

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. This Act may be referred to as the Residential Facility Safety and Support Act.

Section 5. The Department of Human Services Act is amended by changing Section 1-17 as follows:

(20 ILCS 1305/1-17)

Sec. 1-17. Inspector General.

(a) Nature and purpose. It is the express intent of the General Assembly to ensure the health, safety, and financial condition of individuals receiving services in this State due to mental illness, developmental disability, or both by protecting those persons from acts of abuse, neglect, or both by service providers. To that end, the Office of the Inspector General for the Department of Human Services is created to investigate and report upon allegations of the abuse, neglect, or financial exploitation of individuals receiving services within mental health facilities, developmental disabilities facilities, and community agencies operated, licensed, funded, or certified by the Department of Human Services, but not licensed or certified by any other State agency.

(b) Definitions. The following definitions apply to this Section:

"Agency" or "community agency" means (i) a community agency licensed, funded, or certified by the Department, but not licensed or certified by any other human services agency of the State, to provide mental health service or developmental disabilities service, or (ii) a program licensed, funded, or certified by the Department, but not licensed or certified by any other human services agency of the State, to provide mental health service or developmental disabilities service.

"Aggravating circumstance" means a factor that is attendant to a finding and that tends to compound or increase the culpability of the accused.

"Allegation" means an assertion, complaint, suspicion, or incident involving any of the following conduct by an employee, facility, or agency against an individual or individuals: mental abuse, physical abuse, sexual abuse, neglect, or financial exploitation.

"Day" means working day, unless otherwise specified.

"Deflection" means a situation in which an individual is presented for admission to a facility or agency, and the facility staff or agency staff do not admit the individual. "Deflection" includes triage, redirection, and denial of admission.

"Department" means the Department of Human Services.

"Developmental disability" means "developmental disability" as defined in the Mental Health and Developmental Disabilities Code.

"Egregious neglect" means a finding of neglect as determined by the Inspector General that (i) represents a gross failure to adequately provide for, or a callused indifference to, the health, safety, or medical needs of an individual and (ii) results in an individual's death or other serious deterioration of an individual's physical condition or mental condition.

"Employee" means any person who provides services at the facility or agency on-site or off-site. The service relationship can be with the individual or with the facility or agency. Also, "employee" includes any employee or contractual agent of the Department of Human Services or the community agency involved in providing or monitoring or administering mental health or developmental disability services. This includes but is not limited to: owners, operators, payroll personnel, contractors, subcontractors, and volunteers.

"Facility" or "State-operated facility" means a mental health facility or developmental disabilities facility operated by the Department.

"Financial exploitation" means taking unjust advantage of an individual's assets, property, or financial resources through deception, intimidation, or conversion for the

employee's, facility's, or agency's own advantage or benefit.

"Finding" means the Office of Inspector General's determination regarding whether an allegation is substantiated, unsubstantiated, or unfounded.

"Health Care Worker Registry" or "Registry" means the Health Care Worker Registry under the Health Care Worker Background Check Act.

"Individual" means any person receiving mental health service, developmental disabilities service, or both from a facility or agency, while either on-site or off-site.

"Material obstruction of an investigation" means the purposeful interference with an investigation of physical abuse, sexual abuse, mental abuse, neglect, or financial exploitation and includes, but is not limited to, the withholding or altering of documentation or recorded evidence; influencing, threatening, or impeding witness testimony; presenting untruthful information during an interview; failing to cooperate with an investigation conducted by the Office of the Inspector General. If an employee, following a criminal investigation of physical abuse, sexual abuse, mental abuse, neglect, or financial exploitation, is convicted of an offense that is factually predicated on the employee presenting untruthful information during the course of the investigation, that offense constitutes obstruction of an investigation. Obstruction of an investigation does not include: an employee's lawful exercising of his or her constitutional

right against self-incrimination, an employee invoking his or her lawful rights to union representation as provided by a collective bargaining agreement or the Illinois Public Labor Relations Act, or a union representative's lawful activities providing representation under a collective bargaining agreement or the Illinois Public Labor Relations Act. Obstruction of an investigation is considered material when it could significantly impair an investigator's ability to gather all relevant facts. An employee shall not be placed on the Health Care Worker Registry for presenting untruthful information during an interview conducted by the Office of the Inspector General, unless, prior to the interview, the employee was provided with any previous signed statements he or she made during the course of the investigation.

