

1 AN ACT concerning long term care facility residents.

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

4 Section 5. The Abused and Neglected Long Term Care
5 Facility Residents Reporting Act is amended by changing
6 Sections 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, and 6.8 as follows:

7 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)

8 (Section scheduled to be repealed on January 1, 2002)

9 Sec. 6.2. Inspector General.

10 (a) The Governor shall appoint, and the Senate shall
11 confirm, an Inspector General who shall function within the
12 Department of Human Services and report to the Secretary of
13 Human Services and the Governor. The Inspector General shall
14 investigate reports of suspected abuse or neglect (as those
15 terms are defined in Section 3 of this Act) of patients or
16 residents in any mental health or developmental disabilities
17 facility operated by the Department of Human Services and
18 shall have authority to investigate and take immediate action
19 on reports of abuse or neglect of recipients, whether
20 patients or residents, in any mental health or developmental
21 disabilities facility or program that is licensed or
22 certified by the Department of Human Services (as successor
23 to the Department of Mental Health and Developmental
24 Disabilities) or that is funded by the Department of Human
25 Services (as successor to the Department of Mental Health and
26 Developmental Disabilities) and is not licensed or certified
27 by any agency of the State. At the specific, written request
28 of an agency of the State other than the Department of Human
29 Services (as successor to the Department of Mental Health and
30 Developmental Disabilities), the Inspector General may
31 cooperate in investigating reports of abuse and neglect of

1 persons with mental illness or persons with developmental
2 disabilities. The Inspector General shall have no
3 supervision over or involvement in routine, programmatic,
4 licensure, or certification operations of the Department of
5 Human Services or any of its funded agencies.

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

30 The Inspector General shall be appointed for a term of 4
31 years.

32 (b) The Inspector General shall within 24 hours after
33 receiving a report of suspected abuse or neglect determine
34 whether the evidence indicates that any possible criminal act

1 has been committed. If he determines that a possible criminal
2 act has been committed, or that special expertise is required
3 in the investigation, he shall immediately notify the
4 Department of State Police. The Department of State Police
5 shall investigate any report indicating a possible murder,
6 rape, or other felony. All investigations conducted by the
7 Inspector General shall be conducted in a manner designed to
8 ensure the preservation of evidence for possible use in a
9 criminal prosecution.

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

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

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

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

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

31 (f) The Inspector General shall at all times be granted
32 access to any mental health or developmental disabilities
33 facility operated by the Department, shall establish and
34 conduct unannounced site visits to those facilities at least

1 once annually, and shall be granted access, for the purpose
2 of investigating a report of abuse or neglect, to any
3 facility or program funded by the Department that is subject
4 under the provisions of this Section to investigation by the
5 Inspector General for a report of abuse or neglect.

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

12 (h) This Section is repealed on January 1, 2004 2002.

13 (Source: P.A. 90-252, eff. 7-29-97; 90-512, eff. 8-22-97;
14 90-655, eff. 7-30-98; 91-169, eff. 7-16-99.)

15 (210 ILCS 30/6.3) (from Ch. 111 1/2, par. 4166.3)

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

17 Sec. 6.3. Quality Care Board. There is created, within
18 the Department of Human Services' Office of the Inspector
19 General, a Quality Care Board to be composed of 7 members
20 appointed by the Governor with the advice and consent of the
21 Senate. One of the members shall be designated as chairman
22 by the Governor. Of the initial appointments made by the
23 Governor, 4 Board members shall each be appointed for a term
24 of 4 years and 3 members shall each be appointed for a term
25 of 2 years. Upon the expiration of each member's term, a
26 successor shall be appointed for a term of 4 years. In the
27 case of a vacancy in the office of any member, the Governor
28 shall appoint a successor for the remainder of the unexpired
29 term.

30 Members appointed by the Governor shall be qualified by
31 professional knowledge or experience in the area of law,
32 investigatory techniques, or in the area of care of the
33 mentally ill or developmentally disabled. Two members

1 appointed by the Governor shall be persons with a disability
 2 or a parent of a person with a disability. Members shall
 3 serve without compensation, but shall be reimbursed for
 4 expenses incurred in connection with the performance of their
 5 duties as members.

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

10 This Section is repealed on January 1, 2004 2002.

11 (Source: P.A. 91-169, eff. 7-16-99.)

