



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5927

Introduced 2/16/2012, by Rep. Chapin Rose

#### SYNOPSIS AS INTRODUCED:

210 ILCS 135/4	from Ch. 91 1/2, par. 1704
210 ILCS 135/10	from Ch. 91 1/2, par. 1710
210 ILCS 135/10.5 new	

Amends the Community-Integrated Living Arrangements Licensure and Certification Act. Provides that the Department of Human Services may not deny, suspend, or revoke a license under the Act, or refuse to renew a license, on the ground that the licensee or applicant operates or proposes to operate a community-integrated living arrangement located within 800 feet from any other setting licensed or funded to provide residential services for persons with a developmental disability or mental illness, including another community-integrated living arrangement. Provides that neither the State plan for the distribution of community living arrangements throughout the State, nor any rule adopted by the Department, may include a requirement that a community-integrated living arrangement owned or leased by a community mental health or developmental services agency and funded by the Department may not be located within a distance of 800 feet from any other setting licensed or funded to provide residential services for persons with a developmental disability or mental illness, including another community-integrated living arrangement. Provides that the Department must, under the authority granted to it under a specified consent decree, adopt and publish a written plan for compliance with the terms of the consent decree within 3 months after the effective date of the amendatory Act. Sets forth features that the plan must include.

LRB097 17854 WGH 66193 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 10. The Community-Integrated Living Arrangements  
5 Licensure and Certification Act is amended by changing Sections  
6 4 and 10 and by adding Section 10.5 as follows:

7 (210 ILCS 135/4) (from Ch. 91 1/2, par. 1704)

8 Sec. 4. License.

9 (a) Any community mental health or developmental services  
10 agency who wishes to develop and support a variety of  
11 community-integrated living arrangements may do so pursuant to  
12 a license issued by the Department under this Act. However,  
13 programs established under or otherwise subject to the Child  
14 Care Act of 1969, the Nursing Home Care Act, the Specialized  
15 Mental Health Rehabilitation Act, or the ID/DD Community Care  
16 Act, as now or hereafter amended, shall remain subject thereto,  
17 and this Act shall not be construed to limit the application of  
18 those Acts.

19 (b) The system of licensure established under this Act  
20 shall be for the purposes of:

21 (1) Insuring that all recipients residing in  
22 community-integrated living arrangements are receiving  
23 appropriate community-based services, including treatment,

1 training and habilitation or rehabilitation;

2 (2) Insuring that recipients' rights are protected and  
3 that all programs provided to and placements arranged for  
4 recipients comply with this Act, the Mental Health and  
5 Developmental Disabilities Code, and applicable Department  
6 rules and regulations;

7 (3) Maintaining the integrity of communities by  
8 requiring regular monitoring and inspection of placements  
9 and other services provided in community-integrated living  
10 arrangements.

11 The licensure system shall be administered by a quality  
12 assurance unit within the Department which shall be  
13 administratively independent of units responsible for funding  
14 of agencies or community services.

15 (c) As a condition of being licensed by the Department as a  
16 community mental health or developmental services agency under  
17 this Act, the agency shall certify to the Department that:

18 (1) All recipients residing in community-integrated  
19 living arrangements are receiving appropriate  
20 community-based services, including treatment, training  
21 and habilitation or rehabilitation;

22 (2) All programs provided to and placements arranged  
23 for recipients are supervised by the agency; and

24 (3) All programs provided to and placements arranged  
25 for recipients comply with this Act, the Mental Health and  
26 Developmental Disabilities Code, and applicable Department

1 rules and regulations.

2 (d) An applicant for licensure as a community mental health  
3 or developmental services agency under this Act shall submit an  
4 application pursuant to the application process established by  
5 the Department by rule and shall pay an application fee in an  
6 amount established by the Department, which amount shall not be  
7 more than \$200.

8 (e) If an applicant meets the requirements established by  
9 the Department to be licensed as a community mental health or  
10 developmental services agency under this Act, after payment of  
11 the licensing fee, the Department shall issue a license valid  
12 for 3 years from the date thereof unless suspended or revoked  
13 by the Department or voluntarily surrendered by the agency.

14 (e-5) The Department may not deny, suspend, or revoke a  
15 license, or refuse to renew a license, on the ground that the  
16 licensee or applicant operates or proposes to operate a  
17 community-integrated living arrangement located within 800  
18 feet from any other setting licensed or funded to provide  
19 residential services for persons with a developmental  
20 disability or mental illness, including another  
21 community-integrated living arrangement.

22 (f) Upon application to the Department, the Department may  
23 issue a temporary permit to an applicant for a 6-month period  
24 to allow the holder of such permit reasonable time to become  
25 eligible for a license under this Act.

26 (g) (1) The Department may conduct site visits to an agency

1 licensed under this Act, or to any program or placement  
2 certified by the agency, and inspect the records or premises,  
3 or both, of such agency, program or placement as it deems  
4 appropriate, for the purpose of determining compliance with  
5 this Act, the Mental Health and Developmental Disabilities  
6 Code, and applicable Department rules and regulations.

