect.

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

34 ~~{h}--This-Section-is-repealed-on-January-17-2002-~~

1 (Source: P.A. 90-252, eff. 7-29-97; 90-512, eff. 8-22-97;
2 90-655, eff. 7-30-98; 91-169, eff. 7-16-99.)

3 (210 ILCS 30/6.3) (from Ch. 111 1/2, par. 4166.3)
4 (Section scheduled to be repealed on January 1, 2002)

5 Sec. 6.3. Quality Care Board. There is created, within
6 the Department--of--Human--Services¹ Office of the Inspector
7 General, a Quality Care Board to be composed of 7 members
8 appointed by the Governor with the advice and consent of the
9 Senate. One of the members shall be designated as chairman
10 by the Governor. Of the initial appointments made by the
11 Governor, 4 Board members shall each be appointed for a term
12 of 4 years and 3 members shall each be appointed for a term
13 of 2 years. Upon the expiration of each member's term, a
14 successor shall be appointed for a term of 4 years. In the
15 case of a vacancy in the office of any member, the Governor
16 shall appoint a successor for the remainder of the unexpired
17 term.

18 Members appointed by the Governor shall be qualified by
19 professional knowledge or experience in the area of law,
20 investigatory techniques, or in the area of care of the
21 mentally ill or developmentally disabled. Two members
22 appointed by the Governor shall be persons with a disability
23 or a parent of a person with a disability. Members shall
24 serve without compensation, but shall be reimbursed for
25 expenses incurred in connection with the performance of their
26 duties as members.

27 The Board shall meet quarterly, and may hold other
28 meetings on the call of the chairman. Four members shall
29 constitute a quorum. The Board may adopt rules and
30 regulations it deems necessary to govern its own procedures.

31 ~~This Section is repealed on January 17, 2002.~~

32 (Source: P.A. 91-169, eff. 7-16-99.)

1 (210 ILCS 30/6.4) (from Ch. 111 1/2, par. 4166.4)
 2 (Section scheduled to be repealed on January 1, 2002)
 3 Sec. 6.4. Scope and function of the Quality Care Board.
 4 The Board shall monitor and oversee the operations, policies,
 5 and procedures of the Inspector General to assure the prompt
 6 and thorough investigation of allegations of neglect and
 7 abuse. In fulfilling these responsibilities, the Board may
 8 do the following:

9 (1) Provide independent, expert consultation to the
 10 Inspector General on policies and protocols for
 11 investigations of alleged neglect and abuse.

12 (2) Review existing regulations relating to the
 13 operation of facilities under the control of the
 14 Department of Human Services.

15 (3) Advise the Inspector General as to the content
 16 of training activities authorized under Section 6.2.

17 (4) Recommend policies concerning methods for
 18 improving the intergovernmental relationships between the
 19 office of the Inspector General and other State or
 20 federal agencies.

21 ~~This Section is repealed on January 17, 2002.~~

22 (Source: P.A. 91-169, eff. 7-16-99.)

23 (210 ILCS 30/6.5) (from Ch. 111 1/2, par. 4166.5)
 24 (Section scheduled to be repealed on January 1, 2002)
 25 Sec. 6.5. Investigators. ~~Within 60 days after the~~
 26 ~~effective date of this amendatory Act of 1992,~~ The Inspector
 27 General shall establish a comprehensive program to ensure
 28 that every person employed or newly hired to conduct
 29 investigations shall receive training on an on-going basis
 30 concerning investigative techniques, communication skills,
 31 and the appropriate means of contact with persons admitted or
 32 committed to the mental health or developmental disabilities
 33 facilities under the jurisdiction of the Department of Human

1 Services.

2 ~~This Section is repealed on January 17, 2002.~~

3 (Source: P.A. 91-169, eff. 7-16-99.)

