

1 AMENDMENT TO HOUSE BILL 64

2 AMENDMENT NO. _____. Amend House Bill 64, AS AMENDED, by
3 replacing the title with the following:

4 "AN ACT in relation to health care."; and

5 by replacing everything after the enacting clause with the
6 following:

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

10 (20 ILCS 1705/4) (from Ch. 91 1/2, par. 100-4)

11 Sec. 4. Supervision of facilities and services;
12 quarterly reports.

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

18 The Alton Mental Health Center, at Alton

19 The Clyde L. Choate Mental Health and Developmental
20 Center, at Anna

21 The Chester Mental Health Center, at Chester

- 1 The Chicago-Read Mental Health Center, at Chicago
- 2 The Elgin Mental Health Center, at Elgin
- 3 The Metropolitan Children and Adolescents Center, at
- 4 Chicago
- 5 The Jacksonville Developmental Center, at
- 6 Jacksonville
- 7 The Governor Samuel H. Shapiro Developmental Center,
- 8 at Kankakee
- 9 The Tinley Park Mental Health Center, at Tinley Park
- 10 The Warren G. Murray Developmental Center, at
- 11 Centralia
- 12 The Jack Mabley Developmental Center, at Dixon
- 13 The Lincoln Developmental Center, at Lincoln
- 14 The H. Douglas Singer Mental Health and
- 15 Developmental Center, at Rockford
- 16 The John J. Madden Mental Health Center, at Chicago
- 17 The George A. Zeller Mental Health Center, at Peoria
- 18 The Andrew McFarland Mental Health Center, at
- 19 Springfield
- 20 The Adolf Meyer Mental Health Center, at Decatur
- 21 The William W. Fox Developmental Center, at Dwight
- 22 The Elisabeth Ludeman Developmental Center, at Park
- 23 Forest
- 24 The William A. Howe Developmental Center, at Tinley
- 25 Park
- 26 The Ann M. Kiley Developmental Center, at Waukegan.

27 (b) Beginning not later than July 1, 1977, the
28 Department shall cause each of the facilities under its
29 jurisdiction which provide in-patient care to comply with
30 standards, rules and regulations of the Department of Public
31 Health prescribed under Section 6.05 of the Hospital
32 Licensing Act.

33 (c) The Department shall issue quarterly reports on
34 admissions, deflections, discharges, bed closures,

1 staff-resident ratios, census, and average length of stay,
2 and any adverse federal certification or accreditation
3 findings, if any, for each State-operated facility for the
4 mentally ill and developmentally disabled.

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

6 (20 ILCS 1705/7) (from Ch. 91 1/2, par. 100-7)

7 Sec. 7. To receive and provide the highest possible
8 quality of humane and rehabilitative care and treatment to
9 all persons admitted or committed or transferred in
10 accordance with law to the facilities, divisions, programs,
11 and services under the jurisdiction of the Department. No
12 resident of another state shall be received or retained to
13 the exclusion of any resident of this State. No resident of
14 another state shall be received or retained to the exclusion
15 of any resident of this State. All recipients of 17 years of
16 age and under in residence in a Department facility other
17 than a facility for the care of the mentally retarded shall
18 be housed in quarters separated from older recipients except
19 for: (a) recipients who are placed in medical-surgical units
20 because of physical illness; and (b) recipients between 13
21 and 18 years of age who need temporary security measures.

22 All recipients in a Department facility shall be given a
23 dental examination by a licensed dentist or registered dental
24 hygienist at least once every 18 months and shall be assigned
25 to a dentist for such dental care and treatment as is
26 necessary.

27 All medications administered to recipients shall be
28 administered only by those persons who are legally qualified
29 to do so by the laws of the State of Illinois. Medication
30 shall not be prescribed until a physical and mental
31 examination of the recipient has been completed. If, in the
32 clinical judgment of a physician, it is necessary to
33 administer medication to a recipient before the completion of

1 the physical and mental examination, he may prescribe such
 2 medication but he must file a report with the facility
 3 director setting forth the reasons for prescribing such
 4 medication within 24 hours of the prescription. A copy of the
 5 report shall be part of the recipient's record.

6 No later than January 1, 2002, the Department shall adopt
 7 a model protocol and forms for recording all patient
 8 diagnosis, care, and treatment at every facility under the
 9 jurisdiction of the Department. The model protocol and forms
 10 shall be used by each facility unless the Department
 11 determines that equivalent alternatives justify an exemption.

12 Every facility under the jurisdiction of the Department
 13 shall maintain a copy of each report of suspected abuse or
 14 neglect of the patient. Copies of those reports shall be made
 15 available to the State Auditor General in connection with his
 16 biennial program audit of the facility as required by Section
 17 3-2 of the Illinois State Auditing Act.

