

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 Specialized Mental Health Rehabilitation  
5 Act of 2013 is amended by changing Sections 1-101.5, 1-102,  
6 2-103, 4-105, and 4-108.5 and by adding Section 4-104.5 as  
7 follows:

8 (210 ILCS 49/1-101.5)

9 Sec. 1-101.5. Prior law.

10 (a) This Act provides for licensure of long term care  
11 facilities that are federally designated as institutions for  
12 the mentally diseased on the effective date of this Act and  
13 specialize in providing services to individuals with a serious  
14 mental illness. On and after the effective date of this Act,  
15 these facilities shall be governed by this Act instead of the  
16 Nursing Home Care Act. The existence of a current or pending  
17 administrative hearing, notice of violation, or other  
18 enforcement action, except for a pending notice of revocation,  
19 authorized under the Nursing Home Care Act shall not be a  
20 barrier to the provisional licensure of a facility under this  
21 Act. Provisional licensure under this Act shall not relieve a  
22 facility from the responsibility for the payment of any past,  
23 current, or future fines or penalties, or for any other

1 enforcement remedy, imposed upon the facility under the Nursing  
2 Home Care Act.

3 (b) All consent decrees that apply to facilities federally  
4 designated as institutions for the mentally diseased shall  
5 continue to apply to facilities licensed under this Act.

6 (c) A facility licensed under this Act may voluntarily  
7 close, and the facility may reopen in an underserved region of  
8 the State, if the facility receives a certificate of need from  
9 the Health Facilities and Services Review Board. At no time  
10 shall the total number of licensed beds under this Act exceed  
11 the total number of licensed beds existing on July 22, 2013  
12 (the effective date of Public Act 98-104).

13 (Source: P.A. 98-104, eff. 7-22-13; 98-651, eff. 6-16-14.)

14 (210 ILCS 49/1-102)

15 Sec. 1-102. Definitions. For the purposes of this Act,  
16 unless the context otherwise requires:

17 "Abuse" means any physical or mental injury or sexual  
18 assault inflicted on a consumer other than by accidental means  
19 in a facility.

20 "Accreditation" means any of the following:

21 (1) the Joint Commission;

22 (2) the Commission on Accreditation of Rehabilitation  
23 Facilities;

24 (3) the Healthcare Facilities Accreditation Program;

25 or

1           (4) any other national standards of care as approved by  
2           the Department.

3           "Applicant" means any person making application for a  
4           license or a provisional license under this Act.

5           "Consumer" means a person, 18 years of age or older,  
6           admitted to a mental health rehabilitation facility for  
7           evaluation, observation, diagnosis, treatment, stabilization,  
8           recovery, and rehabilitation.

9           "Consumer" does not mean any of the following:

10           (i) an individual requiring a locked setting;

11           (ii) an individual requiring psychiatric  
12           hospitalization because of an acute psychiatric crisis;

13           (iii) an individual under 18 years of age;

14           (iv) an individual who is actively suicidal or violent  
15           toward others;

16           (v) an individual who has been found unfit to stand  
17           trial;

18           (vi) an individual who has been found not guilty by  
19           reason of insanity based on committing a violent act, such  
20           as sexual assault, assault with a deadly weapon, arson, or  
21           murder;

22           (vii) an individual subject to temporary detention and  
23           examination under Section 3-607 of the Mental Health and  
24           Developmental Disabilities Code;

25           (viii) an individual deemed clinically appropriate for  
26           inpatient admission in a State psychiatric hospital; and

1           (ix) an individual transferred by the Department of  
2           Corrections pursuant to Section 3-8-5 of the Unified Code  
3           of Corrections.

4           "Consumer record" means a record that organizes all  
5           information on the care, treatment, and rehabilitation  
6           services rendered to a consumer in a specialized mental health  
7           rehabilitation facility.

8           "Controlled drugs" means those drugs covered under the  
9           federal Comprehensive Drug Abuse Prevention Control Act of  
10          1970, as amended, or the Illinois Controlled Substances Act.

11          "Department" means the Department of Public Health.

12          "Discharge" means the full release of any consumer from a  
13          facility.

14          "Drug administration" means the act in which a single dose  
15          of a prescribed drug or biological is given to a consumer. The  
16          complete act of administration entails removing an individual  
17          dose from a container, verifying the dose with the prescriber's  
18          orders, giving the individual dose to the consumer, and  
19          promptly recording the time and dose given.

