

1 AN ACT concerning regulation.

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 Facility  
5 Residents Reporting Act is amended by changing Sections 4 and  
6 6.2 as follows:

7 (210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

8 Sec. 4. Any long term care facility administrator, agent or  
9 employee or any physician, hospital, surgeon, dentist,  
10 osteopath, chiropractor, podiatrist, accredited religious  
11 practitioner who provides treatment by spiritual means alone  
12 through prayer in accordance with the tenets and practices of  
13 the accrediting church ~~Christian—Science—practitioner,~~  
14 coroner, social worker, social services administrator,  
15 registered nurse, law enforcement officer, field personnel of  
16 the ~~Illinois~~ Department of Healthcare and Family Services  
17 ~~Public Aid~~, field personnel of the Illinois Department of  
18 Public Health and County or Municipal Health Departments,  
19 personnel of the Department of Human Services (acting as the  
20 successor to the Department of Mental Health and Developmental  
21 Disabilities or the Department of Public Aid), personnel of the  
22 Guardianship and Advocacy Commission, personnel of the State  
23 Fire Marshal, local fire department inspectors or other  
24 personnel, or personnel of the Illinois Department on Aging, or  
25 its subsidiary Agencies on Aging, or employee of a facility  
26 licensed under the Assisted Living and Shared Housing Act,  
27 having reasonable cause to believe any resident with whom they  
28 have direct contact has been subjected to abuse or neglect  
29 shall immediately report or cause a report to be made to the  
30 Department. Persons required to make reports or cause reports  
31 to be made under this Section include all employees of the  
32 State of Illinois who are involved in providing services to

1 residents, including professionals providing medical or  
2 rehabilitation services and all other persons having direct  
3 contact with residents; and further include all employees of  
4 community service agencies who provide services to a resident  
5 of a public or private long term care facility outside of that  
6 facility. Any long term care surveyor of the Illinois  
7 Department of Public Health who has reasonable cause to believe  
8 in the course of a survey that a resident has been abused or  
9 neglected and initiates an investigation while on site at the  
10 facility shall be exempt from making a report under this  
11 Section but the results of any such investigation shall be  
12 forwarded to the central register in a manner and form  
13 described by the Department.

14 The requirement of this Act shall not relieve any long term  
15 care facility administrator, agent or employee of  
16 responsibility to report the abuse or neglect of a resident  
17 under Section 3-610 of the Nursing Home Care Act.

18 In addition to the above persons required to report  
19 suspected resident abuse and neglect, any other person may make  
20 a report to the Department, or to any law enforcement officer,  
21 if such person has reasonable cause to suspect a resident has  
22 been abused or neglected.

23 This Section also applies to residents whose death occurs  
24 from suspected abuse or neglect before being found or brought  
25 to a hospital.

26 A person required to make reports or cause reports to be  
27 made under this Section who fails to comply with the  
28 requirements of this Section is guilty of a Class A  
29 misdemeanor.

30 (Source: P.A. 91-656, eff. 1-1-01; revised 12-15-05.)

31 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)

32 Sec. 6.2. Inspector General.

33 (a) The Governor shall appoint, and the Senate shall  
34 confirm, an Inspector General. The Inspector General shall be  
35 appointed for a term of 4 years and 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 function independently within the Department of Human Services  
4 with respect to the operations of the office, including the  
5 performance of investigations and issuance of findings and  
6 recommendations. The appropriation for the Office of Inspector  
7 General shall be separate from the overall appropriation for  
8 the Department of Human Services. The Inspector General shall  
9 investigate reports of suspected abuse or neglect (as those  
10 terms are defined in Section 3 of this Act) of patients or  
11 residents in any mental health or developmental disabilities  
12 facility operated by the Department of Human Services and shall  
13 have authority to investigate and take immediate action on  
14 reports of abuse or neglect of recipients, whether patients or  
15 residents, in any mental health or developmental disabilities  
16 facility or program that is licensed or certified by the  
17 Department of Human Services (as successor to the Department of  
18 Mental Health and Developmental Disabilities) or that is funded  
19 by the Department of Human Services (as successor to the  
20 Department of Mental Health and Developmental Disabilities)  
21 and is not licensed or certified by any agency of the State. At  
22 the specific, written request of an agency of the State other  
23 than the Department of Human Services (as successor to the  
24 Department of Mental Health and Developmental Disabilities),  
25 the Inspector General may cooperate in investigating reports of  
26 abuse and neglect of persons with mental illness or persons  
27 with developmental disabilities. The Inspector General shall  
28 have no supervision over or involvement in routine,  
29 programmatic, licensure, or certification operations of the  
30 Department of Human Services or any of its funded agencies.