18 No later than January 1, 2002, every facility under the
 19 jurisdiction of the Department and all services provided in
 20 those facilities shall comply with all of the applicable
 21 standards adopted by the Social Security Administration under
 22 Subchapter XVIII (Medicare) of the Social Security Act (42
 23 U.S.C. 1395 - 1395ccc), if the facility and services may be
 24 eligible for federal financial participation under that
 25 federal law.

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

27 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

28 Sec. 15. Before any person is released from a facility
 29 operated by the State pursuant to an absolute discharge or a
 30 conditional discharge from hospitalization under this Act,
 31 the facility director of the facility in which such person is
 32 hospitalized shall determine that such person is not
 33 currently in need of hospitalization and:

1 (a) is able to live independently in the community;
2 or

3 (b) requires further oversight and supervisory care
4 for which arrangements have been made with responsible
5 relatives or supervised residential program approved by
6 the Department; or

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

12 (d) requires community mental health services for
13 which arrangements have been made with a suitable
14 community mental health provider in accordance with
15 criteria, standards, and procedures promulgated by rule.
16 The suitable community mental health provider shall be
17 selected from among the Department's contractual
18 designees.

19 Such determination shall be made in writing and shall
20 become a part of the facility record of such absolutely or
21 conditionally discharged person. When the determination
22 indicates that the condition of the person to be granted an
23 absolute discharge or a conditional discharge is described
24 under subparagraph (c) or (d) of this Section, the name and
25 address of the continuing care facility or home to which such
26 person is to be released shall be entered in the facility
27 record. Where a discharge from a mental health facility is
28 made under subparagraph (c), the Department shall assign the
29 person so discharged to an existing community based
30 not-for-profit agency for participation in day activities
31 suitable to the person's needs, such as but not limited to
32 social and vocational rehabilitation, and other recreational,
33 educational and financial activities unless the community
34 based not-for-profit agency is unable unqualified to accept

1 such assignment. Where the clientele of any not-for-profit
2 agency increases as a result of assignments under this
3 amendatory Act of 2001 ~~1977-by-more-than-3%--ever--the--prior~~
4 ~~year,~~ the Department shall fully reimburse such agency for
5 the increased costs of providing services to such persons in
6 ~~excess-of-such-3%-increase.~~ The Department shall keep written
7 records detailing how many persons have been assigned to a
8 community based not-for-profit agency and how many persons
9 were not so assigned because the community based agency was
10 unable to accept the assignments, in accordance with
11 criteria, standards, and procedures promulgated by rule.
12 Whenever a community based agency is found to be unable to
13 accept the assignments, the name of the agency and the reason
14 for the finding shall be included in the report.

15 Insofar as desirable in the interests of the former
16 recipient, the facility, program or home in which the
17 discharged person is to be placed shall be located in or near
18 the community in which the person resided prior to
19 hospitalization or in the community in which the person's
20 family or nearest next of kin presently reside. Placement of
21 the discharged person in facilities, programs or homes
22 located outside of this State shall not be made by the
23 Department unless there are no appropriate facilities,
24 programs or homes available within this State. Out-of-state
25 placements shall be subject to return of recipients so placed
26 upon the availability of facilities, programs or homes within
27 this State to accommodate these recipients, except where
28 placement in a contiguous state results in locating a
29 recipient in a facility or program closer to the recipient's
30 home or family. If an appropriate facility or program
31 becomes available equal to or closer to the recipient's home
32 or family, the recipient shall be returned to and placed at
33 the appropriate facility or program within this State.

34 To place any person who is under a program of the

1 Department at board in a suitable family home or in such
2 other facility or program as the Department may consider
3 desirable. The Department may place in licensed nursing
4 homes, sheltered care homes, or homes for the aged those
5 persons whose behavioral manifestations and medical and
6 nursing care needs are such as to be substantially
7 indistinguishable from persons already living in such
8 facilities. Prior to any placement by the Department under
9 this Section, a determination shall be made by the personnel
10 of the Department, as to the capability and suitability of
11 such facility to adequately meet the needs of the person to
12 be discharged. When specialized programs are necessary in
13 order to enable persons in need of supervised living to
14 develop and improve in the community, the Department shall
15 place such persons only in specialized residential care
16 facilities which shall meet Department standards including
17 restricted admission policy, special staffing and programming
18 for social and vocational rehabilitation, in addition to the
19 requirements of the appropriate State licensing agency. The
20 Department shall not place any new person in a facility the
21 license of which has been revoked or not renewed on grounds
22 of inadequate programming, staffing, or medical or adjunctive
23 services, regardless of the pendency of an action for
24 administrative review regarding such revocation or failure to
25 renew. Before the Department may transfer any person to a
26 licensed nursing home, sheltered care home or home for the
27 aged or place any person in a specialized residential care
28 facility the Department shall notify the person to be
29 transferred, or a responsible relative of such person, in
30 writing, at least 30 days before the proposed transfer, with
31 respect to all the relevant facts concerning such transfer,
32 except in cases of emergency when such notice is not
33 required. If either the person to be transferred or a
34 responsible relative of such person objects to such transfer,