"Mental abuse" means the use of demeaning, intimidating, or threatening words, signs, gestures, or other actions by an employee about an individual and in the presence of an individual or individuals that results in emotional distress or maladaptive behavior, or could have resulted in emotional distress or maladaptive behavior, for any individual present.

"Mental illness" means "mental illness" as defined in the Mental Health and Developmental Disabilities Code.

"Mentally ill" means having a mental illness.

"Mitigating circumstance" means a condition that (i) is attendant to a finding, (ii) does not excuse or justify the conduct in question, but (iii) may be considered in evaluating

the severity of the conduct, the culpability of the accused, or both the severity of the conduct and the culpability of the accused.

"Neglect" means an employee's, agency's, or facility's failure to provide adequate medical care, personal care, or maintenance and that, as a consequence, (i) causes an individual pain, injury, or emotional distress, (ii) results in either an individual's maladaptive behavior or the deterioration of an individual's physical condition or mental condition, or (iii) places the individual's health or safety at substantial risk.

"Person with a developmental disability" means a person having a developmental disability.

"Physical abuse" means an employee's non-accidental and inappropriate contact with an individual that causes bodily harm. "Physical abuse" includes actions that cause bodily harm as a result of an employee directing an individual or person to physically abuse another individual.

"Presenting untruthful information" means making a false statement, material to an investigation of physical abuse, sexual abuse, mental abuse, neglect, or financial exploitation, knowing the statement is false.

"Recommendation" means an admonition, separate from a finding, that requires action by the facility, agency, or Department to correct a systemic issue, problem, or deficiency identified during an investigation.

"Required reporter" means any employee who suspects, witnesses, or is informed of an allegation of any one or more of the following: mental abuse, physical abuse, sexual abuse, neglect, or financial exploitation.

"Secretary" means the Chief Administrative Officer of the Department.

"Sexual abuse" means any sexual contact or intimate physical contact between an employee and an individual, including an employee's coercion or encouragement of an individual to engage in sexual behavior that results in sexual contact, intimate physical contact, sexual behavior, or intimate physical behavior. Sexual abuse also includes (i) an employee's actions that result in the sending or showing of sexually explicit images to an individual via computer, cellular phone, electronic mail, portable electronic device, or other media with or without contact with the individual or (ii) an employee's posting of sexually explicit images of an individual online or elsewhere whether or not there is contact with the individual.

"Sexually explicit images" includes, but is not limited to, any material which depicts nudity, sexual conduct, or sado-masochistic abuse, or which contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sado-masochistic abuse.

"Substantiated" means there is a preponderance of the evidence to support the allegation.

"Unfounded" means there is no credible evidence to support the allegation.

"Unsubstantiated" means there is credible evidence, but less than a preponderance of evidence to support the allegation.

(c) Appointment. The Governor shall appoint, and the Senate shall confirm, an Inspector General. The Inspector General shall be appointed for a term of 4 years and shall function within the Department of Human Services and report to the Secretary and the Governor.

(d) Operation and appropriation. The Inspector General shall function independently within the Department with respect to the operations of the Office, including the performance of investigations and issuance of findings and recommendations. The appropriation for the Office of Inspector General shall be separate from the overall appropriation for the Department.

