

# VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

## CHAPTER 450

*An Act to amend and reenact §§ 37.1-256, 37.1-256.1 and 37.1-257 of the Code of Virginia, relating to reports by the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.*

[S 801]

Approved March 16, 2003

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 37.1-256, 37.1-256.1 and 37.1-257 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 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 *and the Joint Commission on Behavioral Health Care, or its successor in interest*, 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 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.

§ 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 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 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 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 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 *and the Joint Commission on Behavioral Health Care, or its successor in interest*, 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 *and the Joint Commission on Behavioral Health Care, or its successor in interest*, to provide a reasonable opportunity for comments of the Governor to be appended to the reports when submitted to the General Assembly *and the Joint Commission on Behavioral Health Care, or its successor in interest*.

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.

§ 37.1-257. Powers and duties of the Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.

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

1. To provide oversight and conduct announced and unannounced inspections of the facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services on an ongoing basis, in response to specific complaints of abuse, neglect or inadequate care, and as a result of monitoring of serious-incident reports and reports of abuse, neglect or inadequate care or other information received, and to make recommendations to the Governor, the General Assembly, *the Joint Commission on Behavioral Health Care, or its successor in interest*, the Secretary of Health and Human Resources and the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services on methods to improve the quality of care in such facilities. The Office shall conduct unannounced inspections at each state facility at least once annually.

2. To access any and all information related to the delivery of services, including confidential patient or resident information, to patients or residents in facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services. Such patient or resident information shall be maintained by the Office of the Inspector General as confidential in the same manner as is required by the state agency from which the information was obtained.

3. To review, comment and make recommendations, as appropriate, about any reports prepared by the Department of Mental Health, Mental Retardation and Substance Abuse Services and the critical-incident data collected by the Department of Mental Health, Mental Retardation and Substance Abuse Services in accordance with regulations promulgated under § 37.1-84.1 to identify issues related to quality of care, seclusion and restraint, medication usage, abuse and neglect, staff recruitment and training, and other systemic issues.

4. To monitor and participate in the promulgation of regulations by the State Mental Health, Mental Retardation and Substance Abuse Services Board.

5. To receive reports, information and complaints from the Virginia Office for Protection and Advocacy concerning issues related to quality of care in facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services and to conduct independent reviews and investigations.