

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 35

An Act to amend and reenact §§ 37.1-256 and 37.1-256.1 of the Code of Virginia, relating to the duties of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.

[H 2346]

Approved March 16, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 37.1-256 and 37.1-256.1 of the Code of Virginia are amended and reenacted as follows:

§ 37.1-256. Powers and duties of Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.

The Inspector General for Mental Health, Mental Retardation and Substance Abuse Services shall have the following powers and duties:

1. To operate and manage the Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services and to employ such personnel as may be required to carry out the provisions of this chapter.

2. To make and enter contracts and agreements as may be necessary and incidental to carry out the provisions of this chapter, and to apply for and accept grants from the United States government and agencies and instrumentalities thereof, and any other source, in furtherance of the provisions of this chapter.

3. To provide inspections of and make policy and operational recommendations for facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services and providers, *including licensed mental health treatment units in state correctional facilities*, as defined in § 37.1-179 in order to prevent problems, abuses and deficiencies in and improve the effectiveness of their programs and services.

4. To keep the Governor and General Assembly fully and currently informed, by means of reports required by § 37.1-256.1, concerning significant problems, abuses and deficiencies relating to the administration of the programs and services of the facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services and providers, *including licensed mental health treatment units in state correctional facilities*, as defined in § 37.1-179, to recommend corrective actions concerning such problems, abuses and deficiencies, and to report on the progress made in implementing such corrective actions.

5. To notify in a timely manner the attorneys for the Commonwealth for the jurisdiction in which a state facility is located and law enforcement, as appropriate, whenever the Inspector General has reasonable grounds to believe there has been a violation of state criminal law.

However, where the Inspector General has reason to believe that a criminal offense has been committed in a state correctional facility, notification of such suspicion shall be given to the Inspector General for the Department of Corrections.

§ 37.1-256.1. Reports.

A. The Inspector General shall prepare, not later than May 31 and November 30 of each year, semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to:

1. A description of significant problems, abuses and deficiencies related to the administration of the programs and services of the facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services and providers, *including licensed mental health treatment units in state correctional facilities*, as defined in § 37.1-179 during the reporting period;

2. A description of the recommendations for corrective actions made by the Office during the reporting period with respect to significant problems, abuses or deficiencies identified;

3. An identification of each significant recommendation described in previous reports under this section on which corrective action has not been completed;

4. A summary of matters referred to the attorneys for the Commonwealth and law enforcement and actions taken on them during the reporting period; and

5. Information concerning the numbers of complaints received and types of investigations completed by the Office during the reporting period.

B. Within ~~thirty~~ 30 days of the transmission of each semiannual report, the Inspector General shall make copies of such report available to the public upon request and at a reasonable cost.

C. The Inspector General shall report immediately to the Governor and the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services *or the Director of the Department of Corrections as may be appropriate* whenever the Office becomes aware of particularly serious problems, abuses or deficiencies relating to the administration of the programs and services of

the facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services and providers, *including licensed mental health treatment units in state correctional facilities*, as defined in § 37.1-179.

D. The Inspector General may conduct such additional investigations and make such reports relating to the administration of the programs and services of the facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services and providers, *including licensed mental health treatment units in state correctional facilities*, as defined in § 37.1-179 as are, in the judgment of the Inspector General, necessary or desirable.

E. Notwithstanding any other provision of law, the reports, information or documents required by or under this section shall be transmitted directly to the Governor and the General Assembly by the Inspector General without preliminary clearances or approvals. The Inspector General shall, insofar as feasible, provide copies of the semiannual reports to the Governor in advance of the date for their submission to the General Assembly to provide a reasonable opportunity for comments of the Governor to be appended to the reports when submitted to the General Assembly.

F. Records that are confidential under federal or state law shall be maintained as confidential by the Inspector General, and shall not be further disclosed, except as permitted by law.

G. The Inspector General's written reports accompanying the individual facility inspections performed by the Office pursuant to § 37.1-257 shall be transmitted to the Governor for review and comment as deemed necessary by the Governor. The Inspector General shall report on the general conditions, staffing patterns and access to active and contemporary treatment of each facility, at a minimum, on an annual basis. The Department of Mental Health, Mental Retardation and Substance Abuse Services shall comment in writing on any recommendations made by the Inspector General.