31 The Inspector General shall promulgate rules establishing  
32 minimum requirements for reporting allegations of abuse and  
33 neglect and initiating, conducting, and completing  
34 investigations. The promulgated rules shall clearly set forth  
35 that in instances where 2 or more State agencies could  
36 investigate an allegation of abuse or neglect, the Inspector

1 General shall not conduct an investigation that is redundant to  
2 an investigation conducted by another State agency. The rules  
3 shall establish criteria for determining, based upon the nature  
4 of the allegation, the appropriate method of investigation,  
5 which may include, but need not be limited to, site visits,  
6 telephone contacts, or requests for written responses from  
7 agencies. The rules shall also clarify how the Office of the  
8 Inspector General shall interact with the licensing unit of the  
9 Department of Human Services in investigations of allegations  
10 of abuse or neglect. Any allegations or investigations of  
11 reports made pursuant to this Act shall remain confidential  
12 until a final report is completed. The resident or patient who  
13 allegedly was abused or neglected and his or her legal guardian  
14 shall be informed by the facility or agency of the report of  
15 alleged abuse or neglect. Final reports regarding  
16 unsubstantiated or unfounded allegations shall remain  
17 confidential, except that final reports may be disclosed  
18 pursuant to Section 6 of this Act.

19 For purposes of this Section, "required reporter" means a  
20 person who suspects, witnesses, or is informed of an allegation  
21 of abuse or neglect at a State-operated facility or a community  
22 agency and who is either: (i) a person employed at a  
23 State-operated facility or a community agency on or off site  
24 who is providing or monitoring services to an individual or  
25 individuals or is providing services to the State-operated  
26 facility or the community agency; or (ii) any person or  
27 contractual agent of the Department of Human Services involved  
28 in providing, monitoring, or administering mental health or  
29 developmental disability services, including, but not limited  
30 to, payroll personnel, contractors, subcontractors, and  
31 volunteers. A required reporter shall report the allegation of  
32 abuse or neglect, or cause a report to be made, to the Office  
33 of the Inspector General (OIG) Hotline no later than 4 hours  
34 after the initial discovery of the incident of alleged abuse or  
35 neglect. A required reporter as defined in this paragraph who  
36 willfully fails to comply with the reporting requirement is

1 guilty of a Class A misdemeanor.

2 For purposes of this Section, "State-operated facility"  
3 means a mental health facility or a developmental disability  
4 facility as defined in Sections 1-114 and 1-107 of the Mental  
5 Health and Developmental Disabilities Code.

6 For purposes of this Section, "community agency" or  
7 "agency" means any community entity or program providing mental  
8 health or developmental disabilities services that is  
9 licensed, certified, or funded by the Department of Human  
10 Services and is not licensed or certified by any other human  
11 services agency of the State (for example, the Department of  
12 Public Health, the Department of Children and Family Services,  
13 or the Department of Healthcare and Family Services).

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

21 (b) The Inspector General shall, within 24 hours after  
22 determining that a reported allegation of suspected abuse or  
23 neglect indicates that any possible criminal act has been  
24 committed or that special expertise is required in the  
25 investigation, immediately notify the Department of State  
26 Police or the appropriate law enforcement entity. The  
27 Department of State Police shall investigate any report from a  
28 State-operated facility indicating a possible murder, rape, or  
29 other felony. All investigations conducted by the Inspector  
30 General shall be conducted in a manner designed to ensure the  
31 preservation of evidence for possible use in a criminal  
32 prosecution.

33 (b-5) The Inspector General shall make a determination to  
34 accept or reject a preliminary report of the investigation of  
35 alleged abuse or neglect based on established investigative  
36 procedures. Notice of the Inspector General's determination

1 must be given to the person who claims to be the victim of the  
2 abuse or neglect, to the person or persons alleged to have been  
3 responsible for abuse or neglect, and to the facility or  
4 agency. The facility or agency or the person or persons alleged  
5 to have been responsible for the abuse or neglect and the  
6 person who claims to be the victim of the abuse or neglect may  
7 request clarification or reconsideration based on additional  
8 information. For cases where the allegation of abuse or neglect  
9 is substantiated, the Inspector General shall require the  
10 facility or agency to submit a written response. The written  
11 response from a facility or agency shall address in a concise  
12 and reasoned manner the actions that the agency or facility  
13 will take or has taken to protect the resident or patient from  
14 abuse or neglect, prevent reoccurrences, and eliminate  
15 problems identified and shall include implementation and  
16 completion dates for all such action.

