

1 AN ACT concerning public health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Community Expanded Mental Health Services Act.

6 Section 5. Purpose. The purpose of an Expanded Mental
7 Health Services Program and Governing Commission created under
8 the provisions of this Act by the voters of a territory within
9 a municipality with a population of more than 1,000,000 shall
10 be to expand the availability of mental health services to an
11 additional population of mentally ill residents, in keeping
12 with the model of community-based mental health care instituted
13 by the 1963 federal Community Mental Health Centers Act. The
14 Program is intended to expand and extend mental health services
15 to mentally ill residents who need the assistance of their
16 communities in overcoming or coping with mental or emotional
17 disorders, with a special focus on early intervention and
18 prevention of such disorders. The Expanded Mental Health
19 Services Program may also assist the severely mentally ill, but
20 shall not replace existing services currently mandated by law
21 for the severely mentally ill.

22 Section 10. Definitions. As used in this Act:

1 "Clinical psychologist" means a psychologist who is
2 licensed by the Illinois Department of Financial and
3 Professional Regulation and who: (i) has a doctoral degree from
4 a regionally accredited university, college, or professional
5 school, and has 2 years of supervised experience in health
6 services of which at least one year is postdoctoral and one
7 year is in an organized health service program; or (ii) has a
8 graduate degree in psychology from a regionally accredited
9 university or college, and has not less than 6 years of
10 experience as a psychologist with at least 2 years of
11 supervised experience in health services.

12 "Clinical social worker" means a person who is licensed as
13 a clinical social worker by the Illinois Department of
14 Financial and Professional Regulation and who: (i) has a
15 master's or doctoral degree in social work from an accredited
16 graduate school of social work; and (ii) has at least 2 years
17 of supervised post-master's clinical social work practice
18 which shall include the provision of mental health services for
19 the evaluation, treatment and prevention of mental and
20 emotional disorders.

21 "Community organization" means a not for profit
22 organization which has been registered with this State for at
23 least 5 years as a not for profit organization, which qualifies
24 for tax exempt status under Section 501(c)(3) of the United
25 States Internal Revenue Code of 1986, as now or hereafter
26 amended, which continuously maintains an office or business

1 location within the territory of an Expanded Mental Health
2 Services Program together with a current listed telephone
3 number, or a majority of whose members reside within the
4 territory of an Expanded Mental Health Services Program.

5 "Eligible person" means any person living within a
6 described territory who suffers from, or is at risk of
7 suffering from, a mental illness and such a person's immediate
8 family (including a spouse, child, and parent). Each eligible
9 person may receive described services within a territory, and
10 those services shall be free of charge after the person has
11 exhausted all available payment subsidies, including but not
12 limited to Medicare, Medicaid, and private insurance.

13 "Governing Commission" means the governing body of an
14 Expanded Mental Health Services Program created under this Act.

15 "Mental illness" means a mental or emotional disorder that
16 substantially impairs a person's thought, perception of
17 reality, emotional process, judgment, behavior, or ability to
18 cope with the ordinary demands of life, but does not include a
19 developmental disability, dementia, or Alzheimer's disease
20 absent psychosis, or an abnormality manifested only by repeated
21 criminal or otherwise antisocial conduct.

22 "Mental health professionals" include clinical social
23 workers, clinical psychologists, and psychiatrists as defined
24 by this Act.

25 "Program" means the Expanded Mental Health Services
26 Program governed by a specific Governing Commission.

1 "Program guidelines" means those policies, rules,
2 regulations, and bylaws established from time to time by the
3 Governing Commission to explain, clarify, or modify the Program
4 in order to fulfill its goals and objectives.

5 "Psychiatrist" means a physician who has successfully
6 completed a residency program in psychiatry accredited by
7 either the Accreditation Council for Graduate Medical
8 Education or the American Osteopathic Association.

9 "Severe mental illness" means the manifestation of all of
10 the following characteristics: (i) a primary diagnosis of one
11 of the major mental disorders in the current edition of the
12 Diagnostic and Statistical Manual of Mental Disorders listed as
13 follows: schizophrenia disorder; delusional disorder;
14 schizo-affective disorder; bipolar affective disorder;
15 atypical psychosis; major depression, recurrent; (ii)
16 substantial impairment of functioning in at least 2 of the
17 following areas: self-maintenance, social functioning,
18 activities of community living, and work skills; and (iii)
19 presence or expected presence of the disability for at least
20 one year.

21 A determination of severe mental illness shall be based
22 upon a comprehensive, documented assessment with an evaluation
23 by a licensed clinical psychologist or psychiatrist, and shall
24 not be based solely on behaviors relating to environmental,
25 cultural or economic differences.

26 "Territory" means a geographically contiguous area with a

1 population of 75,000 to 250,000 based on the most recent
2 decennial census.

3 "Treatment" means an effort to accomplish an improvement in
4 the mental condition or related behavior of a recipient.
5 "Treatment" includes, but is not limited to, examination,
6 diagnosis, evaluation, care, training, psychotherapy,
7 pharmaceuticals, outpatient services, and other services
8 provided for recipients by mental health facilities.

