

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 Sec. 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 subject of a substantiated
15 finding of abuse or neglect of a service recipient. The
16 Department shall establish and maintain such rules as are
17 necessary or appropriate to effectuate the intent of this
18 Section. The provisions of this Section shall not apply to
19 any facility, service agency, or support agency licensed or
20 certified by a State agency other than the Department, unless
21 operated by the Department of Human Services.

22 Section 10. The Abused and Neglected Long Term Care
23 Facility Residents Reporting Act is amended by changing
24 Section 6.2 as follows:

25 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)

26 (Section scheduled to be repealed on January 1, 2002)

27 Sec. 6.2. Inspector General.

28 (a) The Governor shall appoint, and the Senate shall
29 confirm, an Inspector General who shall function within the

1 Department of Human Services and report to the Secretary of
2 Human Services and the Governor. 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 When determining if a report of abuse or neglect should
19 be substantiated or unsubstantiated the Office of the
20 Inspector General shall take into account any mitigating or
21 aggravating circumstances when indicated. The Inspector
22 General shall promulgate rules to establish criteria for
23 determining mitigating or aggravating circumstances when
24 determining if a report of abuse or neglect should be
25 substantiated or unsubstantiated.

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

1 Inspector General shall be conducted in a manner designed to
2 ensure the preservation of evidence for possible use in a
3 criminal prosecution.

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

23 (c) The Inspector General shall, within 10 calendar days
24 after the transmittal date of a completed investigation where
25 abuse or neglect is substantiated or administrative action is
26 recommended, provide a complete report on the case to the
27 Secretary of Human Services and to the agency in which the
28 abuse or neglect is alleged to have happened. The complete
29 report shall include a written response from the agency or
30 facility operated by the State to the Inspector General that
31 addresses in a concise and reasoned manner the actions that
32 the agency or facility will take or has taken to protect the
33 resident or patient from abuse or neglect, prevent
34 reoccurrences, and eliminate problems identified and shall

1 include implementation and completion dates for all such
2 action. The Secretary of Human Services shall accept or
3 reject the response and establish how the Department will
4 determine whether the facility or program followed the
5 approved response. The Secretary may require Department
6 personnel to visit the facility or agency for training,
7 technical assistance, programmatic, licensure, or
8 certification purposes. Administrative action, including
9 sanctions, may be applied should the Secretary reject the
10 response or should the facility or agency fail to follow the
11 approved response. The facility or agency shall inform the
12 resident or patient and the legal guardian whether the
13 reported allegation was substantiated, unsubstantiated, or
14 unfounded. There shall be an appeals process for any person
15 or agency that is subject to any action based on a
16 recommendation or recommendations.

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

27 (e) The Inspector General shall establish and conduct
28 periodic training programs for Department employees
29 concerning the prevention and reporting of neglect 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, shall establish and
33 conduct unannounced site visits to those facilities at least
34 once annually, and shall be granted access, for the purpose

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

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

11 (g-5) After notice and an opportunity for a hearing that
12 is separate and distinct from the Office of the Inspector
13 General's appeals process as implemented under subsection (c)
14 of this Section, the Inspector General shall report to the
15 Department of Public Health's nurse aide registry under
16 Section 3-206.01 of the Nursing Home Care Act the identity of
17 individuals against whom there has been a substantiated
18 finding of abuse or neglect of a service recipient.

19 Nothing in this subsection shall diminish or impair the
20 rights of a person who is a member of a collective bargaining
21 unit pursuant to the Illinois Public Labor Relations Act or
22 pursuant to any federal labor statute. Notwithstanding
23 anything hereinafter or previously provided, if an
24 individual is terminated by an employer as the result of the
25 circumstances that led to a finding of abuse or neglect and
26 that finding is later overturned under a grievance and/or
27 arbitration procedure provided for in Section 8 of the
28 Illinois Public Labor Relations Act or under a comparable
29 provision in another labor statute applicable to that person,
30 the report must be removed from the registry.

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

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

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

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

33 (h) This Section is repealed on January 1, 2002.

34 (Source: P.A. 90-252, eff. 7-29-97; 90-512, eff. 8-22-97;

1 90-655, eff. 7-30-98; 91-169, eff. 7-16-99.)

2 Section 15. The Nursing Home Care Act is amended by
3 changing Section 3-206.1 as follows:

4 (210 ILCS 45/3-206.01) (from Ch. 111 1/2, par.
5 4153-206.01)

6 Sec. 3-206.01. Nurse aide registry.

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

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

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

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

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

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