20          "Drug dispensing" means the act entailing the following of  
21          a prescription order for a drug or biological and proper  
22          selection, measuring, packaging, labeling, and issuance of the  
23          drug or biological to a consumer.

24          "Emergency" means a situation, physical condition, or one  
25          or more practices, methods, or operations which present  
26          imminent danger of death or serious physical or mental harm to

1 consumers of a facility.

2 "Facility" means a specialized mental health  
3 rehabilitation facility that provides at least one of the  
4 following services: (1) triage center; (2) crisis  
5 stabilization; (3) recovery and rehabilitation supports; or  
6 (4) transitional living units for 3 or more persons. The  
7 facility shall provide a 24-hour program that provides  
8 intensive support and recovery services designed to assist  
9 persons, 18 years or older, with mental disorders to develop  
10 the skills to become self-sufficient and capable of increasing  
11 levels of independent functioning. It includes facilities that  
12 meet the following criteria:

13 (1) 100% of the consumer population of the facility has  
14 a diagnosis of serious mental illness;

15 (2) no more than 15% of the consumer population of the  
16 facility is 65 years of age or older;

17 (3) none of the consumers are non-ambulatory;

18 (4) none of the consumers have a primary diagnosis of  
19 moderate, severe, or profound intellectual disability; and

20 (5) the facility must have been licensed under the  
21 Specialized Mental Health Rehabilitation Act or the  
22 Nursing Home Care Act immediately preceding July 22, 2013  
23 (the effective date of this Act) and qualifies as an ~~a~~  
24 institute for mental disease under the federal definition  
25 of the term.

26 "Facility" does not include the following:

1           (1) a home, institution, or place operated by the  
2 federal government or agency thereof, or by the State of  
3 Illinois;

4           (2) a hospital, sanitarium, or other institution whose  
5 principal activity or business is the diagnosis, care, and  
6 treatment of human illness through the maintenance and  
7 operation as organized facilities therefor which is  
8 required to be licensed under the Hospital Licensing Act;

9           (3) a facility for child care as defined in the Child  
10 Care Act of 1969;

11           (4) a community living facility as defined in the  
12 Community Living Facilities Licensing Act;

13           (5) a nursing home or sanatorium operated solely by and  
14 for persons who rely exclusively upon treatment by  
15 spiritual means through prayer, in accordance with the  
16 creed or tenets of any well-recognized church or religious  
17 denomination; however, such nursing home or sanatorium  
18 shall comply with all local laws and rules relating to  
19 sanitation and safety;

20           (6) a facility licensed by the Department of Human  
21 Services as a community-integrated living arrangement as  
22 defined in the Community-Integrated Living Arrangements  
23 Licensure and Certification Act;

24           (7) a supportive residence licensed under the  
25 Supportive Residences Licensing Act;

26           (8) a supportive living facility in good standing with

1 the program established under Section 5-5.01a of the  
2 Illinois Public Aid Code, except only for purposes of the  
3 employment of persons in accordance with Section 3-206.01  
4 of the Nursing Home Care Act;

5 (9) an assisted living or shared housing establishment  
6 licensed under the Assisted Living and Shared Housing Act,  
7 except only for purposes of the employment of persons in  
8 accordance with Section 3-206.01 of the Nursing Home Care  
9 Act;

10 (10) an Alzheimer's disease management center  
11 alternative health care model licensed under the  
12 Alternative Health Care Delivery Act;

13 (11) a home, institution, or other place operated by or  
14 under the authority of the Illinois Department of Veterans'  
15 Affairs;

16 (12) a facility licensed under the ID/DD Community Care  
17 Act;

18 (13) a facility licensed under the Nursing Home Care  
19 Act after July 22, 2013 (the effective date of this Act);

20 or

21 (14) a facility licensed under the MC/DD Act.

22 "Executive director" means a person who is charged with the  
23 general administration and supervision of a facility licensed  
24 under this Act and who is a licensed nursing home  
25 administrator, licensed practitioner of the healing arts, or  
26 qualified mental health professional.

1 "Guardian" means a person appointed as a guardian of the  
2 person or guardian of the estate, or both, of a consumer under  
3 the Probate Act of 1975.