(e) Powers and duties. The Inspector General shall investigate reports of suspected mental abuse, physical abuse, sexual abuse, neglect, or financial exploitation of individuals in any mental health or developmental disabilities facility or agency and shall have authority to take immediate action to prevent any one or more of the following from happening to individuals under its jurisdiction: mental abuse, physical abuse, sexual abuse, neglect, or financial exploitation. Upon written request of an agency of this State,

the Inspector General may assist another agency of the State in investigating reports of the abuse, neglect, or abuse and neglect of persons with mental illness, persons with developmental disabilities, or persons with both. To comply with the requirements of subsection (k) of this Section, the Inspector General shall also review all reportable deaths for which there is no allegation of abuse or neglect. Nothing in this Section shall preempt any duties of the Medical Review Board set forth in the Mental Health and Developmental Disabilities Code. The Inspector General shall have no authority to investigate alleged violations of the State Officials and Employees Ethics Act. Allegations of misconduct under the State Officials and Employees Ethics Act shall be referred to the Office of the Governor's Executive Inspector General for investigation.

(f) Limitations. The Inspector General shall not conduct an investigation within an agency or facility if that investigation would be redundant to or interfere with an investigation conducted by another State agency. The Inspector General shall have no supervision over, or involvement in, the routine programmatic, licensing, funding, or certification operations of the Department. Nothing in this subsection limits investigations by the Department that may otherwise be required by law or that may be necessary in the Department's capacity as central administrative authority responsible for the operation of the State's mental health and developmental

disabilities facilities.

(g) Rulemaking authority. The Inspector General shall promulgate rules establishing minimum requirements for reporting allegations as well as for initiating, conducting, and completing investigations based upon the nature of the allegation or allegations. The rules shall clearly establish that if 2 or more State agencies could investigate an allegation, the Inspector General shall not conduct an investigation that would be redundant to, or interfere with, an investigation conducted by another State agency. The rules shall further clarify the method and circumstances under which the Office of Inspector General may interact with the licensing, funding, or certification units of the Department in preventing further occurrences of mental abuse, physical abuse, sexual abuse, neglect, egregious neglect, and financial exploitation.

(h) Training programs. The Inspector General shall (i) establish a comprehensive program to ensure that every person authorized to conduct investigations receives ongoing training relative to investigation techniques, communication skills, and the appropriate means of interacting with persons receiving treatment for mental illness, developmental disability, or both mental illness and developmental disability, and (ii) establish and conduct periodic training programs for facility and agency employees concerning the prevention and reporting of any one or more of the following:

mental abuse, physical abuse, sexual abuse, neglect, egregious neglect, or financial exploitation. The Inspector General shall further ensure (i) every person authorized to conduct investigations at community agencies receives ongoing training in Title 59, Parts 115, 116, and 119 of the Illinois Administrative Code, and (ii) every person authorized to conduct investigations shall receive ongoing training in Title 59, Part 50 of the Illinois Administrative Code. Nothing in this Section shall be deemed to prevent the Office of Inspector General from conducting any other training as determined by the Inspector General to be necessary or helpful.

(i) Duty to cooperate.

(1) The Inspector General shall at all times be granted access to any facility or agency for the purpose of investigating any allegation, conducting unannounced site visits, monitoring compliance with a written response, or completing any other statutorily assigned duty. The Inspector General shall conduct unannounced site visits to each facility at least annually for the purpose of reviewing and making recommendations on systemic issues relative to preventing, reporting, investigating, and responding to all of the following: mental abuse, physical abuse, sexual abuse, neglect, egregious neglect, or financial exploitation.

(2) Any employee who fails to cooperate with an Office

of the Inspector General investigation is in violation of this Act. Failure to cooperate with an investigation includes, but is not limited to, any one or more of the following: (i) creating and transmitting a false report to the Office of the Inspector General hotline, (ii) providing false information to an Office of the Inspector General Investigator during an investigation, (iii) colluding with other employees to cover up evidence, (iv) colluding with other employees to provide false information to an Office of the Inspector General investigator, (v) destroying evidence, (vi) withholding evidence, or (vii) otherwise obstructing an Office of the Inspector General investigation. Additionally, any employee who, during an unannounced site visit or written response compliance check, fails to cooperate with requests from the Office of the Inspector General is in violation of this Act.

