

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, 2005, 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, 2005, 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 the 93rd General Assembly 1977-by-more-than
25 3%--over-the-prior-year, the Department shall fully reimburse
26 such agency for the increased costs of providing services to
27 such persons in--excess-of-such-3%-increase. The Department
28 shall keep written records detailing how many persons have
29 been assigned to a community based not-for-profit agency and
30 how many persons were not so assigned because the community
31 based agency was unable to accept the assignments, in
32 accordance with criteria, standards, and procedures
33 promulgated by rule. Whenever a community based agency is
34 found to be unable to accept the assignments, the name of the

1 agency and the reason for the finding shall be included in
2 the report.

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

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

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

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

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

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

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

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

20 Other than those placed in a family home the Department
21 shall cause all persons who are placed in a facility, as
22 defined by the Nursing Home Care Act, or in designated
23 community living situations or programs, to be visited at
24 least once during the first month following placement, and
25 once every month thereafter for the first year following
26 placement when indicated, but at least quarterly. After the
27 first year, visits shall be made at least once per year for
28 as long as the placement continues. If a long term care
29 facility has periodic care plan conferences, the visitor may
30 participate in those conferences. Visits shall be made by
31 qualified and trained Department personnel, or their
32 designee, in the area of mental health or developmental
33 disabilities applicable to the person visited, and shall be
34 made on a more frequent basis when indicated. The Department

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

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

31 Upon the complaint of any person placed in accordance
32 with this Section or any responsible citizen or upon
33 discovery that such person has been abused, neglected, or
34 improperly cared for, or that the placement does not provide

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

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

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

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

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

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

6 Section 10. The Abused and Neglected Long Term Care
7 Facility Residents Reporting Act is amended by changing
8 Sections 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, and 6.8 as follows:

9 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)

10 (Section scheduled to be repealed on January 1, 2004)

11 Sec. 6.2. Inspector General.

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

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

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

1 completed. The resident or patient who allegedly was abused
2 or neglected and his or her legal guardian shall be informed
3 by the facility or agency of the report of alleged abuse or
4 neglect. Final reports regarding unsubstantiated or unfounded
5 allegations shall remain confidential, except that final
6 reports may be disclosed pursuant to Section 6 of this Act.

7 ~~The Inspector General shall be appointed for a term of 4~~
8 ~~years.~~

9 When the Office of the Inspector General has
10 substantiated a case of abuse or neglect, the Inspector
11 General shall include in the final report any mitigating or
12 aggravating circumstances that were identified during the
13 investigation. Upon determination that a report of neglect
14 is substantiated, the Inspector General shall then determine
15 whether such neglect rises to the level of egregious neglect.

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

28 (b-5) The Inspector General shall make a determination
29 to accept or reject a preliminary report of the investigation
30 of alleged abuse or neglect based on established
31 investigative procedures. Notice of the Inspector General's
32 determination must be given to the person who claims to be
33 the victim of the abuse or neglect, to the person or persons
34 alleged to have been responsible for abuse or neglect, and to

1 the facility or agency. The facility or agency or the person
2 or persons alleged to have been responsible for the abuse or
3 neglect and the person who claims to be the victim of the
4 abuse or neglect may request clarification or reconsideration
5 based on additional information. For cases where the
6 allegation of abuse or neglect is substantiated, the
7 Inspector General shall require the facility or agency to
8 submit a written response. The written response from a
9 facility or agency shall address in a concise and reasoned
10 manner the actions that the agency or facility will take or
11 has taken to protect the resident or patient from abuse or
12 neglect, prevent reoccurrences, and eliminate problems
13 identified and shall include implementation and completion
14 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. Within 30 days after the Secretary has
4 approved a response, the facility or agency making the
5 response shall provide an implementation report to the
6 Inspector General on the status of the corrective action
7 implemented. Within 60 days after receiving the
8 implementation report, the Inspector General shall conduct an
9 investigation, which may include, but need not be limited to,
10 site visits, telephone contacts, or requests for written
11 documentation from the facility or agency, to determine
12 whether the facility or agency is in compliance with the
13 approved response. The facility or agency shall inform the
14 resident or patient and the legal guardian whether the
15 reported allegation was substantiated, unsubstantiated, or
16 unfounded. There shall be an appeals process for any person
17 or agency that is subject to any action based on a
18 recommendation or recommendations.