4 (210 ILCS 30/6.6) (from Ch. 111 1/2, par. 4166.6)

5 (Section scheduled to be repealed on January 1, 2002)

6 Sec. 6.6. Subpoenas; testimony; penalty. The Inspector
7 General shall have the power to subpoena witnesses and compel
8 the production of books and papers pertinent to an
9 investigation authorized by this Act, provided that the power
10 to subpoena or to compel the production of books and papers
11 shall not extend to the person or documents of a labor
12 organization or its representatives insofar as the person or
13 documents of a labor organization relate to the function of
14 representing an employee subject to investigation under this
15 Act. Mental health records of patients shall be confidential
16 as provided under the Mental Health and Developmental
17 Disabilities Confidentiality Act. Any person who fails to
18 appear in response to a subpoena or to answer any question or
19 produce any books or papers pertinent to an investigation
20 under this Act, except as otherwise provided in this Section,
21 or who knowingly gives false testimony in relation to an
22 investigation under this Act is guilty of a Class A
23 misdemeanor.

24 ~~This Section is repealed on January 17, 2002.~~

25 (Source: P.A. 91-169, eff. 7-16-99.)

26 (210 ILCS 30/6.7) (from Ch. 111 1/2, par. 4166.7)

27 (Section scheduled to be repealed on January 1, 2002)

28 Sec. 6.7. Annual report. The Inspector General shall
29 provide to the General Assembly and the Governor, no later
30 than January 1 of each year, a summary of reports and
31 investigations made under this Act for the prior fiscal year
32 with respect to residents of institutions under the

1 jurisdiction of the Department of Human Services. The report
2 shall detail the imposition of sanctions and the final
3 disposition of those recommendations. The summaries shall
4 not contain any confidential or identifying information
5 concerning the subjects of the reports and investigations.
6 The report shall also include a trend analysis of the number
7 of reported allegations and their disposition, for each
8 facility and Department-wide, for the most recent 3-year time
9 period and a statement, for each facility, of the
10 staffing-to-patient ratios. The ratios shall include only
11 the number of direct care staff. The report shall also
12 include detailed recommended administrative actions and
13 matters for consideration by the General Assembly.

14 ~~This Section is repealed on January 17, 2002.~~

15 (Source: P.A. 91-169, eff. 7-16-99.)

16 (210 ILCS 30/6.8) (from Ch. 111 1/2, par. 4166.8)

17 (Section scheduled to be repealed on January 1, 2002)

18 Sec. 6.8. Program audit. The Auditor General shall
19 conduct a biennial program audit of the office of the
20 Inspector General in relation to the Inspector General's
21 compliance with this Act. The audit shall specifically
22 include the Inspector General's effectiveness in
23 investigating reports of alleged neglect or abuse of
24 residents in any facility operated by the Department of Human
25 Services and in making recommendations for sanctions to the
26 Departments of Human Services and Public Health. The Auditor
27 General shall conduct the program audit according to the
28 provisions of the Illinois State Auditing Act and shall
29 report its findings to the General Assembly no later than
30 January 1 of each odd-numbered year.

31 ~~This Section is repealed on January 17, 2002.~~

32 (Source: P.A. 91-169, eff. 7-16-99.)

1 Section 20. The Nursing Home Care Act is amended by
2 changing Sections 2-106 and 2-106.1 as follows:

3 (210 ILCS 45/2-106) (from Ch. 111 1/2, par. 4152-106)

4 Sec. 2-106. (a) For purposes of this Act, (i) a physical
5 restraint is any manual method or physical or mechanical
6 device, material, or equipment attached or adjacent to a
7 resident's body that the resident cannot remove easily and
8 restricts freedom of movement or normal access to one's body;
9 (ii) a chemical restraint is any drug used for discipline or
10 convenience and not required to treat medical symptoms. The
11 Department shall by rule, designate certain devices as
12 restraints, including at least all those devices which have
13 been determined to be restraints by the United States
14 Department of Health and Human Services in interpretive
15 guidelines issued for the purposes of administering Titles 18
16 and 19 of the Social Security Acts.

17 (b) Neither restraints nor confinements shall be
18 employed for the purpose of punishment or for the convenience
19 of any facility personnel. No restraints or confinements
20 shall be employed except as ordered by a physician who
21 documents the need for such restraints or confinements in the
22 resident's clinical record. Whenever a resident is
23 restrained, a member of the facility staff shall remain with
24 the resident at all times unless the resident has been
25 confined. A resident who is restrained and confined shall be
26 observed by a qualified person as often as is clinically
27 appropriate but in no event less often than once every 15
28 minutes.