(j) Subpoena powers. The Inspector General shall have the power to subpoena witnesses and compel the production of all documents and physical evidence relating to his or her investigations and any hearings authorized by this Act. This subpoena power shall not extend to persons or documents of a labor organization or its representatives insofar as the persons are acting in a representative capacity to an employee whose conduct is the subject of an investigation or the documents relate to that representation. Any person who

otherwise fails to respond to a subpoena or who knowingly provides false information to the Office of the Inspector General by subpoena during an investigation is guilty of a Class A misdemeanor.

(k) Reporting allegations and deaths.

(1) Allegations. If an employee witnesses, is told of, or has reason to believe an incident of mental abuse, physical abuse, sexual abuse, neglect, or financial exploitation has occurred, the employee, agency, or facility shall report the allegation by phone to the Office of the Inspector General hotline according to the agency's or facility's procedures, but in no event later than 4 hours after the initial discovery of the incident, allegation, or suspicion of any one or more of the following: mental abuse, physical abuse, sexual abuse, neglect, or financial exploitation. A required reporter as defined in subsection (b) of this Section who knowingly or intentionally fails to comply with these reporting requirements is guilty of a Class A misdemeanor.

(2) Deaths. Absent an allegation, a required reporter shall, within 24 hours after initial discovery, report by phone to the Office of the Inspector General hotline each of the following:

(i) Any death of an individual occurring within 14 calendar days after discharge or transfer of the individual from a residential program or facility.

(ii) Any death of an individual occurring within 24 hours after deflection from a residential program or facility.

(iii) Any other death of an individual occurring at an agency or facility or at any Department-funded site.

(3) Retaliation. It is a violation of this Act for any employee or administrator of an agency or facility to take retaliatory action against an employee who acts in good faith in conformance with his or her duties as a required reporter.

(1) Reporting to law enforcement. Reporting criminal acts. Within 24 hours after determining that there is credible evidence indicating that a criminal act may have been committed or that special expertise may be required in an investigation, the Inspector General shall notify the Illinois State Police or other appropriate law enforcement authority, or ensure that such notification is made. The Illinois State Police shall investigate any report from a State-operated facility indicating a possible murder, sexual assault, or other felony by an employee. All investigations conducted by the Inspector General shall be conducted in a manner designed to ensure the preservation of evidence for possible use in a criminal prosecution.

(m) Investigative reports. Upon completion of an investigation, the Office of Inspector General shall issue an

investigative report identifying whether the allegations are substantiated, unsubstantiated, or unfounded. Within 10 business days after the transmittal of a completed investigative report substantiating an allegation, finding an allegation is unsubstantiated, or if a recommendation is made, the Inspector General shall provide the investigative report on the case to the Secretary and to the director of the facility or agency where any one or more of the following occurred: mental abuse, physical abuse, sexual abuse, neglect, egregious neglect, ~~or~~ financial exploitation, or material obstruction of an investigation. The director of the facility or agency shall be responsible for maintaining the confidentiality of the investigative report consistent with State and federal law. In a substantiated case, the investigative report shall include any mitigating or aggravating circumstances that were identified during the investigation. If the case involves substantiated neglect, the investigative report shall also state whether egregious neglect was found. An investigative report may also set forth recommendations. All investigative reports prepared by the Office of the Inspector General shall be considered confidential and shall not be released except as provided by the law of this State or as required under applicable federal law. Unsubstantiated and unfounded reports shall not be disclosed except as allowed under Section 6 of the Abused and Neglected Long Term Care Facility Residents Reporting Act. Raw

data used to compile the investigative report shall not be subject to release unless required by law or a court order. "Raw data used to compile the investigative report" includes, but is not limited to, any one or more of the following: the initial complaint, witness statements, photographs, investigator's notes, police reports, or incident reports. If the allegations are substantiated, the victim, the victim's guardian, and the accused shall be provided with a redacted copy of the investigative report. Death reports where there was no allegation of abuse or neglect shall only be released pursuant to applicable State or federal law or a valid court order. Unredacted investigative reports, as well as raw data, may be shared with a local law enforcement entity, a State's Attorney's office, or a county coroner's office upon written request.

(n) Written responses, clarification requests, and reconsideration requests.