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

31 (e) The Inspector General shall establish and conduct
32 periodic training programs for Department of Human Services
33 employees concerning the prevention and reporting of neglect
34 and abuse.

1 (f) The Inspector General shall at all times be granted
2 access to any mental health or developmental disabilities
3 facility operated by the Department of Human Services, shall
4 establish and conduct unannounced site visits to those
5 facilities at least once annually, and shall be granted
6 access, for the purpose of investigating a report of abuse or
7 neglect, to the records of the Department of Human Services
8 and to any facility or program funded by the Department of
9 Human Services that is subject under the provisions of this
10 Section to investigation by the Inspector General for a
11 report of abuse or neglect.

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

18 (g-5) After notice and an opportunity for a hearing that
19 is separate and distinct from the Office of the Inspector
20 General's appeals process as implemented under subsection (c)
21 of this Section, the Inspector General shall report to the
22 Department of Public Health's nurse aide registry under
23 Section 3-206.01 of the Nursing Home Care Act the identity of
24 individuals against whom there has been a substantiated
25 finding of physical or sexual abuse or egregious neglect of a
26 service recipient.

27 Nothing in this subsection shall diminish or impair the
28 rights of a person who is a member of a collective bargaining
29 unit pursuant to the Illinois Public Labor Relations Act or
30 pursuant to any federal labor statute. An individual who is a
31 member of a collective bargaining unit as described above
32 shall not be reported to the Department of Public Health's
33 nurse aide registry until the exhaustion of that individual's
34 grievance and arbitration rights, or until 3 months after the

1 initiation of the grievance process, whichever occurs first,
2 provided that the Department of Human Services' hearing under
3 subsection (c), that is separate and distinct from the Office
4 of the Inspector General's appeals process, has concluded.
5 Notwithstanding anything hereinafter or previously provided,
6 if an action taken by an employer against an individual as a
7 result of the circumstances that led to a finding of physical
8 or sexual abuse or egregious neglect is later overturned
9 under a grievance or arbitration procedure provided for in
10 Section 8 of the Illinois Public Labor Relations Act or under
11 a collective bargaining agreement, the report must be removed
12 from the registry.

13 The Department of Human Services shall promulgate or
14 amend rules as necessary or appropriate to establish
15 procedures for reporting to the registry, including the
16 definition of egregious neglect, procedures for notice to the
17 individual and victim, appeal and hearing procedures, and
18 petition for removal of the report from the registry. The
19 portion of the rules pertaining to hearings shall provide
20 that, at the hearing, both parties may present written and
21 oral evidence. The Department shall be required to establish
22 by a preponderance of the evidence that the Office of the
23 Inspector General's finding of physical or sexual abuse or
24 egregious neglect warrants reporting to the Department of
25 Public Health's nurse aide registry under Section 3-206.01 of
26 the Nursing Home Care Act.

27 Notice to the individual shall include a clear and
28 concise statement of the grounds on which the report to the
29 registry is based and notice of the opportunity for a hearing
30 to contest the report. The Department of Human Services shall
31 provide the notice by certified mail to the last known
32 address of the individual. The notice shall give the
33 individual an opportunity to contest the report in a hearing
34 before the Department of Human Services or to submit a

1 written response to the findings instead of requesting a
2 hearing. If the individual does not request a hearing or if
3 after notice and a hearing the Department of Human Services
4 finds that the report is valid, the finding shall be included
5 as part of the registry, as well as a brief statement from
6 the reported individual if he or she chooses to make a
7 statement. The Department of Public Health shall make
8 available to the public information reported to the registry.
9 In a case of inquiries concerning an individual listed in the
10 registry, any information disclosed concerning a finding of
11 abuse or neglect shall also include disclosure of the
12 individual's brief statement in the registry relating to the
13 reported finding or include a clear and accurate summary of
14 the statement.