12 (210 ILCS 30/6.4) (from Ch. 111 1/2, par. 4166.4)

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

14 Sec. 6.4. Scope and function of the Quality Care Board.
 15 The Board shall monitor and oversee the operations, policies,
 16 and procedures of the Inspector General to assure the prompt
 17 and thorough investigation of allegations of neglect and
 18 abuse. In fulfilling these responsibilities, the Board may
 19 do the following:

20 (1) Provide independent, expert consultation to the
 21 Inspector General on policies and protocols for
 22 investigations of alleged neglect and abuse.

23 (2) Review existing regulations relating to the
 24 operation of facilities under the control of the
 25 Department.

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

28 (4) Recommend policies concerning methods for
 29 improving the intergovernmental relationships between the
 30 office of the Inspector General and other State or
 31 federal agencies.

32 This Section is repealed on January 1, 2004 2002.

33 (Source: P.A. 91-169, eff. 7-16-99.)

1 (210 ILCS 30/6.5) (from Ch. 111 1/2, par. 4166.5)
 2 (Section scheduled to be repealed on January 1, 2002)
 3 Sec. 6.5. Investigators. Within 60 days after the
 4 effective date of this amendatory Act of 1992, the Inspector
 5 General shall establish a comprehensive program to ensure
 6 that every person employed or newly hired to conduct
 7 investigations shall receive training on an on-going basis
 8 concerning investigative techniques, communication skills,
 9 and the appropriate means of contact with persons admitted or
 10 committed to the mental health or developmental disabilities
 11 facilities under the jurisdiction of the Department of Human
 12 Services.

13 This Section is repealed on January 1, 2004 2002.
 14 (Source: P.A. 91-169, eff. 7-16-99.)

15 (210 ILCS 30/6.6) (from Ch. 111 1/2, par. 4166.6)
 16 (Section scheduled to be repealed on January 1, 2002)
 17 Sec. 6.6. Subpoenas; testimony; penalty. The Inspector
 18 General shall have the power to subpoena witnesses and compel
 19 the production of books and papers pertinent to an
 20 investigation authorized by this Act, provided that the power
 21 to subpoena or to compel the production of books and papers
 22 shall not extend to the person or documents of a labor
 23 organization or its representatives insofar as the person or
 24 documents of a labor organization relate to the function of
 25 representing an employee subject to investigation under this
 26 Act. Mental health records of patients shall be confidential
 27 as provided under the Mental Health and Developmental
 28 Disabilities Confidentiality Act. Any person who fails to
 29 appear in response to a subpoena or to answer any question or
 30 produce any books or papers pertinent to an investigation
 31 under this Act, except as otherwise provided in this Section,
 32 or who knowingly gives false testimony in relation to an
 33 investigation under this Act is guilty of a Class A

1 misdemeanor.

2 This Section is repealed on January 1, 2004 2002.

3 (Source: P.A. 91-169, eff. 7-16-99.)

4 (210 ILCS 30/6.7) (from Ch. 111 1/2, par. 4166.7)

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

6 Sec. 6.7. Annual report. The Inspector General shall
7 provide to the General Assembly and the Governor, no later
8 than January 1 of each year, a summary of reports and
9 investigations made under this Act for the prior fiscal year
10 with respect to residents of institutions under the
11 jurisdiction of the Department. The report shall detail the
12 imposition of sanctions and the final disposition of those
13 recommendations. The summaries shall not contain any
14 confidential or identifying information concerning the
15 subjects of the reports and investigations. The report shall
16 also include a trend analysis of the number of reported
17 allegations and their disposition, for each facility and
18 Department-wide, for the most recent 3-year time period and a
19 statement, for each facility, of the staffing-to-patient
20 ratios. The ratios shall include only the number of direct
21 care staff. The report shall also include detailed
22 recommended administrative actions and matters for
23 consideration by the General Assembly.

24 This Section is repealed on January 1, 2004 2002.

25 (Source: P.A. 91-169, eff. 7-16-99.)

26 (210 ILCS 30/6.8) (from Ch. 111 1/2, par. 4166.8)

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

28 Sec. 6.8. Program audit. The Auditor General shall
29 conduct a biennial program audit of the office of the
30 Inspector General in relation to the Inspector General's
31 compliance with this Act. The audit shall specifically
32 include the Inspector General's effectiveness in

1 investigating reports of alleged neglect or abuse of
2 residents in any facility operated by the Department and in
3 making recommendations for sanctions to the Departments of
4 Human Services and Public Health. The Auditor General shall
5 conduct the program audit according to the provisions of the
6 Illinois State Auditing Act and shall report its findings to
7 the General Assembly no later than January 1 of each
8 odd-numbered year.

9 This Section is repealed on January 1, 2004 2002.

10 (Source: P.A. 91-169, eff. 7-16-99.)

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