(1) Written responses. Within 30 calendar days from receipt of a substantiated investigative report or an investigative report which contains recommendations, absent a reconsideration request, the facility or agency shall file a written response that addresses, in a concise and reasoned manner, the actions taken to: (i) protect the individual; (ii) prevent recurrences; and (iii) eliminate the problems identified. The response shall include the implementation and completion dates of such actions. If

the written response is not filed within the allotted 30 calendar day period, the Secretary shall determine the appropriate corrective action to be taken.

(2) Requests for clarification. The facility, agency, victim or guardian, or the subject employee may request that the Office of Inspector General clarify the finding or findings for which clarification is sought.

(3) Requests for reconsideration. The facility, agency, victim or guardian, or the subject employee may request that the Office of the Inspector General reconsider the finding or findings or the recommendations. A request for reconsideration shall be subject to a multi-layer review and shall include at least one reviewer who did not participate in the investigation or approval of the original investigative report. After the multi-layer review process has been completed, the Inspector General shall make the final determination on the reconsideration request. The investigation shall be reopened if the reconsideration determination finds that additional information is needed to complete the investigative record.

(o) Disclosure of the finding by the Inspector General. The Inspector General shall disclose the finding of an investigation to the following persons: (i) the Governor, (ii) the Secretary, (iii) the director of the facility or agency, (iv) the alleged victims and their guardians, (v) the

complainant, and (vi) the accused. This information shall include whether the allegations were deemed substantiated, unsubstantiated, or unfounded.

(p) Secretary review. Upon review of the Inspector General's investigative report and any agency's or facility's written response, the Secretary shall accept or reject the written response and notify the Inspector General of that determination. The Secretary may further direct that other administrative action be taken, including, but not limited to, any one or more of the following: (i) additional site visits, (ii) training, (iii) provision of technical assistance relative to administrative needs, licensure, or certification, or (iv) the imposition of appropriate sanctions.

(q) Action by facility or agency. Within 30 days of the date the Secretary approves the written response or directs that further administrative action be taken, the facility or agency shall provide an implementation report to the Inspector General that provides the status of the action taken. The facility or agency shall be allowed an additional 30 days to send notice of completion of the action or to send an updated implementation report. If the action has not been completed within the additional 30-day period, the facility or agency shall send updated implementation reports every 60 days until completion. The Inspector General shall conduct a review of any implementation plan that takes more than 120 days after approval to complete, and shall monitor compliance through a

random review of approved written responses, which may include, but are not limited to: (i) site visits, (ii) telephone contact, and (iii) requests for additional documentation evidencing compliance.

(r) Sanctions. Sanctions, if imposed by the Secretary under Subdivision (p)(iv) of this Section, shall be designed to prevent further acts of mental abuse, physical abuse, sexual abuse, neglect, egregious neglect, or financial exploitation or some combination of one or more of those acts at a facility or agency, and may include any one or more of the following:

- (1) Appointment of on-site monitors.
- (2) Transfer or relocation of an individual or individuals.
- (3) Closure of units.
- (4) Termination of any one or more of the following:
 - (i) Department licensing, (ii) funding, or (iii) certification.

The Inspector General may seek the assistance of the Illinois Attorney General or the office of any State's Attorney in implementing sanctions.

(s) Health Care Worker Registry.

- (1) Reporting to the Registry. The Inspector General shall report to the Department of Public Health's Health Care Worker Registry, a public registry, the identity and finding of each employee of a facility or agency against

whom there is a final investigative report prepared by the Office of the Inspector General containing a substantiated allegation of physical or sexual abuse, financial exploitation, ~~or~~ egregious neglect of an individual, or material obstruction of an investigation, unless the Inspector General requests a stipulated disposition of the investigative report that does not include the reporting of the employee's name to the Health Care Worker Registry and the Secretary of Human Services agrees with the requested stipulated disposition.