1 in writing to the Department, at any time after receipt of
2 notice and before the transfer, the facility director of the
3 facility in which the person was a recipient shall
4 immediately schedule a hearing at the facility with the
5 presence of the facility director, the person who objected to
6 such proposed transfer, and a psychiatrist who is familiar
7 with the record of the person to be transferred. Such person
8 to be transferred or a responsible relative may be
9 represented by such counsel or interested party as he may
10 appoint, who may present such testimony with respect to the
11 proposed transfer. Testimony presented at such hearing shall
12 become a part of the facility record of the
13 person-to-be-transferred. The record of testimony shall be
14 held in the person-to-be-transferred's record in the central
15 files of the facility. If such hearing is held a transfer may
16 only be implemented, if at all, in accordance with the
17 results of such hearing. Within 15 days after such hearing
18 the facility director shall deliver his findings based on the
19 record of the case and the testimony presented at the
20 hearing, by registered or certified mail, to the parties to
21 such hearing. The findings of the facility director shall be
22 deemed a final administrative decision of the Department. For
23 purposes of this Section, "case of emergency" means those
24 instances in which the health of the person to be transferred
25 is imperiled and the most appropriate mental health care or
26 medical care is available at a licensed nursing home,
27 sheltered care home or home for the aged or a specialized
28 residential care facility.

29 Prior to placement of any person in a facility under this
30 Section the Department shall ensure that an appropriate
31 training plan for staff is provided by the facility. Said
32 training may include instruction and demonstration by
33 Department personnel qualified in the area of mental illness
34 or mental retardation, as applicable to the person to be

1 placed. Training may be given both at the facility from
2 which the recipient is transferred and at the facility
3 receiving the recipient, and may be available on a continuing
4 basis subsequent to placement. In a facility providing
5 services to former Department recipients, training shall be
6 available as necessary for facility staff. Such training
7 will be on a continuing basis as the needs of the facility
8 and recipients change and further training is required.

9 The Department shall not place any person in a facility
10 which does not have appropriately trained staff in sufficient
11 numbers to accommodate the recipient population already at
12 the facility. As a condition of further or future placements
13 of persons, the Department shall require the employment of
14 additional trained staff members at the facility where said
15 persons are to be placed. The Secretary, or his or her
16 designate, shall establish written guidelines for placement
17 of persons in facilities under this Act. The Department shall
18 keep written records detailing which facilities have been
19 determined to have appropriately trained staff, which
20 facilities have been determined not to have such staff, and
21 all training which it has provided or required under this
22 Section.

23 Bills for the support for a person boarded out shall be
24 payable monthly out of the proper maintenance funds and shall
25 be audited as any other accounts of the Department. If a
26 person is placed in a facility or program outside the
27 Department, the Department may pay the actual costs of
28 residence, treatment or maintenance in such facility and may
29 collect such actual costs or a portion thereof from the
30 recipient or the estate of a person placed in accordance with
31 this Section.

32 Other than those placed in a family home the Department
33 shall cause all persons who are placed in a facility, as
34 defined by the Nursing Home Care Act, or in designated

1 community living situations or programs, to be visited at
2 least once during the first month following placement, and
3 once every month thereafter for the first year following
4 placement when indicated, but at least quarterly. After the
5 first year, visits shall be made at least once per year for
6 as long as the placement continues. If a long term care
7 facility has periodic care plan conferences, the visitor may
8 participate in those conferences. Visits shall be made by
9 qualified and trained Department personnel, or their
10 designee, in the area of mental health or developmental
11 disabilities applicable to the person visited, and shall be
12 made on a more frequent basis when indicated. The Department
13 may not use as designee any personnel connected with or
14 responsible to the representatives of any facility in which
15 persons who have been transferred under this Section are
16 placed. In the course of such visit there shall be
17 consideration of the following areas, but not limited
18 thereto: effects of transfer on physical and mental health
19 of the person, sufficiency of nursing care and medical
20 coverage required by the person, sufficiency of staff
21 personnel and ability to provide basic care for the person,
22 social, recreational and programmatic activities available
23 for the person, and other appropriate aspects of the person's
24 environment.

