

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 adding Section
6 7.3 as follows:

7 (20 ILCS 1705/7.3 new)

8 Section 7.3. Nurse aide registry; finding of abuse or
9 neglect. The Department shall require that no facility,
10 service agency, or support agency providing mental health or
11 developmental disability services that is licensed,
12 certified, operated, or funded by the Department shall employ
13 a person, in any capacity, who is identified by the nurse
14 aide registry as having been previously terminated by a
15 facility, service agency, or support agency licensed,
16 certified, operated, or funded by the Department pursuant to
17 a substantiated finding of abuse or neglect of a service
18 recipient, or who has previously resigned from a facility,
19 service agency, or support agency subsequent to an incident
20 that later resulted in a substantiated finding of abuse or
21 neglect of a service recipient by that individual. The
22 Department shall establish and maintain such rules as are
23 necessary or appropriate to effectuate the intent of this
24 Section. The provisions of this Section shall not apply to
25 any facility, service agency, or support agency licensed or
26 certified by a State agency other than the Department, unless
27 operated by the Department of Human Services.

28 Section 10. The Abused and Neglected Long Term Care
29 Facility Residents Reporting Act is amended by changing
30 Section 6.2 as follows:

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2 (Section scheduled to be repealed on January 1, 2002)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

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

31 The Inspector General shall promulgate rules establishing
32 minimum requirements for reporting allegations of abuse and
33 neglect and initiating, conducting, and completing
34 investigations. The promulgated rules shall clearly set

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

21 The Inspector General shall be appointed for a term of 4
22 years.

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

1 (b-5) The Inspector General shall make a determination
2 to accept or reject a preliminary report of the investigation
3 of alleged abuse or neglect based on established
4 investigative procedures. The facility or agency may request
5 clarification or reconsideration based on additional
6 information. For cases where the allegation of abuse or
7 neglect is substantiated, the Inspector General shall require
8 the facility or agency to submit a written response. The
9 written response from a facility or agency shall address in a
10 concise and reasoned manner the actions that the agency or
11 facility will take or has taken to protect the resident or
12 patient from abuse or neglect, prevent reoccurrences, and
13 eliminate problems identified and shall include
14 implementation and completion dates for all such action.

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

1 sanctions, may be applied should the Secretary reject the
2 response or should the facility or agency fail to follow the
3 approved response. The facility or agency shall inform the
4 resident or patient and the legal guardian whether the
5 reported allegation was substantiated, unsubstantiated, or
6 unfounded. There shall be an appeals process for any person
7 or agency that is subject to any action based on a
8 recommendation or recommendations.

9 (d) The Inspector General may recommend to the
10 Departments of Public Health and Human Services sanctions to
11 be imposed against mental health and developmental
12 disabilities facilities under the jurisdiction of the
13 Department of Human Services for the protection of residents,
14 including appointment of on-site monitors or receivers,
15 transfer or relocation of residents, and closure of units.
16 The Inspector General may seek the assistance of the Attorney
17 General or any of the several State's attorneys in imposing
18 such sanctions.

19 (e) The Inspector General shall establish and conduct
20 periodic training programs for Department employees
21 concerning the prevention and reporting of neglect and abuse.

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

31 (g) Nothing in this Section shall limit investigations
32 by the Department of Human Services that may otherwise be
33 required by law or that may be necessary in that Department's
34 capacity as the central administrative authority responsible

1 for the operation of State mental health and developmental
2 disability facilities.

3 (g-5) After notice and an opportunity for a hearing that
4 is separate and distinct from the Office of the Inspector
5 General's appeals process as implemented under subsection (c)
6 of this Section, the Inspector General shall report to the
7 Department of Public Health's nurse aide registry under
8 Section 3-206.01 of the Nursing Home Care Act the identity of
9 individuals who have been previously terminated by a
10 facility, service agency, or support agency licensed,
11 certified, operated, or funded by the Department of Human
12 Services, except by a facility, service agency, or support
13 agency licensed or certified by a State agency other than the
14 Department of Human Services, unless operated by the
15 Department of Human Services, pursuant to a substantiated
16 finding of abuse or neglect of a service recipient, or who
17 have previously resigned from such facility, service agency,
18 or support agency subsequent to an incident that later
19 resulted in a substantiated finding of abuse or neglect of a
20 service recipient by that individual.