(2) Notice to employee. Prior to reporting the name of an employee, the employee shall be notified of the Department's obligation to report and shall be granted an opportunity to request an administrative hearing, the sole purpose of which is to determine if the substantiated finding warrants reporting to the Registry. Notice to the employee shall contain a clear and concise statement of the grounds on which the report to the Registry is based, offer the employee an opportunity for a hearing, and identify the process for requesting such a hearing. Notice is sufficient if provided by certified mail to the employee's last known address. If the employee fails to request a hearing within 30 days from the date of the notice, the Inspector General shall report the name of the employee to the Registry. Nothing in this subdivision (s) (2) shall diminish or impair the rights of a person who

is a member of a collective bargaining unit under the Illinois Public Labor Relations Act or under any other federal labor statute.

(3) Registry hearings. If the employee requests an administrative hearing, the employee shall be granted an opportunity to appear before an administrative law judge to present reasons why the employee's name should not be reported to the Registry. The Department shall bear the burden of presenting evidence that establishes, by a preponderance of the evidence, that the substantiated finding warrants reporting to the Registry. After considering all the evidence presented, the administrative law judge shall make a recommendation to the Secretary as to whether the substantiated finding warrants reporting the name of the employee to the Registry. The Secretary shall render the final decision. The Department and the employee shall have the right to request that the administrative law judge consider a stipulated disposition of these proceedings.

(4) Testimony at Registry hearings. A person who makes a report or who investigates a report under this Act shall testify fully in any judicial proceeding resulting from such a report, as to any evidence of abuse or neglect, or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged perpetrator of abuse or

neglect, or the individual alleged as the victim in the report, and the person making or investigating the report. Testimony at hearings is exempt from the confidentiality requirements of subsection (f) of Section 10 of the Mental Health and Developmental Disabilities Confidentiality Act.

(5) Employee's rights to collateral action. No reporting to the Registry shall occur and no hearing shall be set or proceed if an employee notifies the Inspector General in writing, including any supporting documentation, that he or she is formally contesting an adverse employment action resulting from a substantiated finding by complaint filed with the Illinois Civil Service Commission, or which otherwise seeks to enforce the employee's rights pursuant to any applicable collective bargaining agreement. If an action taken by an employer against an employee as a result of a finding of physical abuse, sexual abuse, or egregious neglect is overturned through an action filed with the Illinois Civil Service Commission or under any applicable collective bargaining agreement and if that employee's name has already been sent to the Registry, the employee's name shall be removed from the Registry.

(6) Removal from Registry. At any time after the report to the Registry, but no more than once in any 12-month period, an employee may petition the Department in writing to remove his or her name from the Registry.

Upon receiving notice of such request, the Inspector General shall conduct an investigation into the petition. Upon receipt of such request, an administrative hearing will be set by the Department. At the hearing, the employee shall bear the burden of presenting evidence that establishes, by a preponderance of the evidence, that removal of the name from the Registry is in the public interest. The parties may jointly request that the administrative law judge consider a stipulated disposition of these proceedings.

(t) Review of Administrative Decisions. The Department shall preserve a record of all proceedings at any formal hearing conducted by the Department involving Health Care Worker Registry hearings. Final administrative decisions of the Department are subject to judicial review pursuant to provisions of the Administrative Review Law.

(u) Quality Care Board. There is created, within the Office of the Inspector General, a Quality Care Board to be composed of 7 members appointed by the Governor with the advice and consent of the Senate. One of the members shall be designated as chairman by the Governor. Of the initial appointments made by the Governor, 4 Board members shall each be appointed for a term of 4 years and 3 members shall each be appointed for a term of 2 years. Upon the expiration of each member's term, a successor shall be appointed for a term of 4 years. In the case of a vacancy in the office of any member,

the Governor shall appoint a successor for the remainder of the unexpired term.

Members appointed by the Governor shall be qualified by professional knowledge or experience in the area of law, investigatory techniques, or in the area of care of the mentally ill or care of persons with developmental disabilities. Two members appointed by the Governor shall be persons with a disability or parents of persons with a disability. Members shall serve without compensation, but shall be reimbursed for expenses incurred in connection with the performance of their duties as members.