25 A report containing the above observations shall be made
26 to the Department and to any other appropriate agency
27 subsequent to each visitation. The report shall contain a
28 detailed assessment of whether the recipient is receiving
29 necessary services in the least restrictive environment. If
30 the recipient is not receiving those services, the Department
31 shall either require that the facility modify the treatment
32 plan to ensure that those services are provided or make
33 arrangements necessary to provide those services elsewhere.
34 At--the--conclusion--of--one--year--following---absolute---or

1 conditional-discharge, or a longer period of time if required
2 by the Department, the Department may terminate the
3 visitation requirements of this Section as to a person placed
4 in accordance with this Section, by filing a written
5 statement of termination setting forth reasons to
6 substantiate the termination of visitations in the person's
7 file, and sending a copy thereof to the person, and to his
8 guardian or next of kin.

9 Upon the complaint of any person placed in accordance
10 with this Section or any responsible citizen or upon
11 discovery that such person has been abused, neglected, or
12 improperly cared for, or that the placement does not provide
13 the type of care required by the recipient's current
14 condition, the Department immediately shall investigate, and
15 determine if the well-being, health, care, or safety of any
16 person is affected by any of the above occurrences, and if
17 any one of the above occurrences is verified, the Department
18 shall remove such person at once to a facility of the
19 Department or to another facility outside the Department,
20 provided such person's needs can be met at said facility.
21 The Department may also provide any person placed in
22 accordance with this Section who is without available funds,
23 and who is permitted to engage in employment outside the
24 facility, such sums for the transportation, and other
25 expenses as may be needed by him until he receives his wages
26 for such employment.

27 The Department shall promulgate rules and regulations
28 governing the purchase of care for persons who are wards of
29 or who are receiving services from the Department. Such
30 rules and regulations shall apply to all monies expended by
31 any agency of the State of Illinois for services rendered by
32 any person, corporate entity, agency, governmental agency or
33 political subdivision whether public or private outside of
34 the Department whether payment is made through a contractual,

1 per-diem or other arrangement. No funds shall be paid to any
2 person, corporation, agency, governmental entity or political
3 subdivision without compliance with such rules and
4 regulations.

5 The rules and regulations governing purchase of care
6 shall describe categories and types of service deemed
7 appropriate for purchase by the Department.

8 Any provider of services under this Act may elect to
9 receive payment for those services, and the Department is
10 authorized to arrange for that payment, by means of direct
11 deposit transmittals to the service provider's account
12 maintained at a bank, savings and loan association, or other
13 financial institution. The financial institution shall be
14 approved by the Department, and the deposits shall be in
15 accordance with rules and regulations adopted by the
16 Department.

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

18 Section 10. The Hospital Licensing Act is amended by
19 adding Section 6.19 as follows:

20 (210 ILCS 5/6.19 new)

21 Sec. 6.19. Use of restraints. Each hospital licensed
22 under this Act must have a written policy to address the use
23 of restraints and seclusion in the hospital. The Department
24 shall establish, by rule, the provisions that the policy must
25 include, which, to the extent practicable, should be
26 consistent with the requirements of the federal Medicare
27 program.

28 For freestanding psychiatric hospitals and psychiatric
29 units in general hospitals, restraints or seclusion shall
30 only be ordered by persons as authorized under the Mental
31 Health and Developmental Disabilities Code.

32 For general hospitals, excluding freestanding psychiatric

1 hospitals and psychiatric units in general hospitals,
2 restraints or seclusion may only be employed upon the written
3 order of:

4 (1) a physician licensed to practice medicine in
5 all its branches;

6 (2) a physician assistant as authorized under the
7 Physician Assistant Practice Act of 1987 or an advance
8 practice nurse as authorized under the Nursing and
9 Advanced Practice Nursing Act; or

10 (3) a registered nurse, provided that the medical
11 staff of the hospital has adopted a policy authorizing
12 such practice and specifying the requirements that a
13 registered nurse must satisfy to order the use of
14 restraints or seclusion.

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

18 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)

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

20 Sec. 6.2. Inspector General.

21 (a) The Governor shall appoint, and the Senate shall
22 confirm, an Inspector General. The Inspector General shall
23 be appointed for a term of 4 years and who shall function
24 within the Department of Human Services and report to the
25 Secretary of Human Services and the Governor. The Inspector
26 General shall function independently within the Department of
27 Human Services with respect to the operations of the office,
28 including the performance of investigations and issuance of
29 findings and recommendations. The Inspector General shall
30 independently submit to the Governor any request for
31 appropriations necessary for the ordinary and contingent
32 expenses of the Office of Inspector General, and