4 "Identified offender" means a person who meets any of the  
5 following criteria:

6 (1) Has been convicted of, found guilty of, adjudicated  
7 delinquent for, found not guilty by reason of insanity for,  
8 or found unfit to stand trial for, any felony offense  
9 listed in Section 25 of the Health Care Worker Background  
10 Check Act, except for the following:

11 (i) a felony offense described in Section 10-5 of  
12 the Nurse Practice Act;

13 (ii) a felony offense described in Section 4, 5, 6,  
14 8, or 17.02 of the Illinois Credit Card and Debit Card  
15 Act;

16 (iii) a felony offense described in Section 5, 5.1,  
17 5.2, 7, or 9 of the Cannabis Control Act;

18 (iv) a felony offense described in Section 401,  
19 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois  
20 Controlled Substances Act; and

21 (v) a felony offense described in the  
22 Methamphetamine Control and Community Protection Act.

23 (2) Has been convicted of, adjudicated delinquent for,  
24 found not guilty by reason of insanity for, or found unfit  
25 to stand trial for, any sex offense as defined in  
26 subsection (c) of Section 10 of the Sex Offender Management



1 Board Act.

2 "Transitional living units" are residential units within a  
3 facility that have the purpose of assisting the consumer in  
4 developing and reinforcing the necessary skills to live  
5 independently outside of the facility. The duration of stay in  
6 such a setting shall not exceed 120 days for each consumer.  
7 Nothing in this definition shall be construed to be a  
8 prerequisite for transitioning out of a facility.

9 "Licensee" means the person, persons, firm, partnership,  
10 association, organization, company, corporation, or business  
11 trust to which a license has been issued.

12 "Misappropriation of a consumer's property" means the  
13 deliberate misplacement, exploitation, or wrongful temporary  
14 or permanent use of a consumer's belongings or money without  
15 the consent of a consumer or his or her guardian.

16 "Neglect" means a facility's failure to provide, or willful  
17 withholding of, adequate medical care, mental health  
18 treatment, psychiatric rehabilitation, personal care, or  
19 assistance that is necessary to avoid physical harm and mental  
20 anguish of a consumer.

21 "Personal care" means assistance with meals, dressing,  
22 movement, bathing, or other personal needs, maintenance, or  
23 general supervision and oversight of the physical and mental  
24 well-being of an individual who is incapable of maintaining a  
25 private, independent residence or who is incapable of managing  
26 his or her person, whether or not a guardian has been appointed

1 for such individual. "Personal care" shall not be construed to  
2 confine or otherwise constrain a facility's pursuit to develop  
3 the skills and abilities of a consumer to become  
4 self-sufficient and capable of increasing levels of  
5 independent functioning.

6 "Recovery and rehabilitation supports" means a program  
7 that facilitates a consumer's longer-term symptom management  
8 and stabilization while preparing the consumer for  
9 transitional living units by improving living skills and  
10 community socialization. The duration of stay in such a setting  
11 shall be established by the Department by rule.

12 "Restraint" means:

13 (i) a physical restraint that is any manual method or  
14 physical or mechanical device, material, or equipment  
15 attached or adjacent to a consumer's body that the consumer  
16 cannot remove easily and restricts freedom of movement or  
17 normal access to one's body; devices used for positioning,  
18 including, but not limited to, bed rails, gait belts, and  
19 cushions, shall not be considered to be restraints for  
20 purposes of this Section; or

21 (ii) a chemical restraint that is any drug used for  
22 discipline or convenience and not required to treat medical  
23 symptoms; the Department shall, by rule, designate certain  
24 devices as restraints, including at least all those devices  
25 that have been determined to be restraints by the United  
26 States Department of Health and Human Services in

1 interpretive guidelines issued for the purposes of  
2 administering Titles XVIII and XIX of the federal Social  
3 Security Act. For the purposes of this Act, restraint shall  
4 be administered only after utilizing a coercive free  
5 environment and culture.

6 "Self-administration of medication" means consumers shall  
7 be responsible for the control, management, and use of their  
8 own medication.

9 "Crisis stabilization" means a secure and separate unit  
10 that provides short-term behavioral, emotional, or psychiatric  
11 crisis stabilization as an alternative to hospitalization or  
12 re-hospitalization for consumers from residential or community  
13 placement. The duration of stay in such a setting shall not  
14 exceed 21 days for each consumer.