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

The Board shall monitor and oversee the operations, policies, and procedures of the Inspector General to ensure the prompt and thorough investigation of allegations of neglect and abuse. In fulfilling these responsibilities, the Board may do the following:

- (1) Provide independent, expert consultation to the Inspector General on policies and protocols for investigations of alleged abuse, neglect, or both abuse and neglect.

- (2) Review existing regulations relating to the

operation of facilities.

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

(4) Recommend policies concerning methods for improving the intergovernmental relationships between the Office of the Inspector General and other State or federal offices.

(v) Annual report. The Inspector General shall provide to the General Assembly and the Governor, no later than January 1 of each year, a summary of reports and investigations made under this Act for the prior fiscal year with respect to individuals receiving mental health or developmental disabilities services. The report shall detail the imposition of sanctions, if any, and the final disposition of any corrective or administrative action directed by the Secretary. The summaries shall not contain any confidential or identifying information of any individual, but shall include objective data identifying any trends in the number of reported allegations, the timeliness of the Office of the Inspector General's investigations, and their disposition, for each facility and Department-wide, for the most recent 3-year time period. The report shall also identify, by facility, the staff-to-patient ratios taking account of direct care staff only. The report shall also include detailed recommended administrative actions and matters for consideration by the General Assembly.

(w) Program audit. The Auditor General shall conduct a program audit of the Office of the Inspector General on an as-needed basis, as determined by the Auditor General. The audit shall specifically include the Inspector General's compliance with the Act and effectiveness in investigating reports of allegations occurring in any facility or agency. The Auditor General shall conduct the program audit according to the provisions of the Illinois State Auditing Act and shall report its findings to the General Assembly no later than January 1 following the audit period.

(x) Nothing in this Section shall be construed to mean that an individual is a victim of abuse or neglect because of health care services appropriately provided or not provided by health care professionals.

(y) Nothing in this Section shall require a facility, including its employees, agents, medical staff members, and health care professionals, to provide a service to an individual in contravention of that individual's stated or implied objection to the provision of that service on the ground that that service conflicts with the individual's religious beliefs or practices, nor shall the failure to provide a service to an individual be considered abuse under this Section if the individual has objected to the provision of that service based on his or her religious beliefs or practices.

(Source: P.A. 101-81, eff. 7-12-19; 102-538, eff. 8-20-21;

102-883, eff. 5-13-22; 102-1071, eff. 6-10-22; revised 7-26-22.)

Section 10. The Mental Health and Developmental Disabilities Administrative Act is amended by changing Section 7.3 as follows:

(20 ILCS 1705/7.3)

Sec. 7.3. Health Care Worker Registry; ~~finding of abuse or neglect~~. The Department shall require that no facility, service agency, or support agency providing mental health or developmental disability services that is licensed, certified, operated, or funded by the Department shall employ a person, in any capacity, who is identified by the Health Care Worker Registry as having been the subject of a substantiated finding of physical abuse, sexual abuse, financial exploitation, egregious neglect, or material obstruction of an investigation ~~abuse or neglect of a service recipient~~. Any owner or operator of a community agency who is identified by the Health Care Worker Registry as having been the subject of a substantiated finding of physical abuse, sexual abuse, financial exploitation, egregious neglect, or material obstruction of an investigation ~~abuse or neglect of a service recipient~~ is prohibited from any involvement in any capacity with the provision of Department funded mental health or developmental disability services. The Department shall establish and

maintain the rules that are necessary or appropriate to effectuate the intent of this Section. The provisions of this Section shall not apply to any facility, service agency, or support agency licensed or certified by a State agency other than the Department, unless operated by the Department of Human Services.

(Source: P.A. 100-432, eff. 8-25-17.)

Section 15. The Health Care Worker Background Check Act is amended by changing Section 25 as follows:

(225 ILCS 46/25)

Sec. 25. Hiring of people with criminal records by health care employers and long-term care facilities.