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

26 The Inspector General shall promulgate rules establishing
27 minimum requirements for reporting allegations of abuse and
28 neglect and initiating, conducting, and completing
29 investigations. The promulgated rules shall clearly set
30 forth that in instances where 2 or more State agencies could
31 investigate an allegation of abuse or neglect, the Inspector
32 General shall not conduct an investigation that is redundant
33 to an investigation conducted by another State agency. The
34 rules shall establish criteria for determining, based upon

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

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

18 (b) The Inspector General shall within 24 hours after
19 receiving a report of suspected abuse or neglect determine
20 whether the evidence indicates that any possible criminal act
21 has been committed. If he determines that a possible criminal
22 act has been committed, or that special expertise is required
23 in the investigation, he shall immediately notify the
24 Department of State Police. The Department of State Police
25 shall investigate any report indicating a possible murder,
26 rape, or other felony. All investigations conducted by the
27 Inspector General shall be conducted in a manner designed to
28 ensure the preservation of evidence for possible use in a
29 criminal prosecution.

30 (b-5) The Inspector General shall make a determination
31 to accept or reject a preliminary report of the investigation
32 of alleged abuse or neglect based on established
33 investigative procedures. The facility or agency may request
34 clarification or reconsideration based on additional

1 information. For cases where the allegation of abuse or
2 neglect is substantiated, the Inspector General shall require
3 the facility or agency to submit a written response. The
4 written response from a facility or agency shall address in a
5 concise and reasoned manner the actions that the agency or
6 facility will take or has taken to protect the resident or
7 patient from abuse or neglect, prevent reoccurrences, and
8 eliminate problems identified and shall include
9 implementation and completion dates for all such action.

10 (c) The Inspector General shall, within 10 calendar days
11 after the transmittal date of a completed investigation where
12 abuse or neglect is substantiated or administrative action is
13 recommended, provide a complete report on the case to the
14 Secretary of Human Services and to the agency in which the
15 abuse or neglect is alleged to have happened. The complete
16 report shall include a written response from the agency or
17 facility operated by the State to the Inspector General that
18 addresses in a concise and reasoned manner the actions that
19 the agency or facility will take or has taken to protect the
20 resident or patient from abuse or neglect, prevent
21 reoccurrences, and eliminate problems identified and shall
22 include implementation and completion dates for all such
23 action. The Secretary of Human Services shall accept or
24 reject the response and establish how the Department will
25 determine whether the facility or program followed the
26 approved response. The Secretary may require Department
27 personnel to visit the facility or agency for training,
28 technical assistance, programmatic, licensure, or
29 certification purposes. Administrative action, including
30 sanctions, may be applied should the Secretary reject the
31 response or should the facility or agency fail to follow the
32 approved response. Within 30 days after the Secretary has
33 approved a response, the facility or agency making the
34 response shall provide an implementation report to the

1 Inspector General on the status of the corrective action
2 implemented. Within 60 days after receiving the
3 implementation report, the Inspector General shall conduct an
4 investigation, which may include, but need not be limited to,
5 site visits, telephone contacts, or requests for written
6 documentation from the facility or agency, to determine
7 whether the facility or agency is in compliance with the
8 approved response. The facility or agency shall inform the
9 resident or patient and the legal guardian whether the
10 reported allegation was substantiated, unsubstantiated, or
11 unfounded. There shall be an appeals process for any person
12 or agency that is subject to any action based on a
13 recommendation or recommendations.

14 (d) The Inspector General may recommend to the
15 Departments of Public Health and Human Services sanctions to
16 be imposed against mental health and developmental
17 disabilities facilities under the jurisdiction of the
18 Department of Human Services for the protection of residents,
19 including appointment of on-site monitors or receivers,
20 transfer or relocation of residents, and closure of units.
21 The Inspector General may seek the assistance of the Attorney
22 General or any of the several State's attorneys in imposing
23 such sanctions. Whenever the Inspector General issues any
24 recommendations to the Secretary of Human Services, the
25 Secretary shall provide a written response.

26 (e) The Inspector General shall establish and conduct
27 periodic training programs for Department of Human Services
28 employees concerning the prevention and reporting of neglect
29 and abuse.

30 (f) The Inspector General shall at all times be granted
31 access to any mental health or developmental disabilities
32 facility operated by the Department of Human Services, shall
33 establish and conduct unannounced site visits to those
34 facilities at least once annually, and shall be granted

1 access, for the purpose of investigating a report of abuse or
 2 neglect, to the records of the Department of Human Services
 3 and to any facility or program funded by the Department of
 4 Human Services that is subject under the provisions of this
 5 Section to investigation by the Inspector General for a
 6 report of abuse or neglect.

