

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 37.1-255, 37.1-256 and 37.1-256.1 of the Code of Virginia, and to repeal § 37.1-257 of the Code of Virginia, relating to the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.*

[S 212]

Approved

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

**1. That §§ 37.1-255, 37.1-256 and 37.1-256.1 of the Code of Virginia are amended and reenacted as follows:**

§ 37.1-255. Office created; appointment of Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.

There is hereby created the Office of Inspector General for Mental Health, Mental Retardation and Substance Abuse Services to inspect, monitor and review the quality of services provided in the facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services and providers as defined in § 37.1-179, including licensed mental health treatment units in state correctional facilities. The Inspector General for Mental Health, Mental Retardation and Substance Abuse Services shall be appointed by the Governor, subject to confirmation by the General Assembly, and report to the Governor. The Inspector General for Mental Health, Mental Retardation and Substance Abuse Services shall be appointed initially for a term that expires one full year following the end of the Governor's term of office, and, thereafter, the term shall be for four years. Vacancies shall be filled by appointment by the Governor for the unexpired term and shall be effective until thirty 30 days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder of such term.

§ 37.1-256. Powers and duties of Inspector General.

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 into 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, 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. *The Inspector General shall provide oversight and conduct announced and unannounced inspections of the facilities operated by the Department and providers as defined in § 37.1-179, including licensed mental health treatment units in state correctional facilities, on an ongoing basis, in response to specific complaints of abuse, neglect or inadequate care, and as a result of monitoring serious-incident reports and reports of abuse, neglect or inadequate care or other information received. The Inspector General shall conduct unannounced inspections at each state facility at least once annually.*

4. To access any and all information, including confidential consumer information, related to the delivery of services to consumers in state facilities or served by providers as defined in § 37.1-179, including licensed mental health treatment units in state correctional facilities. However, the Inspector General shall not be given access to any proceedings, minutes, records or reports of providers as defined in § 37.1-179 that are privileged under § 8.01-581.17, except that the Inspector General shall be given access to any such privileged information in facilities operated by the Department and licensed mental health treatment units in state correctional facilities. All consumer information shall be maintained by the Inspector General as confidential in the same manner as is required by the agency or provider from which the information was obtained.

5. To keep the Governor, 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

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Substance Abuse Services and providers as defined in § 37.1-179, 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.

§ 6. 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.

7. To review, comment, and make recommendations, as appropriate, about any reports prepared by the Department and the critical-incident data collected by the Department in accordance with regulations adopted 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.

8. To monitor and participate in the adoption of regulations by the Board.

9. To receive reports, information, and complaints from the Virginia Office for Protection and Advocacy concerning issues related to quality of care in state facilities and providers as defined in § 37.1-179, including licensed mental health treatment units in state correctional facilities, and to conduct independent reviews and investigations.

§ 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, 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 the Inspector General for the Department of Corrections 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 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 as defined in § 37.1-179, 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 as defined in § 37.1-179, 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, 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 state facility inspections

118 performed by the Office pursuant to ~~§ 37.1-257~~ shall be transmitted to the Governor for review and  
119 comment as deemed necessary by the Governor. The Inspector General shall report on the general  
120 conditions, staffing patterns and access to active and contemporary treatment ~~of~~ *in* each *state* facility, at  
121 a minimum, on an annual basis. The Department of ~~Mental Health, Mental Retardation and Substance~~  
122 ~~Abuse Services~~ shall comment in writing on any recommendations made by the Inspector General.  
123 **2. That § 37.1-257 of the Code of Virginia is repealed.**

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