

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 the rules that 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26 (Section scheduled to be repealed on January 1, 2002)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 the Office of the Inspector General has
19 substantiated a case of abuse or neglect, the Inspector
20 General shall include in the final report any mitigating or
21 aggravating circumstances that were identified during the
22 investigation. Upon determination that a report of neglect
23 is substantiated, the Inspector General shall then determine
24 whether such neglect rises to the level of egregious neglect.

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

1 ensure the preservation of evidence for possible use in a
2 criminal prosecution.

3 (b-5) The Inspector General shall make a determination
4 to accept or reject a preliminary report of the investigation
5 of alleged abuse or neglect based on established
6 investigative procedures. Notice of the Inspector General's
7 determination must be given to the person who claims to be
8 the victim of the abuse or neglect, to the person or persons
9 alleged to have been responsible for abuse or neglect, and to
10 the facility or agency. The facility or agency or the person
11 or persons alleged to have been responsible for the abuse or
12 neglect and the person who claims to be the victim of the
13 abuse or neglect may request clarification or reconsideration
14 based on additional information. For cases where the
15 allegation of abuse or neglect is substantiated, the
16 Inspector General shall require the facility or agency to
17 submit a written response. The written response from a
18 facility or agency shall address in a concise and reasoned
19 manner the actions that the agency or facility will take or
20 has taken to protect the resident or patient from abuse or
21 neglect, prevent reoccurrences, and eliminate problems
22 identified and shall include implementation and completion
23 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 (g-5) After notice and an opportunity for a hearing that
13 is separate and distinct from the Office of the Inspector
14 General's appeals process as implemented under subsection (c)
15 of this Section, the Inspector General shall report to the
16 Department of Public Health's nurse aide registry under
17 Section 3-206.01 of the Nursing Home Care Act the identity of
18 individuals against whom there has been a substantiated
19 finding of physical or sexual abuse or egregious neglect of a
20 service recipient.

21 Nothing in this subsection shall diminish or impair the
22 rights of a person who is a member of a collective bargaining
23 unit pursuant to the Illinois Public Labor Relations Act or
24 pursuant to any federal labor statute. An individual who is
25 a member of a collective bargaining unit as described above
26 shall not be reported to the Department of Public Health's
27 nurse aide registry until the exhaustion of that individual's
28 grievance and arbitration rights, or until 3 months after the
29 initiation of the grievance process, whichever occurs first,
30 provided that the Department of Human Services' hearing under
31 subsection (c), that is separate and distinct from the Office
32 of the Inspector General's appeals process, has concluded.
33 Notwithstanding anything hereinafter or previously provided,
34 if an action taken by an employer against an individual as a

1 result of the circumstances that led to a finding of physical
2 or sexual abuse or egregious neglect is later overturned
3 under a grievance or arbitration procedure provided for in
4 Section 8 of the Illinois Public Labor Relations Act or under
5 a collective bargaining agreement, the report must be removed
6 from the registry.

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

21 Notice to the individual shall include a clear and
22 concise statement of the grounds on which the report to the
23 registry is based and notice of the opportunity for a hearing
24 to contest the report. The Department of Human Services shall
25 provide the notice by certified mail to the last known
26 address of the individual. The notice shall give the
27 individual an opportunity to contest the report in a hearing
28 before the Department of Human Services or to submit a
29 written response to the findings instead of requesting a
30 hearing. If the individual does not request a hearing or if
31 after notice and a hearing the Department of Human Services
32 finds that the report is valid, the finding shall be included
33 as part of the registry, as well as a brief statement from
34 the reported individual if he or she chooses to make a

1 statement. The Department of Public Health shall make
2 available to the public information reported to the registry.
3 In a case of inquiries concerning an individual listed in the
4 registry, any information disclosed concerning a finding of
5 abuse or neglect shall also include disclosure of the
6 individual's brief statement in the registry relating to the
7 reported finding or include a clear and accurate summary of
8 the statement.

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

19 (h) This Section is repealed on January 1, 2002.
20 (Source: P.A. 90-252, eff. 7-29-97; 90-512, eff. 8-22-97;
21 90-655, eff. 7-30-98; 91-169, eff. 7-16-99.)

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

24 (210 ILCS 45/3-206.01) (from Ch. 111 1/2, par.
25 4153-206.01)

26 Sec. 3-206.01. Nurse aide registry.

27 (a) The Department shall establish and maintain a
28 registry of all individuals who have satisfactorily completed
29 the training required by Section 3-206. The registry shall
30 include the name of the nursing assistant, habilitation aide,
31 or child care aide, his or her current address, Social
32 Security number, and the date and location of the training

1 course completed by the individual, and the date of the
2 individual's last criminal records check. Any individual
3 placed on the registry is required to inform the Department
4 of any change of address within 30 days. A facility shall not
5 employ an individual as a nursing assistant, habilitation
6 aide, or child care aide unless the facility has inquired of
7 the Department as to information in the registry concerning
8 the individual and shall not employ anyone not on the
9 registry unless the individual is enrolled in a training
10 program under paragraph (5) of subsection (a) of Section
11 3-206 of this Act.

12 If the Department finds that a nursing assistant,
13 habilitation aide, or child care aide has abused a resident,
14 neglected a resident, or misappropriated resident property in
15 a facility, the Department shall notify the individual of
16 this finding by certified mail sent to the address contained
17 in the registry. The notice shall give the individual an
18 opportunity to contest the finding in a hearing before the
19 Department or to submit a written response to the findings in
20 lieu of requesting a hearing. If, after a hearing or if the
21 individual does not request a hearing, the Department finds
22 that the individual abused a resident, neglected a resident,
23 or misappropriated resident property in a facility, the
24 finding shall be included as part of the registry as well as
25 a brief statement from the individual, if he or she chooses
26 to make such a statement. The Department shall make
27 information in the registry available to the public. In the
28 case of inquiries to the registry concerning an individual
29 listed in the registry, any information disclosed concerning
30 such a finding shall also include disclosure of any statement
31 in the registry relating to the finding or a clear and
32 accurate summary of the statement.

33 (b) The Department shall add to the nurse aide registry
34 records of findings as reported by the Inspector General or

1 remove from the nurse aide registry records of findings as
2 reported by the Department of Human Services, under Section
3 6.2 of the Abuse and Neglected Long Term Care Facility
4 Residents Reporting Act.

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

6 Section 99. Effective date. This Act takes effect on
7 January 1, 2002.