15 At any time after the report of the registry, an
16 individual may petition the Department of Human Services for
17 removal from the registry of the finding against him or her.
18 Upon receipt of such a petition, the Department of Human
19 Services shall conduct an investigation and hearing on the
20 petition. Upon completion of the investigation and hearing,
21 the Department of Human Services shall report the removal of
22 the finding to the registry unless the Department of Human
23 Services determines that removal is not in the public
24 interest.

25 ~~{h}--This-Section-is-repealed-on-January-17-2004.~~

26 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01;
27 92-473, eff. 1-1-02; 92-651, eff. 7-11-02.)

28 (210 ILCS 30/6.3) (from Ch. 111 1/2, par. 4166.3)

29 (Section scheduled to be repealed on January 1, 2004)

30 Sec. 6.3. Quality Care Board. There is created, within
31 the Department--of--Human--Services¹ Office of the Inspector
32 General, a Quality Care Board to be composed of 7 members
33 appointed by the Governor with the advice and consent of the

1 Senate. One of the members shall be designated as chairman
2 by the Governor. Of the initial appointments made by the
3 Governor, 4 Board members shall each be appointed for a term
4 of 4 years and 3 members shall each be appointed for a term
5 of 2 years. Upon the expiration of each member's term, a
6 successor shall be appointed for a term of 4 years. In the
7 case of a vacancy in the office of any member, the Governor
8 shall appoint a successor for the remainder of the unexpired
9 term.

10 Members appointed by the Governor shall be qualified by
11 professional knowledge or experience in the area of law,
12 investigatory techniques, or in the area of care of the
13 mentally ill or developmentally disabled. Two members
14 appointed by the Governor shall be persons with a disability
15 or a parent of a person with a disability. Members shall
16 serve without compensation, but shall be reimbursed for
17 expenses incurred in connection with the performance of their
18 duties as members.

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

23 ~~This Section is repealed on January 17, 2004.~~

24 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.)

25 (210 ILCS 30/6.4) (from Ch. 111 1/2, par. 4166.4)

26 (Section scheduled to be repealed on January 1, 2004)

27 Sec. 6.4. Scope and function of the Quality Care Board.
28 The Board shall monitor and oversee the operations, policies,
29 and procedures of the Inspector General to assure the prompt
30 and thorough investigation of allegations of neglect and
31 abuse. In fulfilling these responsibilities, the Board may
32 do the following:

33 (1) Provide independent, expert consultation to the

1 Inspector General on policies and protocols for
2 investigations of alleged neglect and abuse.

3 (2) Review existing regulations relating to the
4 operation of facilities under the control of the
5 Department of Human Services.

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

8 (4) Recommend policies concerning methods for
9 improving the intergovernmental relationships between the
10 office of the Inspector General and other State or
11 federal agencies.

12 ~~This Section is repealed on January 17, 2004.~~

13 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.)

14 (210 ILCS 30/6.5) (from Ch. 111 1/2, par. 4166.5)

15 (Section scheduled to be repealed on January 1, 2004)

16 Sec. 6.5. Investigators. ~~Within 60 days after the~~
17 ~~effective date of this amendatory Act of 1992,~~ The Inspector
18 General shall establish a comprehensive program to ensure
19 that every person employed or newly hired to conduct
20 investigations shall receive training on an on-going basis
21 concerning investigative techniques, communication skills,
22 and the appropriate means of contact with persons admitted or
23 committed to the mental health or developmental disabilities
24 facilities under the jurisdiction of the Department of Human
25 Services.

26 ~~This Section is repealed on January 17, 2004.~~

27 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.)