29 (c) A restraint may be used only with the informed
30 consent of the resident, the resident's guardian, or other
31 authorized representative. A restraint may be used only for
32 specific periods, if it is the least restrictive means
33 necessary to attain and maintain the resident's highest

1 practicable physical, mental or psychosocial well-being,
2 including brief periods of time to provide necessary
3 life-saving treatment. A restraint may be used only after
4 consultation with appropriate health professionals, such as
5 occupational or physical therapists, and a trial of less
6 restrictive measures has led to the determination that the
7 use of less restrictive measures would not attain or maintain
8 the resident's highest practicable physical, mental or
9 psychosocial well-being. However, if the resident needs
10 emergency care, restraints may be used for brief periods to
11 permit medical treatment to proceed unless the facility has
12 notice that the resident has previously made a valid refusal
13 of the treatment in question.

14 (d) A restraint may be applied only by a person trained
15 in the application of the particular type of restraint.

16 (e) Whenever a period of use of a restraint is
17 initiated, the resident shall be advised of his or her right
18 to have a person or organization of his or her choosing,
19 including the Guardianship and Advocacy Commission, notified
20 of the use of the restraint. A recipient who is under
21 guardianship may request that a person or organization of his
22 or her choosing be notified of the restraint, whether or not
23 the guardian approves the notice. If the resident so
24 chooses, the facility shall make the notification within 24
25 hours, including any information about the period of time
26 that the restraint is to be used. Whenever the Guardianship
27 and Advocacy Commission is notified that a resident has been
28 restrained, it shall contact the resident to determine the
29 circumstances of the restraint and whether further action is
30 warranted.

31 (f) Whenever a restraint is used on a resident whose
32 primary mode of communication is sign language, the resident
33 shall be permitted to have his or her hands free from
34 restraint for brief periods each hour, except when this

1 freedom may result in physical harm to the resident or
2 others.

3 (g) The requirements of this Section are intended to
4 control in any conflict with the requirements of Sections
5 1-126 and 2-108 of the Mental Health and Developmental
6 Disabilities Code.

7 (Source: P.A. 88-413.)

8 (210 ILCS 45/2-106.1)

9 Sec. 2-106.1. Drug treatment.

10 (a) A resident shall not be given unnecessary drugs. An
11 unnecessary drug is any drug used in an excessive dose,
12 including in duplicative therapy; for excessive duration;
13 without adequate monitoring; without adequate indications for
14 its use; or in the presence of adverse consequences that
15 indicate the drugs should be reduced or discontinued. The
16 Department shall adopt, by rule, the standards for
17 unnecessary drugs contained in interpretive guidelines issued
18 by the United States Department of Health and Human Services
19 for the purposes of administering titles 18 and 19 of the
20 Social Security Act.

21 (b) Psychotropic medication shall not be prescribed
22 without the informed consent of the resident, the resident's
23 guardian, or other authorized representative. "Psychotropic
24 medication" means medication that is used for or listed as
25 used for antipsychotic, antidepressant, antimanic, or
26 antianxiety behavior modification or behavior management
27 purposes in the latest editions of the AMA Drug Evaluations
28 or the Physician's Desk Reference.

29 (c) The requirements of this Section are intended to
30 control in a conflict with the requirements of Sections 2-102
31 ~~1-102~~ and 2-107.2 of the Mental Health and Developmental
32 Disabilities Code with respect to the administration of
33 psychotropic medication.

1 (Source: P.A. 88-413.)

2 Section 25. The Nursing and Advanced Practice Nursing
3 Act is amended by changing Section 5-10 as follows:

4 (225 ILCS 65/5-10)

5 Sec. 5-10. Definitions. Each of the following terms,
6 when used in this Act, shall have the meaning ascribed to it
7 in this Section, except where the context clearly indicates
8 otherwise:

9 (a) "Department" means the Department of Professional
10 Regulation.

11 (b) "Director" means the Director of Professional
12 Regulation.

13 (c) "Board" means the Board of Nursing appointed by the
14 Director.

15 (d) "Academic year" means the customary annual schedule
16 of courses at a college, university, or approved school,
17 customarily regarded as the school year as distinguished from
18 the calendar year.

19 (e) "Approved program of professional nursing education"
20 and "approved program of practical nursing education" are
21 programs of professional or practical nursing, respectively,
22 approved by the Department under the provisions of this Act.

