



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3649

Introduced 2/24/2009, by Rep. Kathleen A. Ryg

SYNOPSIS AS INTRODUCED:

210 ILCS 85/9

from Ch. 111 1/2, par. 150

210 ILCS 85/9.6 new

Amends the Hospital Licensing Act. Provides that the Department of Public Health shall investigate every allegation of abuse or neglect of a patient received by the Department. Provides that no administrator, agent, or employee of a hospital or a member of its medical staff may abuse or neglect a patient in the hospital, and provides that any hospital administrator, agent, employee, or medical staff member who has reasonable cause to believe that any patient with whom he or she has direct contact has been subjected to abuse or neglect in the hospital shall promptly report or cause a report to be made to a designated hospital administrator responsible for providing such reports to the Department of Public Health. Sets forth other provisions concerning protection of hospital patients from abuse and neglect. Provides that if no health care surrogate is available for a patient who lacks decision-making capacity, then the hospital may contact the Guardianship and Advocacy Commission to determine the need for a temporary guardian of the person.

LRB096 09384 DRJ 21774 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Hospital Licensing Act is amended by
5 changing Section 9 and by adding Section 9.6 as follows:

6 (210 ILCS 85/9) (from Ch. 111 1/2, par. 150)

7 Sec. 9. Inspections and investigations. The Department
8 shall make or cause to be made such inspections and
9 investigations as it deems necessary, except that the
10 Department shall investigate every allegation of abuse or
11 neglect of a patient received by the Department. Information
12 received by the Department through filed reports, inspection,
13 or as otherwise authorized under this Act shall not be
14 disclosed publicly in such manner as to identify individuals or
15 hospitals, except (i) in a proceeding involving the denial,
16 suspension, or revocation of a permit to establish a hospital
17 or a proceeding involving the denial, suspension, or revocation
18 of a license to open, conduct, operate, and maintain a
19 hospital, (ii) to the Department of Children and Family
20 Services in the course of a child abuse or neglect
21 investigation conducted by that Department or by the Department
22 of Public Health, (iii) in accordance with Section 6.14a of
23 this Act, or (iv) in other circumstances as may be approved by

1 the Hospital Licensing Board.

2 (Source: P.A. 90-608, eff. 6-30-98; 91-242, eff. 1-1-00.)

3 (210 ILCS 85/9.6 new)

4 Sec. 9.6. Patient protection from abuse and neglect.

5 (a) No administrator, agent, or employee of a hospital or a
6 member of its medical staff may abuse or neglect a patient in
7 the hospital.

8 (b) Any hospital administrator, agent, employee, or
9 medical staff member who has reasonable cause to believe that
10 any patient with whom he or she has direct contact has been
11 subjected to abuse or neglect in the hospital shall promptly
12 report or cause a report to be made to a designated hospital
13 administrator responsible for providing such reports to the
14 Department as required by this Section.

15 (c) Retaliation against a person who lawfully and in good
16 faith makes a report under this Section is prohibited.

17 (d) Upon receiving a report under subsection (b) of this
18 Section, the hospital shall submit the report to the Department
19 within 24 hours of obtaining such report. In the event that the
20 hospital receives multiple reports involving a single alleged
21 instance of abuse or neglect, the hospital shall submit one
22 report to the Department.

23 (e) Upon receiving a report under this Section, the
24 hospital shall promptly conduct an internal review to ensure
25 the alleged victim's safety. Measures to protect the alleged

1 victim shall be taken as deemed necessary by the hospital's
2 administrator and may include, but are not limited to, removing
3 suspected violators from further patient contact during the
4 hospital's internal review. If the alleged victim lacks
5 decision-making capacity under the Health Care Surrogate Act
6 and no health care surrogate is available, the hospital may
7 contact the Illinois Guardianship and Advocacy Commission to
8 determine the need for a temporary guardian of that person.

9 (f) All internal hospital reviews shall be conducted by a
10 designated hospital employee or agent who is qualified to
11 detect abuse and neglect and is not involved in the alleged
12 victim's treatment. All internal review findings must be
13 documented and filed according to hospital procedures and shall
14 be made available to the Department upon request. All internal
15 review findings involving eligible persons, as defined in the
16 Guardianship and Advocacy Act, shall also be made available,
17 subject to confidentiality requirements, to the Human Rights
18 Authority division of the Guardianship and Advocacy Commission
19 and the agency designated by the Governor under Section 1 of
20 the Protection and Advocacy for Developmentally Disabled
21 Persons Act upon request in the course of monitoring or
22 investigating abuse or neglect.