28 (210 ILCS 30/6.6) (from Ch. 111 1/2, par. 4166.6)

29 (Section scheduled to be repealed on January 1, 2004)

30 Sec. 6.6. Subpoenas; testimony; penalty. The Inspector
31 General shall have the power to subpoena witnesses and compel
32 the production of books and papers pertinent to an

1 investigation authorized by this Act, provided that the power
2 to subpoena or to compel the production of books and papers
3 shall not extend to the person or documents of a labor
4 organization or its representatives insofar as the person or
5 documents of a labor organization relate to the function of
6 representing an employee subject to investigation under this
7 Act. Mental health records of patients shall be confidential
8 as provided under the Mental Health and Developmental
9 Disabilities Confidentiality Act. Any person who fails to
10 appear in response to a subpoena or to answer any question or
11 produce any books or papers pertinent to an investigation
12 under this Act, except as otherwise provided in this Section,
13 or who knowingly gives false testimony in relation to an
14 investigation under this Act is guilty of a Class A
15 misdemeanor.

16 ~~This Section is repealed on January 17, 2004.~~

17 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.)

18 (210 ILCS 30/6.7) (from Ch. 111 1/2, par. 4166.7)

19 (Section scheduled to be repealed on January 1, 2004)

20 Sec. 6.7. Annual report. The Inspector General shall
21 provide to the General Assembly and the Governor, no later
22 than January 1 of each year, a summary of reports and
23 investigations made under this Act for the prior fiscal year
24 with respect to residents of institutions under the
25 jurisdiction of the Department of Human Services. The report
26 shall detail the imposition of sanctions and the final
27 disposition of those recommendations. The summaries shall
28 not contain any confidential or identifying information
29 concerning the subjects of the reports and investigations.
30 The report shall also include a trend analysis of the number
31 of reported allegations and their disposition, for each
32 facility and Department-wide, for the most recent 3-year time
33 period and a statement, for each facility, of the

1 staffing-to-patient ratios. The ratios shall include only
2 the number of direct care staff. The report shall also
3 include detailed recommended administrative actions and
4 matters for consideration by the General Assembly.

5 ~~This Section is repealed on January 17, 2004.~~

6 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.)

7 (210 ILCS 30/6.8) (from Ch. 111 1/2, par. 4166.8)

8 (Section scheduled to be repealed on January 1, 2004)

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

22 ~~This Section is repealed on January 17, 2004.~~

23 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01.).

24 Section 15. The Nursing Home Care Act is amended by
25 changing Sections 2-106 and 2-106.1 as follows:

26 (210 ILCS 45/2-106) (from Ch. 111 1/2, par. 4152-106)

27 Sec. 2-106. (a) For purposes of this Act, (i) a physical
28 restraint is any manual method or physical or mechanical
29 device, material, or equipment attached or adjacent to a
30 resident's body that the resident cannot remove easily and
31 restricts freedom of movement or normal access to one's body;

1 (ii) a chemical restraint is any drug used for discipline or
2 convenience and not required to treat medical symptoms. The
3 Department shall by rule, designate certain devices as
4 restraints, including at least all those devices which have
5 been determined to be restraints by the United States
6 Department of Health and Human Services in interpretive
7 guidelines issued for the purposes of administering Titles 18
8 and 19 of the Social Security Acts.

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

21 (c) A restraint may be used only with the informed
22 consent of the resident, the resident's guardian, or other
23 authorized representative. A restraint may be used only for
24 specific periods, if it is the least restrictive means
25 necessary to attain and maintain the resident's highest
26 practicable physical, mental or psychosocial well-being,
27 including brief periods of time to provide necessary
28 life-saving treatment. A restraint may be used only after
29 consultation with appropriate health professionals, such as
30 occupational or physical therapists, and a trial of less
31 restrictive measures has led to the determination that the
32 use of less restrictive measures would not attain or maintain
33 the resident's highest practicable physical, mental or
34 psychosocial well-being. However, if the resident needs

1 emergency care, restraints may be used for brief periods to
2 permit medical treatment to proceed unless the facility has
3 notice that the resident has previously made a valid refusal
4 of the treatment in question.

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

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

22 (f) Whenever a restraint is used on a resident whose
23 primary mode of communication is sign language, the resident
24 shall be permitted to have his or her hands free from
25 restraint for brief periods each hour, except when this
26 freedom may result in physical harm to the resident or
27 others.

28 (g) The requirements of this Section are intended to
29 control in any conflict with the requirements of Sections
30 1-126 and 2-108 of the Mental Health and Developmental
31 Disabilities Code.