7 (g) Nothing in this Section shall limit investigations
 8 by the Department of Human Services that may otherwise be
 9 required by law or that may be necessary in that Department's
 10 capacity as the central administrative authority responsible
 11 for the operation of State mental health and developmental
 12 disability facilities.

13 ~~{h}--This-Section-is-repealed-on-January-17-2002-~~
 14 (Source: P.A. 90-252, eff. 7-29-97; 90-512, eff. 8-22-97;
 15 90-655, eff. 7-30-98; 91-169, eff. 7-16-99.)

16 (210 ILCS 30/6.3) (from Ch. 111 1/2, par. 4166.3)
 17 (Section scheduled to be repealed on January 1, 2002)
 18 Sec. 6.3. Quality Care Board. There is created, within
 19 ~~the Department of Human Services~~ Office of the Inspector
 20 General, a Quality Care Board to be composed of 7 members
 21 appointed by the Governor with the advice and consent of the
 22 Senate. One of the members shall be designated as chairman
 23 by the Governor. Of the initial appointments made by the
 24 Governor, 4 Board members shall each be appointed for a term
 25 of 4 years and 3 members shall each be appointed for a term
 26 of 2 years. Upon the expiration of each member's term, a
 27 successor shall be appointed for a term of 4 years. In the
 28 case of a vacancy in the office of any member, the Governor
 29 shall appoint a successor for the remainder of the unexpired
 30 term.

31 Members appointed by the Governor shall be qualified by
 32 professional knowledge or experience in the area of law,
 33 investigatory techniques, or in the area of care of the

1 mentally ill or developmentally disabled. Two members
 2 appointed by the Governor shall be persons with a disability
 3 or a parent of a person with a disability. Members shall
 4 serve without compensation, but shall be reimbursed for
 5 expenses incurred in connection with the performance of their
 6 duties as members.

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

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

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

13 (210 ILCS 30/6.4) (from Ch. 111 1/2, par. 4166.4)

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

15 Sec. 6.4. Scope and function of the Quality Care Board.
 16 The Board shall monitor and oversee the operations, policies,
 17 and procedures of the Inspector General to assure the prompt
 18 and thorough investigation of allegations of neglect and
 19 abuse. In fulfilling these responsibilities, the Board may
 20 do the following:

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

24 (2) Review existing regulations relating to the
 25 operation of facilities under the control of the
 26 Department of Human Services.

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

29 (4) Recommend policies concerning methods for
 30 improving the intergovernmental relationships between the
 31 office of the Inspector General and other State or
 32 federal agencies.

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

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

2 (210 ILCS 30/6.5) (from Ch. 111 1/2, par. 4166.5)

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

4 Sec. 6.5. Investigators. ~~Within--60--days--after--the~~
5 ~~effective--date--of--this--amendatory--Act--of--1992,~~ the Inspector
6 General shall establish a comprehensive program to ensure
7 that every person employed or newly hired to conduct
8 investigations shall receive training on an on-going basis
9 concerning investigative techniques, communication skills,
10 and the appropriate means of contact with persons admitted or
11 committed to the mental health or developmental disabilities
12 facilities under the jurisdiction of the Department of Human
13 Services.

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

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

16 (210 ILCS 30/6.6) (from Ch. 111 1/2, par. 4166.6)

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

18 Sec. 6.6. Subpoenas; testimony; penalty. The Inspector
19 General shall have the power to subpoena witnesses and compel
20 the production of books and papers pertinent to an
21 investigation authorized by this Act, provided that the power
22 to subpoena or to compel the production of books and papers
23 shall not extend to the person or documents of a labor
24 organization or its representatives insofar as the person or
25 documents of a labor organization relate to the function of
26 representing an employee subject to investigation under this
27 Act. Mental health records of patients shall be confidential
28 as provided under the Mental Health and Developmental
29 Disabilities Confidentiality Act. Any person who fails to
30 appear in response to a subpoena or to answer any question or
31 produce any books or papers pertinent to an investigation
32 under this Act, except as otherwise provided in this Section,

1 or who knowingly gives false testimony in relation to an
2 investigation under this Act is guilty of a Class A
3 misdemeanor.

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

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

6 (210 ILCS 30/6.7) (from Ch. 111 1/2, par. 4166.7)

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

8 Sec. 6.7. Annual report. The Inspector General shall
9 provide to the General Assembly and the Governor, no later
10 than January 1 of each year, a summary of reports and
11 investigations made under this Act for the prior fiscal year
12 with respect to residents of institutions under the
13 jurisdiction of the Department of Human Services. The report
14 shall detail the imposition of sanctions and the final
15 disposition of those recommendations. The summaries shall
16 not contain any confidential or identifying information
17 concerning the subjects of the reports and investigations.
18 The report shall also include a trend analysis of the number
19 of reported allegations and their disposition, for each
20 facility and Department-wide, for the most recent 3-year time
21 period and a statement, for each facility, of the
22 staffing-to-patient ratios. The ratios shall include only
23 the number of direct care staff. The report shall also
24 include detailed recommended administrative actions and
25 matters for consideration by the General Assembly.