23 (f) "Nursing Act Coordinator" means a registered
24 professional nurse appointed by the Director to carry out the
25 administrative policies of the Department.

26 (g) "Assistant Nursing Act Coordinator" means a
27 registered professional nurse appointed by the Director to
28 assist in carrying out the administrative policies of the
29 Department.

30 (h) "Registered" is the equivalent of "licensed".

31 (i) "Practical nurse" or "licensed practical nurse"
32 means a person who is licensed as a practical nurse under

1 this Act and practices practical nursing as defined in
2 paragraph (j) of this Section. Only a practical nurse
3 licensed under this Act is entitled to use the title
4 "licensed practical nurse" and the abbreviation "L.P.N."

5 (j) "Practical nursing" means the performance of nursing
6 acts requiring the basic nursing knowledge, judgement, and
7 skill acquired by means of completion of an approved
8 practical nursing education program. Practical nursing
9 includes assisting in the nursing process as delegated by and
10 under the direction of a registered professional nurse. The
11 practical nurse may work under the direction of a licensed
12 physician, dentist, podiatrist, or other health care
13 professional determined by the Department.

14 (k) "Registered Nurse" or "Registered Professional
15 Nurse" means a person who is licensed as a professional nurse
16 under this Act and practices nursing as defined in paragraph
17 (l) of this Section. Only a registered nurse licensed under
18 this Act is entitled to use the titles "registered nurse" and
19 "registered professional nurse" and the abbreviation, "R.N."

20 (l) "Registered professional nursing practice" includes
21 all nursing specialities and means the performance of any
22 nursing act based upon professional knowledge, judgment, and
23 skills acquired by means of completion of an approved
24 registered professional nursing education program. A
25 registered professional nurse provides nursing care
26 emphasizing the importance of the whole and the
27 interdependence of its parts through the nursing process to
28 individuals, groups, families, or communities, that includes
29 but is not limited to: (1) the assessment of healthcare
30 needs, nursing diagnosis, planning, implementation, and
31 nursing evaluation; (2) the promotion, maintenance, and
32 restoration of health; (3) counseling, patient education,
33 health education, and patient advocacy; (4) the
34 administration of medications and treatments as prescribed by

1 a physician licensed to practice medicine in all of its
2 branches, a licensed dentist, a licensed podiatrist, or a
3 licensed optometrist or as prescribed by a physician
4 assistant in accordance with written guidelines required
5 under the Physician Assistant Practice Act of 1987 or by an
6 advanced practice nurse in accordance with a written
7 collaborative agreement required under the Nursing and
8 Advanced Practice Nursing Act; (5) the coordination and
9 management of the nursing plan of care; (6) the delegation to
10 and supervision of individuals who assist the registered
11 professional nurse implementing the plan of care; and (7)
12 teaching and supervision of nursing students; and (8) the
13 ordering of restraint or seclusion as authorized under the
14 Hospital Licensing Act. The foregoing shall not be deemed to
15 include those acts of medical diagnosis or prescription of
16 therapeutic or corrective measures that are properly
17 performed only by physicians licensed in the State of
18 Illinois.

19 (m) "Current nursing practice update course" means a
20 planned nursing education curriculum approved by the
21 Department consisting of activities that have educational
22 objectives, instructional methods, content or subject matter,
23 clinical practice, and evaluation methods, related to basic
24 review and updating content and specifically planned for
25 those nurses previously licensed in the United States or its
26 territories and preparing for reentry into nursing practice.

27 (n) "Professional assistance program for nurses" means a
28 professional assistance program that meets criteria
29 established by the Board of Nursing and approved by the
30 Director, which provides a non-disciplinary treatment
31 approach for nurses licensed under this Act whose ability to
32 practice is compromised by alcohol or chemical substance
33 addiction.

34 (Source: P.A. 90-61, eff. 12-30-97; 90-248, eff. 1-1-98;

1 90-655, eff. 7-30-98; 90-742, eff. 8-13-98.)

2 Section 99. Effective date. This Section, Sections 10
3 and 25, the changes to Sections 6.2, 6.3, 6.4, 6.5, 6.6, 6.7,
4 and 6.8 of the Abused and Neglected Long Term Care Facility
5 Residents Reporting Act, and the changes to Section 3-203 of
6 the Nursing Home Care Act take effect upon becoming law.