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

33 (210 ILCS 45/2-106.1)

1 Sec. 2-106.1. Drug treatment.

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

13 (b) Psychotropic medication shall not be prescribed
14 without the informed consent of the resident, the resident's
15 guardian, or other authorized representative. "Psychotropic
16 medication" means medication that is used for or listed as
17 used for antipsychotic, antidepressant, antimanic, or
18 antianxiety behavior modification or behavior management
19 purposes in the latest editions of the AMA Drug Evaluations
20 or the Physician's Desk Reference.

21 (c) The requirements of this Section are intended to
22 control in a conflict with the requirements of Sections 2-102
23 ~~1-102~~ and 2-107.2 of the Mental Health and Developmental
24 Disabilities Code with respect to the administration of
25 psychotropic medication.

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

27 Section 20. The Hospital Licensing Act is amended by
28 changing Section 6.20 as follows:

29 (210 ILCS 85/6.20)

30 Sec. 6.20. Use of restraints. Each hospital licensed
31 under this Act must have a written policy to address the use
32 of restraints and seclusion in the hospital. The Department

1 shall establish, by rule, the provisions that the policy must
 2 include, which, to the extent practicable, should be
 3 consistent with the requirements for participation in the
 4 federal Medicare program. ~~Each-hospital-policy-shall-include~~
 5 ~~periodic--review-of-the-use-of-restraints-or-seclusion-in-the~~
 6 ~~hospital.~~

7 For freestanding psychiatric hospitals and psychiatric
 8 units in general hospitals, restraints or seclusion shall
 9 only be ordered by persons as authorized under the Mental
 10 Health and Developmental Disabilities Code.

11 For general In hospitals, excluding freestanding
 12 psychiatric hospitals and psychiatric units in general
 13 hospitals, restraints or seclusion may only be employed upon
 14 the written order of ordered-by (i) a physician licensed to
 15 practice medicine in all its branches; ~~or~~ (ii) a registered
 16 nurse, provided that the medical staff of the hospital has
 17 adopted a policy authorizing such practice and specifying the
 18 requirements that a registered nurse must satisfy to order
 19 the use of restraints or seclusion; (iii) an advanced
 20 practice nurse as authorized under the Nursing and Advanced
 21 Practice Nursing Act; or (iv) a physician assistant as
 22 authorized under the Physician Assistant Practice Act of
 23 1987. ~~with-supervisory-responsibilities-as-authorized-by-the~~
 24 ~~medical-staff.--The-medical-staff-of-a-hospital-may--adopt--a~~
 25 ~~policy--specifying-the-requirements-for-the-use-of-restraints~~
 26 ~~or-seclusion-and-identifying-whether-a-registered-nurse--with~~
 27 ~~supervisory---responsibilities---may---order---restraints--or~~
 28 ~~seclusion--in--the--hospital--when--the--patient's---treating~~
 29 ~~physician-is-not-available.~~

30 ~~Registered--nurses--authorized--to--order--restraints--or~~
 31 ~~seclusion--shall--have-appropriate-training-and-experience-as~~
 32 ~~determined-by-medical-staff-policy.--The--treating--physician~~
 33 ~~shall-be-notified-when-restraints-or-seclusion-are-ordered-by~~
 34 ~~a--registered-nurse.--Nothing-in-this-Section-requires-that-a~~

1 ~~medical-staff-authorize-a-registered-nurse--with--supervisory~~
2 ~~responsibilities-to-order-restraints-or-seclusion.~~
3 (Source: P.A. 92-356, eff. 10-1-01.)

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

6 (225 ILCS 65/5-10)

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

11 (a) "Department" means the Department of Professional
12 Regulation.

13 (b) "Director" means the Director of Professional
14 Regulation.

15 (c) "Board" means the Board of Nursing appointed by the
16 Director.

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

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

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

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

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

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

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

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

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

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

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

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

1 addiction.

2 (Source: P.A. 90-61, eff. 12-30-97; 90-248, eff. 1-1-98;
3 90-655, eff. 7-30-98; 90-742, eff. 8-13-98.)

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

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