15 "Therapeutic separation" means the removal of a consumer  
16 from the milieu to a room or area which is designed to aid in  
17 the emotional or psychiatric stabilization of that consumer.

18 "Triage center" means a non-residential 23-hour center  
19 that serves as an alternative to emergency room care,  
20 hospitalization, or re-hospitalization for consumers in need  
21 of short-term crisis stabilization. Consumers may access a  
22 triage center from a number of referral sources, including  
23 family, emergency rooms, hospitals, community behavioral  
24 health providers, federally qualified health providers, or  
25 schools, including colleges or universities. A triage center  
26 may be located in a building separate from the licensed

1 location of a facility, but shall not be more than 1,000 feet  
2 from the licensed location of the facility and must meet all of  
3 the facility standards applicable to the licensed location. If  
4 the triage center does operate in a separate building, safety  
5 personnel shall be provided, on site, 24 hours per day and the  
6 triage center shall meet all other staffing requirements  
7 without counting any staff employed in the main facility  
8 building.

9 (Source: P.A. 98-104, eff. 7-22-13; 98-651, eff. 6-16-14;  
10 99-180, eff. 7-29-15; revised 9-8-16.)

11 (210 ILCS 49/2-103)

12 Sec. 2-103. Staff training. Training for all new employees  
13 specific to the various levels of care offered by a facility  
14 shall be provided to employees during their orientation period  
15 and annually thereafter. Training shall be independent of the  
16 Department and overseen by the Division of Mental Health to  
17 determine the content of all facility employee training and to  
18 provide training for all trainers of facility employees.  
19 Training of employees shall be consistent with nationally  
20 recognized national accreditation standards as defined later  
21 in this Act. Training of existing staff of a recovery and  
22 rehabilitation support center shall be conducted in accordance  
23 with, and on the schedule provided in, the staff training plan  
24 approved by the Division of Mental Health. Training of existing  
25 staff for any other level of care licensed under this Act,

1 including triage, crisis stabilization, and transitional  
2 living shall be completed at a facility prior to the  
3 implementation of that level of care. Training shall be  
4 required for all existing staff at a facility prior to the  
5 implementation of any new services authorized under this Act.

6 (Source: P.A. 98-104, eff. 7-22-13.)

7 (210 ILCS 49/4-104.5 new)

8 Sec. 4-104.5. Waiver of compliance. Upon application by a  
9 facility, the Director may grant or renew the waiver of the  
10 facility's compliance with a rule or standard for a period not  
11 to exceed the duration of the current license or, in the case  
12 of an application for license renewal, the duration of the  
13 renewal period. The waiver may be conditioned upon the facility  
14 taking action prescribed by the Director as a measure  
15 equivalent to compliance. In determining whether to grant or  
16 renew a waiver, the Director shall consider the duration and  
17 basis for any current waiver with respect to the same rule or  
18 standard and the validity and effect upon patient health and  
19 safety of extending it on the same basis, the effect upon the  
20 health and safety of consumers, the quality of consumer care,  
21 the facility's history of compliance with the rules and  
22 standards of this Act and the facility's attempts to comply  
23 with the particular rule or standard in question. Upon request  
24 by a facility, the Department must evaluate or allow for an  
25 evaluation of compliance with the Life Safety Code using the

1 Fire Safety Evaluation System. In determining whether to grant  
2 or renew a waiver of a standard pertaining to Chapter 33 of the  
3 National Fire Protection Association (NFPA) 101 Life Safety  
4 Code, the Director shall use Fire Safety Evaluation Systems in  
5 determining whether to grant or renew the waiver. The  
6 Department may provide, by rule, for the automatic renewal of  
7 waivers concerning physical plant requirements upon the  
8 renewal of a license. The Department shall renew waivers  
9 relating to physical plant standards issued in accordance with  
10 this Section at the time of the indicated reviews, unless it  
11 can show why such waivers should not be extended for either of  
12 the following reasons:

13 (1) the condition of the physical plant has  
14 deteriorated or its use substantially changed so that the  
15 basis upon which the waiver was issued is materially  
16 different; or

17 (2) the facility is renovated or substantially  
18 remodeled in such a way as to permit compliance with the  
19 applicable rules and standards without a substantial  
20 increase in cost.

21 A copy of each waiver application and each waiver granted  
22 or renewed shall be on file with the Department and available  
23 for public inspection.