(a) A health care employer or long-term care facility may hire, employ, or retain any individual in a position involving direct care for clients, patients, or residents, or access to the living quarters or the financial, medical, or personal records of clients, patients, or residents who has been convicted of committing or attempting to commit one or more of the following offenses only with a waiver described in Section 40: those defined in Sections 8-1(b), 8-1.1, 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1, 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9.1, 11-9.2, 11-9.3, 11-9.4-1, 11-9.5, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1,

12-2, 12-3.05, 12-3.1, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-19, 12-20.5, 12-21, 12-21.5, 12-21.6, 12-32, 12-33, 12C-5, 12C-10, 16-1, 16-1.3, 16-25, 16A-3, 17-3, 17-56, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3, 19-4, 19-6, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, 24-1.8, 24-3.8, or 33A-2, or subdivision (a) (4) of Section 11-14.4, or in subsection (a) of Section 12-3 or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012; those provided in Section 4 of the Wrongs to Children Act; those provided in Section 53 of the Criminal Jurisprudence Act; those defined in subsection (c), (d), (e), (f), or (g) of Section 5 or Section 5.1, 5.2, 7, or 9 of the Cannabis Control Act; those defined in the Methamphetamine Control and Community Protection Act; those defined in Sections 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois Controlled Substances Act; or subsection (a) of Section 3.01, Section 3.02, or Section 3.03 of the Humane Care for Animals Act.

(a-1) A health care employer or long-term care facility may hire, employ, or retain any individual in a position involving direct care for clients, patients, or residents, or access to the living quarters or the financial, medical, or personal records of clients, patients, or residents who has been convicted of committing or attempting to commit one or more of the following offenses only with a waiver described in

Section 40: those offenses defined in Section 12-3.3, 12-4.2-5, 16-2, 16-30, 16G-15, 16G-20, 17-33, 17-34, 17-36, 17-44, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6, 24-3.2, or 24-3.3, or subsection (b) of Section 17-32, subsection (b) of Section 18-1, or subsection (b) of Section 20-1, of the Criminal Code of 1961 or the Criminal Code of 2012; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card and Debit Card Act; or Section 11-9.1A of the Criminal Code of 1961 or the Criminal Code of 2012 or Section 5.1 of the Wrongs to Children Act; or (ii) violated Section 50-50 of the Nurse Practice Act.

A health care employer is not required to retain an individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility is required to retain an individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has been convicted of committing or attempting to commit one or more of the offenses enumerated in this subsection.

(b) A health care employer shall not hire, employ, or retain, whether paid or on a volunteer basis, any individual in a position with duties involving direct care of clients, patients, or residents, and no long-term care facility shall knowingly hire, employ, or retain, whether paid or on a volunteer basis, any individual in a position with duties that involve or may involve contact with residents or access to the

living quarters or the financial, medical, or personal records of residents, if the health care employer becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsection (a) or (a-1), as verified by court records, records from a state agency, or an FBI criminal history record check, unless the applicant or employee obtains a waiver pursuant to Section 40 of this Act. This shall not be construed to mean that a health care employer has an obligation to conduct a criminal history records check in other states in which an employee has resided.

(c) A health care employer shall not hire, employ, or retain, whether paid or on a volunteer basis, any individual in a position with duties involving direct care of clients, patients, or residents, who has a finding by the Department of abuse, neglect, misappropriation of property, or theft denoted on the Health Care Worker Registry.

(d) A health care employer shall not hire, employ, or retain, whether paid or on a volunteer basis, any individual in a position with duties involving direct care of clients, patients, or residents if the individual has a verified and substantiated finding of abuse, neglect, or financial exploitation, as identified within the Adult Protective Service Registry established under Section 7.5 of the Adult Protective Services Act.

(e) A health care employer shall not hire, employ, or retain, whether paid or on a volunteer basis, any individual in a position with duties involving direct care of clients, patients, or residents who has a finding by the Department of Human Services denoted on the Health Care Worker Registry of physical or sexual abuse, financial exploitation, ~~or~~ egregious neglect, or material obstruction of an investigation ~~of an individual denoted on the Health Care Worker Registry.~~

(Source: P.A. 99-872, eff. 1-1-17; 100-432, eff. 8-25-17.)

Section 99. Effective date. This Act takes effect upon becoming law.