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09600HB3649ham001

LRB096 09384 DRJ 23040 a

1 AMENDMENT TO HOUSE BILL 3649

2 AMENDMENT NO. _____. Amend House Bill 3649 by replacing
3 everything after the enacting clause with the following:

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

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

7 Sec. 9. Inspections and investigations. The Department
8 shall make or cause to be made such inspections and
9 investigations as it deems necessary, except that the
10 Department shall investigate every allegation of abuse of a
11 patient received by the Department. Information received by the
12 Department through filed reports, inspection, or as otherwise
13 authorized under this Act shall not be disclosed publicly in
14 such manner as to identify individuals or hospitals, except (i)
15 in a proceeding involving the denial, suspension, or revocation
16 of a permit to establish a hospital or a proceeding involving

1 the denial, suspension, or revocation of a license to open,
2 conduct, operate, and maintain a hospital, (ii) to the
3 Department of Children and Family Services in the course of a
4 child abuse or neglect investigation conducted by that
5 Department or by the Department of Public Health, (iii) in
6 accordance with Section 6.14a of this Act, or (iv) in other
7 circumstances as may be approved by the Hospital Licensing
8 Board.

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

10 (210 ILCS 85/9.6 new)

11 Sec. 9.6. Patient protection from abuse.

12 (a) No administrator, agent, or employee of a hospital or a
13 member of its medical staff may abuse a patient in the
14 hospital.

15 (b) Any hospital administrator, agent, employee, or
16 medical staff member who has reasonable cause to believe that
17 any patient with whom he or she has direct contact has been
18 subjected to abuse in the hospital shall promptly report or
19 cause a report to be made to a designated hospital
20 administrator responsible for providing such reports to the
21 Department as required by this Section.

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

24 (d) Upon receiving a report under subsection (b) of this
25 Section, the hospital shall submit the report to the Department

1 within 24 hours of obtaining such report. In the event that the
2 hospital receives multiple reports involving a single alleged
3 instance of abuse, the hospital shall submit one report to the
4 Department.

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

16 (f) All internal hospital reviews shall be conducted by a
17 designated hospital employee or agent who is qualified to
18 detect abuse and is not involved in the alleged victim's
19 treatment. All internal review findings must be documented and
20 filed according to hospital procedures and shall be made
21 available to the Department upon request.

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

25 (h) The report required under this Section shall include:
26 the name of the patient; the name and address of the hospital

1 treating the patient; the age of the patient; the nature of the
2 patient's condition, including any evidence of previous
3 injuries or disabilities; and any other information that the
4 reporter believes might be helpful in establishing the cause of
5 the reported abuse and the identity of the person believed to
6 have caused the abuse.

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

19 (j) No administrator, agent, or employee of a hospital
20 shall adopt or employ practices or procedures designed to
21 discourage good faith reporting of patient abuse under this
22 Section.

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

26 (l) The Department shall investigate each report of patient

1 abuse made under this Section according to the procedures of
2 the Department, except that a report of abuse which indicates
3 that a patient's life or safety is in imminent danger shall be
4 investigated within 24 hours of such report. Under no
5 circumstances may a hospital's internal review of an allegation
6 of abuse replace an investigation of the allegation by the
7 Department.

8 (m) The Department shall keep a continuing record of all
9 reports made pursuant to this Section, including indications of
10 the final determination of any investigation and the final
11 disposition of all reports. The Department shall inform the
12 investigated hospital and any other person making a report
13 under subsection (g) of its final determination or disposition
14 in writing.

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

19 (o) All patient identifiable information in any report or
20 investigation under this Section shall be confidential and
21 shall not be disclosed except as authorized by this Act or
22 other applicable law.

23 (p) Nothing in this Section relieves a hospital
24 administrator, employee, agent, or medical staff member from
25 contacting appropriate law enforcement authorities as required
26 by law.

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

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

11 (s) As used in this Section, the following terms have the
12 following meanings:

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

20 "Mental injury" means intentionally caused emotional
21 distress in a patient from words or gestures that would be
22 considered by a reasonable person to be humiliating, harassing,
23 or threatening and which causes observable and substantial
24 impairment.

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

1 "Substantiated", with respect to a report of abuse, means
2 that a preponderance of the evidence indicates that abuse
3 occurred."