24 No penalty or fine may be assessed for a condition for  
25 which the facility has received a variance or waiver of a  
26 standard.

1       Waivers granted to a facility by the Department under any  
2 other law shall not be considered by the Department in its  
3 determination of a facility's compliance with the requirements  
4 of this Act, including, but not limited to, compliance with the  
5 Life Safety Code.

6           (210 ILCS 49/4-105)

7       Sec. 4-105. Provisional licensure duration. A provisional  
8 license shall be valid upon fulfilling the requirements  
9 established by the Department by emergency rule. The license  
10 shall remain valid as long as a facility remains in compliance  
11 with the licensure provisions established in rule. Provisional  
12 licenses issued upon initial licensure as a specialized mental  
13 health rehabilitation facility shall expire at the end of a  
14 3-year period, which commences on the date the provisional  
15 license is issued. Issuance of a provisional license for any  
16 reason other than initial licensure (including, but not limited  
17 to, change of ownership, location, number of beds, or services)  
18 shall not extend the maximum 3-year period, at the end of which  
19 a facility must be licensed pursuant to Section 4-201.  
20 Notwithstanding any other provision of this Act or the  
21 Specialized Mental Health Rehabilitation Facilities Code, 77  
22 Ill. Admin. Code 380, to the contrary, if a facility has  
23 received notice from the Department that its application for  
24 provisional licensure to provide recovery and rehabilitation  
25 services has been accepted as complete and the facility has

1 attested in writing to the Department that it will comply with  
2 the staff training plan approved by the Division of Mental  
3 Health, then a provisional license for recovery and  
4 rehabilitation services shall be issued to the facility within  
5 60 days after the Department determines that the facility is in  
6 compliance with the requirements of the Life Safety Code in  
7 accordance with Section 4-104.5 of this Act.

8 (Source: P.A. 98-104, eff. 7-22-13; 99-712, eff. 8-5-16.)

9 (210 ILCS 49/4-108.5)

10 Sec. 4-108.5. Provisional licensure period; surveys.  
11 During the provisional licensure period, the Department shall  
12 conduct surveys to determine compliance with timetables and  
13 benchmarks with a facility's provisional licensure application  
14 plan of operation. Timetables and benchmarks shall be  
15 established in rule and shall include, but not be limited to,  
16 the following: (1) training of new and existing staff; (2)  
17 establishment of a data collection and reporting program for  
18 the facility's Quality Assessment and Performance Improvement  
19 Program; and (3) compliance with building environment  
20 standards beyond compliance with Chapter 33 of the National  
21 Fire Protection Association (NFPA) 101 Life Safety Code.  
22 Waivers granted by the Department in accordance with Section  
23 4-104.5 of this Act shall be considered by the Department in  
24 its determination of the facility's compliance with the Life  
25 Safety Code.



1           During the provisional licensure period, the Department  
2 shall conduct State licensure surveys as well as a conformance  
3 standard review to determine compliance with timetables and  
4 benchmarks associated with the accreditation process.  
5 Timetables and benchmarks shall be met in accordance with the  
6 preferred accrediting organization conformance standards and  
7 recommendations and shall include, but not be limited to,  
8 conducting a comprehensive facility self-evaluation in  
9 accordance with an established national accreditation program.  
10 The facility shall submit all data reporting and outcomes  
11 required by accrediting organization to the Department of  
12 Public Health for review to determine progress towards  
13 accreditation. Accreditation status shall supplement but not  
14 replace the State's licensure surveys of facilities licensed  
15 under this Act and their certified programs and services to  
16 determine the extent to which these facilities provide high  
17 quality interventions, especially evidence-based practices,  
18 appropriate to the assessed clinical needs of individuals in  
19 the 4 certified levels of care.

20           Except for incidents involving the potential for harm,  
21 serious harm, death, or substantial facility failure to address  
22 a serious systemic issue within 60 days, findings of the  
23 facility's root cause analysis of problems and the facility's  
24 Quality Assessment and Performance Improvement program in  
25 accordance with item (22) of Section 4-104 shall not be used as  
26 a basis for non-compliance.

1           The Department shall have the authority to hire licensed  
2 practitioners of the healing arts and qualified mental health  
3 professionals to consult with and participate in survey and  
4 inspection activities.

5           (Source: P.A. 98-651, eff. 6-16-14.)

6           Section 99. Effective date. This Act takes effect July 1,  
7 2017.