21 Nothing in this subsection shall diminish or impair the
22 rights of a person who is a member of a collective bargaining
23 unit pursuant to the Illinois Public Labor Relations Act or
24 pursuant to any federal labor statute. A person shall not be
25 considered as having been previously terminated pursuant to a
26 substantiated finding of abuse or neglect of a service
27 recipient, unless the finding is final after exhaustion of
28 review of the termination under the grievance and arbitration
29 procedure provided for in Section 8 of the Illinois Public
30 Labor Relations Act or under a comparable provision in
31 another labor statute applicable to that person.

32 The Department of Human Services shall promulgate or
33 amend rules as necessary or appropriate to establish
34 procedures for reporting to the registry, including

1 procedures for notice to the individual, appeal and hearing,
2 and petition for removal of the report from the registry. The
3 portion of the rules pertaining to hearings shall provide
4 that, at the hearing, both parties may present written and
5 oral evidence.

6 Notice to the individual shall include a clear and
7 concise statement of the grounds on which the report to the
8 registry is based and notice of the opportunity for a hearing
9 to contest the report. The Department of Human Services shall
10 provide the notice by certified mail. The notice shall give
11 the individual an opportunity to contest the report in a
12 hearing before the Department of Human Services or to submit
13 a written response to the findings instead of requesting a
14 hearing. If after notice and a hearing or if the individual
15 does not request a hearing, the Department of Human Services
16 finds that the report is valid, the finding shall be included
17 as part of the registry, as well as a brief statement from
18 the reported individual if he or she chooses to make a
19 statement. The Department of Public Health shall make
20 available to the public information reported to the registry.
21 In the case of inquiries concerning an individual listed in
22 the registry, any information disclosed concerning a finding
23 of abuse or neglect shall also include disclosure of the
24 individual's brief statement in the registry relating to the
25 reported finding or include a clear and accurate summary of
26 the statement.

27 At any time after the report to the registry, an
28 individual may petition the Department of Human Services for
29 removal from the registry of the finding against him or her.
30 The Department of Human Services may report the removal of
31 the finding to the registry unless, after an investigation
32 and a hearing, the Department of Human Services determines
33 that removal is not in the public interest.

34 (h) This Section is repealed on January 1, 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 Section 15. The Nursing Home Care Act is amended by
4 changing Section 3-206.1 as follows:

5 (210 ILCS 45/3-206.01) (from Ch. 111 1/2, par.
6 4153-206.01)

7 Sec. 3-206.01. Nurse aide registry.

8 (a) The Department shall establish and maintain a
9 registry of all individuals who have satisfactorily completed
10 the training required by Section 3-206. The registry shall
11 include the name of the nursing assistant, habilitation aide,
12 or child care aide, his or her current address, Social
13 Security number, and the date and location of the training
14 course completed by the individual, and the date of the
15 individual's last criminal records check. Any individual
16 placed on the registry is required to inform the Department
17 of any change of address within 30 days. A facility shall not
18 employ an individual as a nursing assistant, habilitation
19 aide, or child care aide unless the facility has inquired of
20 the Department as to information in the registry concerning
21 the individual and shall not employ anyone not on the
22 registry unless the individual is enrolled in a training
23 program under paragraph (5) of subsection (a) of Section
24 3-206 of this Act.

25 If the Department finds that a nursing assistant,
26 habilitation aide, or child care aide has abused a resident,
27 neglected a resident, or misappropriated resident property in
28 a facility, the Department shall notify the individual of
29 this finding by certified mail sent to the address contained
30 in the registry. The notice shall give the individual an
31 opportunity to contest the finding in a hearing before the
32 Department or to submit a written response to the findings in

1 lieu of requesting a hearing. If, after a hearing or if the
2 individual does not request a hearing, the Department finds
3 that the individual abused a resident, neglected a resident,
4 or misappropriated resident property in a facility, the
5 finding shall be included as part of the registry as well as
6 a brief statement from the individual, if he or she chooses
7 to make such a statement. The Department shall make
8 information in the registry available to the public. In the
9 case of inquiries to the registry concerning an individual
10 listed in the registry, any information disclosed concerning
11 such a finding shall also include disclosure of any statement
12 in the registry relating to the finding or a clear and
13 accurate summary of the statement.

14 (b) The Department shall add to or remove from the nurse
15 aide registry records of findings as reported by the
16 Inspector General under Section 6.2 of the Abused and
17 Neglected Long Term Care Facility Residents Reporting Act.

18 (Source: P.A. 91-598, eff. 1-1-00.)

19 Section 99. Effective date. This Act takes effect on
20 January 1, 2002.