23 (g) Any other person may make a report of patient abuse or
24 neglect to the Department if that person has reasonable cause
25 to believe that a patient has been abused or neglected in the
26 hospital.

1 (h) The report required under this Section shall include:
2 the name of the patient; the name and address of the hospital
3 treating the patient; the age of the patient; the nature of the
4 patient's condition, including any evidence of previous
5 injuries or disabilities; and any other information that the
6 reporter believes might be helpful in establishing the cause of
7 the reported abuse or neglect and the identity of the person
8 believed to have caused the abuse or neglect.

9 (i) Except for wilful and wanton misconduct, any
10 individual, person, institution, or agency participating in
11 good faith in the making of a report under this Section, or in
12 the investigation of such a report or in making a disclosure of
13 information concerning reports of abuse or neglect under this
14 Section, shall have immunity from any liability, whether civil,
15 professional, or criminal, that otherwise might result by
16 reason of such actions.

17 (j) No administrator, agent, or employee of a hospital
18 shall adopt or employ practices or procedures designed to
19 discourage good faith reporting of patient abuse or neglect
20 under this Section.

21 (k) Every hospital shall ensure that all employees are
22 trained in the detection and reporting of abuse and neglect of
23 patients within one month after being hired and retrained at
24 least every 2 years thereafter. Every hospital shall ensure
25 that all persons employed at the hospital on the effective date
26 of this amendatory Act of the 96th General Assembly are trained

1 in the detection and reporting of abuse and neglect of patients
2 within 90 days after the effective date of this amendatory Act
3 of the 96th General Assembly and retrained at least every 2
4 years thereafter.

5 (l) The Department shall investigate each report of patient
6 abuse or neglect made under this Section according to the
7 procedures of the Department, except that a report of abuse or
8 neglect which indicates that a patient's life or safety is in
9 imminent danger shall be investigated within 24 hours of such
10 report. Under no circumstances may a hospital's internal review
11 of an allegation of abuse or neglect replace an investigation
12 of the allegation by the Department.

13 (m) The Department shall keep a continuing record of all
14 reports made pursuant to this Section, including indications of
15 the final determination of any investigation and the final
16 disposition of all reports. The Department shall inform the
17 investigated hospital and any other person making a report
18 under subsection (g) of its final determination or disposition
19 in writing.

20 (n) The Department shall not disclose to the public any
21 information regarding any reports and investigations under
22 this Section unless and until the report of abuse or neglect is
23 substantiated following a full and proper investigation.

24 (o) All patient identifiable information in any report or
25 investigation under this Section shall be confidential and
26 shall not be disclosed except as authorized by this Act or

1 other applicable law.

2 (p) Nothing in this Section relieves a hospital
3 administrator, employee, agent, or medical staff member from
4 contacting appropriate law enforcement authorities as required
5 by law.

6 (q) Nothing in this Section shall be construed to mean that
7 a patient is a victim of abuse or neglect because of health
8 care services provided or not provided by health care
9 professionals.

10 (r) Nothing in this Section shall require a hospital,
11 including its employees, agents, and medical staff members, to
12 provide any services to a patient in contravention of his or
13 her stated or implied objection thereto upon grounds that such
14 services conflict with his or her religious beliefs or
15 practices, nor shall such a patient be considered abused under
16 this Section for the exercise of such beliefs or practices.

17 (s) As used in this Section, the following terms have the
18 following meanings:

19 "Abuse" means any physical or mental injury or sexual abuse
20 intentionally inflicted by a hospital employee, agent, or
21 medical staff member on a patient of the hospital and does not
22 include any hospital, medical, health care, or other personal
23 care services done in good faith in the interest of the patient
24 according to established medical and clinical standards of
25 care.

26 "Mental injury" means intentionally caused emotional

1 distress in a patient from words or gestures that would be
2 considered by a reasonable person to be humiliating, harassing,
3 or threatening and which causes observable and substantial
4 impairment.

5 "Neglect" means the failure by a hospital employee, agent,
6 or medical staff member to provide nutrition, hydration,
7 hygiene, or supervision that is necessary to maintain the
8 health and safety of a patient of the hospital. The term does
9 not include care refused by a patient of the hospital, nor does
10 it include any hospital care, medical care, health care, or
11 other personal care services provided in good faith in the
12 interest of the patient according to established medical and
13 clinical standards of care.

14 "Sexual abuse" means any intentional act of sexual contact
15 or sexual penetration of a patient in the hospital.

16 "Substantiated", with respect to a report of abuse or
17 neglect, means that a preponderance of the evidence indicates
18 that abuse or neglect occurred.