7 (2) If the Department determines that an agency licensed  
8 under this Act is not in compliance with this Act or the rules  
9 and regulations promulgated under this Act, the Department  
10 shall serve a notice of violation upon the licensee. Each  
11 notice of violation shall be prepared in writing and shall  
12 specify the nature of the violation, the statutory provision or  
13 rule alleged to have been violated, and that the licensee  
14 submit a plan of correction to the Department if required. The  
15 notice shall also inform the licensee of any other action which  
16 the Department might take pursuant to this Act and of the right  
17 to a hearing.

18 (g-5) As determined by the Department, a disproportionate  
19 number or percentage of licensure complaints; a  
20 disproportionate number or percentage of substantiated cases  
21 of abuse, neglect, or exploitation involving an agency; an  
22 apparent unnatural death of an individual served by an agency;  
23 any egregious or life-threatening abuse or neglect within an  
24 agency; or any other significant event as determined by the  
25 Department shall initiate a review of the agency's license by  
26 the Department, as well as a review of its service agreement

1 for funding. The Department shall adopt rules to establish the  
2 process by which the determination to initiate a review shall  
3 be made and the timeframe to initiate a review upon the making  
4 of such determination.

5 (h) Upon the expiration of any license issued under this  
6 Act, a license renewal application shall be required of and a  
7 license renewal fee in an amount established by the Department  
8 shall be charged to a community mental health or developmental  
9 services agency, provided that such fee shall not be more than  
10 \$200.

11 (Source: P.A. 96-339, eff. 7-1-10; 97-38, eff. 6-28-11; 97-227,  
12 eff. 1-1-12; 97-441, eff. 8-19-11; revised 9-28-11.)

13 (210 ILCS 135/10) (from Ch. 91 1/2, par. 1710)

14 Sec. 10. State plan.

15 (a) Community integrated living arrangements shall be  
16 located so as to enable residents to participate in and be  
17 integrated into their community or neighborhood. The location  
18 of such arrangements shall promote community integration of  
19 persons with mental disabilities. The Department shall adopt a  
20 plan ("State plan") for the distribution of community living  
21 arrangements throughout the State, considering the need for  
22 such arrangements in the various locations in which they are to  
23 be used. Each agency licensed under this Act must define the  
24 process of obtaining community acceptance of community living  
25 arrangements. The State plan shall include guidelines

1 regarding the location of community integrated living  
2 arrangements within the geographic areas to be served by the  
3 agencies, and the availability of support services within those  
4 areas for residents under such arrangements. The Department  
5 shall promulgate such guidelines as rules pursuant to The  
6 Illinois Administrative Procedure Act. Neither the State plan  
7 nor any rule adopted by the Department under this Section may  
8 include a requirement that a community-integrated living  
9 arrangement owned or leased by a community mental health or  
10 developmental services agency and funded by the Department may  
11 not be located within a distance of 800 feet from any other  
12 setting licensed or funded to provide residential services for  
13 persons with a developmental disability or mental illness,  
14 including another community-integrated living arrangement.

15 The Department shall require any agency licensed under this  
16 Act to establish procedures for assuring compliance with such  
17 criteria, including annual review and comment by  
18 representatives of local governmental authorities, community  
19 mental health and developmental disabilities planning and  
20 service agencies, and other interested civil organizations,  
21 regarding the impact on their community areas of any living  
22 arrangements, programs or services to be certified by such  
23 agency. The Department shall give consideration to the comments  
24 of such community representatives in determinations of  
25 compliance with the State plan under this Section, and the  
26 Department may modify, suspend or withhold funding of such

1 programs and services subject to this Act until such times as  
2 assurance is achieved.

3 (b) Beginning January 1, 1990, no Department of State  
4 government, as defined in The Civil Administrative Code of  
5 Illinois, shall place any person in or utilize any services of  
6 a community-integrated living arrangement which is not  
7 certified by an agency under this Act.

8 (Source: P.A. 86-922.)

9 (210 ILCS 135/10.5 new)

10 Sec. 10.5. State plan for transferring residents out of  
11 certain CILAs.

12 (a) Under the authority granted to it under a consent  
13 decree entered on June 15, 2011, in the United States District  
14 Court for the Northern District of Illinois, Eastern Division,  
15 in the case of Ligas v. Hamos, Case No. 05 C 4331, the  
16 Department must adopt and publish a written plan for compliance  
17 with the terms of the consent decree within 3 months after the  
18 effective date of this amendatory Act of the 97th General  
19 Assembly.

20 (b) The written plan required under subsection (a) must  
21 include at least all of the following features:

22 (1) The plan must take into account the need or desire  
23 of transferred residents to remain in the same geographic  
24 region of the State or to reside in a living arrangement  
25 that is reasonably close to a resident's family members and

1 friends.

2 (2) The plan must specify the Department's goals and  
3 projected time frames for effecting the transfers with  
4 respect to (i) the number of facilities to which residents  
5 are to be transferred and (ii) the geographic regions of  
6 the State within which those facilities are located.

7 (3) The plan must include a plan for increasing the  
8 capacity of facilities or living arrangements receiving  
9 the transferred residents that ensures geographic  
10 diversity or capacity in the distribution of those  
11 residents throughout the State.

12 (4) The plan must include a plan for pre-certifying  
13 residential facilities to be constructed in the different  
14 geographic regions of the State to ensure that, if such a  
15 facility is built, there will be residents who will be  
16 allowed to move into the facility.