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

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

28 (210 ILCS 30/6.8) (from Ch. 111 1/2, par. 4166.8)

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

30 Sec. 6.8. Program audit. The Auditor General shall
31 conduct a biennial program audit of the office of the
32 Inspector General in relation to the Inspector General's

1 compliance with this Act. The audit shall specifically
2 include the Inspector General's effectiveness in
3 investigating reports of alleged neglect or abuse of
4 residents in any facility operated by the Department of Human
5 Services and in making recommendations for sanctions to the
6 Departments of Human Services and Public Health. The Auditor
7 General shall conduct the program audit according to the
8 provisions of the Illinois State Auditing Act and shall
9 report its findings to the General Assembly no later than
10 January 1 of each odd-numbered year.

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

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

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

15 (210 ILCS 45/2-106) (from Ch. 111 1/2, par. 4152-106)

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

29 (b) Neither restraints nor confinements shall be
30 employed for the purpose of punishment or for the convenience
31 of any facility personnel. No restraints or confinements
32 shall be employed except as ordered by a physician who

1 documents the need for such restraints or confinements in the
2 resident's clinical record. Whenever a resident is
3 restrained, a member of the facility staff shall remain with
4 the resident at all times unless the resident has been
5 confined. A resident who is restrained and confined shall be
6 observed by a qualified person as often as is clinically
7 appropriate but in no event less often than once every 15
8 minutes.

9 (c) A restraint may be used only with the informed
10 consent of the resident, the resident's guardian, or other
11 authorized representative. A restraint may be used only for
12 specific periods, if it is the least restrictive means
13 necessary to attain and maintain the resident's highest
14 practicable physical, mental or psychosocial well-being,
15 including brief periods of time to provide necessary
16 life-saving treatment. A restraint may be used only after
17 consultation with appropriate health professionals, such as
18 occupational or physical therapists, and a trial of less
19 restrictive measures has led to the determination that the
20 use of less restrictive measures would not attain or maintain
21 the resident's highest practicable physical, mental or
22 psychosocial well-being. However, if the resident needs
23 emergency care, restraints may be used for brief periods to
24 permit medical treatment to proceed unless the facility has
25 notice that the resident has previously made a valid refusal
26 of the treatment in question.

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

29 (e) Whenever a period of use of a restraint is
30 initiated, the resident shall be advised of his or her right
31 to have a person or organization of his or her choosing,
32 including the Guardianship and Advocacy Commission, notified
33 of the use of the restraint. A recipient who is under
34 guardianship may request that a person or organization of his

1 or her choosing be notified of the restraint, whether or not
2 the guardian approves the notice. If the resident so
3 chooses, the facility shall make the notification within 24
4 hours, including any information about the period of time
5 that the restraint is to be used. Whenever the Guardianship
6 and Advocacy Commission is notified that a resident has been
7 restrained, it shall contact the resident to determine the
8 circumstances of the restraint and whether further action is
9 warranted.

10 (f) Whenever a restraint is used on a resident whose
11 primary mode of communication is sign language, the resident
12 shall be permitted to have his or her hands free from
13 restraint for brief periods each hour, except when this
14 freedom may result in physical harm to the resident or
15 others.

16 (g) The requirements of this Section are intended to
17 control in any conflict with the requirements of Sections
18 1-126 and 2-108 of the Mental Health and Developmental
19 Disabilities Code.

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

21 (210 ILCS 45/2-106.1)

22 Sec. 2-106.1. Drug treatment.

23 (a) A resident shall not be given unnecessary drugs. An
24 unnecessary drug is any drug used in an excessive dose,
25 including in duplicative therapy; for excessive duration;
26 without adequate monitoring; without adequate indications for
27 its use; or in the presence of adverse consequences that
28 indicate the drugs should be reduced or discontinued. The
29 Department shall adopt, by rule, the standards for
30 unnecessary drugs contained in interpretive guidelines issued
31 by the United States Department of Health and Human Services
32 for the purposes of administering titles 18 and 19 of the
33 Social Security Act.

1 (b) Psychotropic medication shall not be prescribed
2 without the informed consent of the resident, the resident's
3 guardian, or other authorized representative. "Psychotropic
4 medication" means medication that is used for or listed as
5 used for antipsychotic, antidepressant, antimanic, or
6 antianxiety behavior modification or behavior management
7 purposes in the latest editions of the AMA Drug Evaluations
8 or the Physician's Desk Reference.