17 (c) The Inspector General shall, within 10 calendar days  
18 after the transmittal date of a completed investigation where  
19 abuse or neglect is substantiated or administrative action is  
20 recommended, provide a complete report on the case to the  
21 Secretary of Human Services and to the agency in which the  
22 abuse or neglect is alleged to have happened. The complete  
23 report shall include a written response from the agency or  
24 facility operated by the State to the Inspector General that  
25 addresses in a concise and reasoned manner the actions that the  
26 agency or facility will take or has taken to protect the  
27 resident or patient from abuse or neglect, prevent  
28 reoccurrences, and eliminate problems identified and shall  
29 include implementation and completion dates for all such  
30 action. The Secretary of Human Services shall accept or reject  
31 the response and establish how the Department will determine  
32 whether the facility or program followed the approved response.  
33 The Secretary may require Department personnel to visit the  
34 facility or agency for training, technical assistance,  
35 programmatic, licensure, or certification purposes.  
36 Administrative action, including sanctions, may be applied

1 should the Secretary reject the response or should the facility  
2 or agency fail to follow the approved response. Within 30 days  
3 after the Secretary has approved a response, the facility or  
4 agency making the response shall provide an implementation  
5 report to the Inspector General on the status of the corrective  
6 action implemented. Within 60 days after the Secretary has  
7 approved the response, the facility or agency shall send notice  
8 of the completion of the corrective action or shall send an  
9 updated implementation report. The facility or agency shall  
10 continue sending updated implementation reports every 60 days  
11 until the facility or agency sends a notice of the completion  
12 of the corrective action. The Inspector General shall review  
13 any implementation plan that takes more than 120 days. The  
14 Inspector General shall monitor compliance through a random  
15 review of completed corrective actions. This monitoring may  
16 include, but need not be limited to, site visits, telephone  
17 contacts, or requests for written documentation from the  
18 facility or agency to determine whether the facility or agency  
19 is in compliance with the approved response. The facility or  
20 agency shall inform the resident or patient and the legal  
21 guardian whether the reported allegation was substantiated,  
22 unsubstantiated, or unfounded. There shall be an appeals  
23 process for any person or agency that is subject to any action  
24 based on a recommendation or recommendations.

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

1 (e) The Inspector General shall establish and conduct  
2 periodic training programs for Department of Human Services  
3 employees concerning the prevention and reporting of neglect  
4 and abuse.

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

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

22 (g-5) After notice and an opportunity for a hearing that is  
23 separate and distinct from the Office of the Inspector  
24 General's appeals process as implemented under subsection (c)  
25 of this Section, the Inspector General shall report to the  
26 Department of Public Health's nurse aide registry under Section  
27 3-206.01 of the Nursing Home Care Act the identity of  
28 individuals against whom there has been a substantiated finding  
29 of physical or sexual abuse or egregious neglect of a service  
30 recipient.

31 Nothing in this subsection shall diminish or impair the  
32 rights of a person who is a member of a collective bargaining  
33 unit pursuant to the Illinois Public Labor Relations Act or  
34 pursuant to any federal labor statute. An individual who is a  
35 member of a collective bargaining unit as described above shall  
36 not be reported to the Department of Public Health's nurse aide



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

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

27 Notice to the individual shall include a clear and concise  
28 statement of the grounds on which the report to the registry is  
29 based and notice of the opportunity for a hearing to contest  
30 the report. The Department of Human Services shall provide the  
31 notice by certified mail to the last known address of the  
32 individual. The notice shall give the individual an opportunity  
33 to contest the report in a hearing before the Department of  
34 Human Services or to submit a written response to the findings  
35 instead of requesting a hearing. If the individual does not  
36 request a hearing or if after notice and a hearing the

1 Department of Human Services finds that the report is valid,  
2 the finding shall be included as part of the registry, as well  
3 as a brief statement from the reported individual if he or she  
4 chooses to make a statement. The Department of Public Health  
5 shall make available to the public information reported to the  
6 registry. In a case of inquiries concerning an individual  
7 listed in the registry, any information disclosed concerning a  
8 finding of abuse or neglect shall also include disclosure of  
9 the individual's brief statement in the registry relating to  
10 the reported finding or include a clear and accurate summary of  
11 the statement.

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

21 (Source: P.A. 93-636, eff. 12-31-03; 94-428, eff. 8-2-05.)

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