9 (c) The requirements of this Section are intended to
10 control in a conflict with the requirements of Sections 2-102
11 ~~1-102~~ and 2-107.2 of the Mental Health and Developmental
12 Disabilities Code with respect to the administration of
13 psychotropic medication.

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

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

17 (225 ILCS 65/5-10)

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

22 (a) "Department" means the Department of Professional
23 Regulation.

24 (b) "Director" means the Director of Professional
25 Regulation.

26 (c) "Board" means the Board of Nursing appointed by the
27 Director.

28 (d) "Academic year" means the customary annual schedule
29 of courses at a college, university, or approved school,
30 customarily regarded as the school year as distinguished from
31 the calendar year.

32 (e) "Approved program of professional nursing education"

1 and "approved program of practical nursing education" are
2 programs of professional or practical nursing, respectively,
3 approved by the Department under the provisions of this Act.

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

7 (g) "Assistant Nursing Act Coordinator" means a
8 registered professional nurse appointed by the Director to
9 assist in carrying out the administrative policies of the
10 Department.

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

12 (i) "Practical nurse" or "licensed practical nurse"
13 means a person who is licensed as a practical nurse under
14 this Act and practices practical nursing as defined in
15 paragraph (j) of this Section. Only a practical nurse
16 licensed under this Act is entitled to use the title
17 "licensed practical nurse" and the abbreviation "L.P.N.".

18 (j) "Practical nursing" means the performance of nursing
19 acts requiring the basic nursing knowledge, judgement, and
20 skill acquired by means of completion of an approved
21 practical nursing education program. Practical nursing
22 includes assisting in the nursing process as delegated by and
23 under the direction of a registered professional nurse. The
24 practical nurse may work under the direction of a licensed
25 physician, dentist, podiatrist, or other health care
26 professional determined by the Department.

27 (k) "Registered Nurse" or "Registered Professional
28 Nurse" means a person who is licensed as a professional nurse
29 under this Act and practices nursing as defined in paragraph
30 (l) of this Section. Only a registered nurse licensed under
31 this Act is entitled to use the titles "registered nurse" and
32 "registered professional nurse" and the abbreviation, "R.N.".

33 (l) "Registered professional nursing practice" includes
34 all nursing specialities and means the performance of any

1 nursing act based upon professional knowledge, judgment, and
2 skills acquired by means of completion of an approved
3 registered professional nursing education program. A
4 registered professional nurse provides nursing care
5 emphasizing the importance of the whole and the
6 interdependence of its parts through the nursing process to
7 individuals, groups, families, or communities, that includes
8 but is not limited to: (1) the assessment of healthcare
9 needs, nursing diagnosis, planning, implementation, and
10 nursing evaluation; (2) the promotion, maintenance, and
11 restoration of health; (3) counseling, patient education,
12 health education, and patient advocacy; (4) the
13 administration of medications and treatments as prescribed by
14 a physician licensed to practice medicine in all of its
15 branches, a licensed dentist, a licensed podiatrist, or a
16 licensed optometrist or as prescribed by a physician
17 assistant in accordance with written guidelines required
18 under the Physician Assistant Practice Act of 1987 or by an
19 advanced practice nurse in accordance with a written
20 collaborative agreement required under the Nursing and
21 Advanced Practice Nursing Act; (5) the coordination and
22 management of the nursing plan of care; (6) the delegation to
23 and supervision of individuals who assist the registered
24 professional nurse implementing the plan of care; and (7)
25 teaching and supervision of nursing students; and (8) the
26 ordering of restraint or seclusion as authorized under the
27 Hospital Licensing Act. The foregoing shall not be deemed to
28 include those acts of medical diagnosis or prescription of
29 therapeutic or corrective measures that are properly
30 performed only by physicians licensed in the State of
31 Illinois.

32 (m) "Current nursing practice update course" means a
33 planned nursing education curriculum approved by the
34 Department consisting of activities that have educational

1 objectives, instructional methods, content or subject matter,
2 clinical practice, and evaluation methods, related to basic
3 review and updating content and specifically planned for
4 those nurses previously licensed in the United States or its
5 territories and preparing for reentry into nursing practice.

6 (n) "Professional assistance program for nurses" means a
7 professional assistance program that meets criteria
8 established by the Board of Nursing and approved by the
9 Director, which provides a non-disciplinary treatment
10 approach for nurses licensed under this Act whose ability to
11 practice is compromised by alcohol or chemical substance
12 addiction.

13 (Source: P.A. 90-61, eff. 12-30-97; 90-248, eff. 1-1-98;
14 90-655, eff. 7-30-98; 90-742, eff. 8-13-98.)

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