9 Section 15. Creation of Expanded Mental Health Services
10 Program and Governing Commission.

11 (a) Whenever in a municipality with more than 1,000,000
12 inhabitants, the question of creating an Expanded Mental Health
13 Services Program within a contiguous territory included
14 entirely within the municipality is initiated by resolution or
15 ordinance of the corporate authorities of the municipality or
16 by a petition signed by not less than 8% of the total votes
17 cast for candidates for Governor in the preceding gubernatorial
18 election by registered voters of the territory, the registered
19 voters of which are eligible to sign the petition, it shall be
20 the duty of the election authority having jurisdiction over
21 such municipality to submit the question of creating an
22 Expanded Mental Health Services Program to the electors of the
23 territory at the regular election specified in the resolution,
24 ordinance, or petition initiating the question. A petition
25 initiating a question described in this Section shall be filed

1 with the election authority having jurisdiction over the
2 municipality. The petition shall be filed and objections
3 thereto shall be made in the manner provided in the general
4 election law. A resolution, ordinance, or petition initiating a
5 question described in this Section shall specify the election
6 at which the question is to be submitted. The referendum on
7 such question shall be held in accordance with general election
8 law. Such question, and the resolution, ordinance, or petition
9 initiating the question, shall include a description of the
10 territory, the name of the proposed Expanded Mental Health
11 Services Program, and the maximum rate at which the Expanded
12 Mental Health Services Program shall be able to levy a property
13 tax. The question shall be in substantially the following form:

14 Shall there be established, to serve the territory commonly
15 described on this ballot or notice of this question, a
16 (fill in community name) Expanded Mental Health Services
17 Program, to provide direct free mental health services for any
18 resident of the territory who needs assistance in overcoming or
19 coping with mental or emotional disorders, where such program
20 will be funded through an increase of not more than (fill
21 in tax rate from .004 to .007) of the real estate property tax
22 bill of all parcels within the boundaries of the territory (for
23 example, \$..... (fill in tax rate figure) for every \$1,000 of
24 taxes you currently pay)?

25 All of that area within the geographic boundaries of the
26 territory described in such question shall be included in the

1 Program, and no area outside the geographic boundaries of the
2 territory described in such question shall be included in the
3 Program. If the election authority determines that the
4 description cannot be included within the space limitations of
5 the ballot, the election authority shall prepare large printed
6 copies of a notice of the question, which shall be prominently
7 displayed in the polling place of each precinct in which the
8 question is to be submitted.

9 (b) Whenever a majority of the voters on such public
10 question approve the creation of an Expanded Mental Health
11 Services Program as certified by the proper election
12 authorities, within 90 days of the passage of the referendum
13 the Governor shall appoint 5 members and the Mayor of the
14 municipality shall appoint 4 members, to be known as
15 commissioners, to serve as the governing body of the Expanded
16 Mental Health Services Program.

17 (c) Of the 5 commissioners appointed by the Governor, the
18 Governor shall choose 4 commissioners from a list of nominees
19 supplied by a community organization or community
20 organizations as defined in this Act; these 4 commissioners
21 shall reside in the territory of the Program. Of the
22 commissioners appointed by the Governor, one shall be a mental
23 health professional and one shall be a mental health consumer
24 residing in the territory of the Program.

25 (d) Of the 4 commissioners appointed by the Mayor of the
26 municipality, the Mayor shall choose 3 commissioners from a

1 list of nominees supplied by a community organization or
2 community organizations as defined in this Act; these 3
3 commissioners shall reside in the territory of the Program. Of
4 the commissioners appointed by the Mayor, one shall be a mental
5 health professional and one shall be a mental health consumer
6 residing in the territory of the Program.

7 (e) A community organization may recommend up to 10
8 individuals to the Governor and up to 10 individuals to the
9 Mayor to serve on the Governing Commission.

10 (f) No fewer than 7 commissioners serving at one time shall
11 reside within the territory of the Program.

12 (g) Upon creation of a Governing Commission, the terms of
13 the initial commissioners shall be as follows: (i) of the
14 Governor's initial appointments, 2 shall be for 3 years, one
15 for 2 years, and 2 for one year; and (ii) of the Mayor's
16 initial appointments, one shall be for 3 years, 2 for 2 years,
17 and one for one year. All succeeding terms shall be for 3
18 years, or until a successor is appointed and qualified.
19 Commissioners shall serve without compensation except for
20 reimbursement for reasonable expenses incurred in the
21 performance of duties as a commissioner. A vacancy in the
22 office of a member of a Governing Commission shall be filled in
23 like manner as an original appointment.

24 (h) Any member of the Governing Commission may be removed
25 by a majority vote of all other commissioners for absenteeism,
26 neglect of duty, misconduct or malfeasance in the office, after

1 being given a written statement of the charges and an
2 opportunity to be heard thereon.

3 (i) All proceedings and meetings of the Governing
4 Commission shall be conducted in accordance with the provisions
5 of the Open Meetings Act.

6 Section 20. Duties and functions of Governing Commission.
7 The duties and functions of the Governing Commission of an
8 Expanded Mental Health Services Program shall include the
9 following:

10 (1) To, immediately after appointment, meet and organize,
11 by the election of one of its number as president and one as
12 secretary and such other officers as it may deem necessary. It
13 shall establish policies, rules, regulations, bylaws, and
14 procedures for both the Governing Commission and the Program
15 concerning the rendition or operation of services and
16 facilities which it directs, supervises, or funds, not
17 inconsistent with the provisions of this Act. No policies,
18 rules, regulations, or bylaws shall be adopted by the Governing
19 Commission without prior notice to the residents of the
20 territory of a Program and an opportunity for such residents to
21 be heard.

22 (2) To hold meetings at least quarterly, and to hold
23 special meetings upon a written request signed by at least 2
24 commissioners and filed with the secretary of the Governing
25 Commission.

1 (3) To provide annual status reports on the Program to the
2 Governor, the Mayor of the municipality, and the voters of the
3 territory within 120 days after the end of the fiscal year,
4 such report to show the condition of the expanded mental health
5 services fund for that year, the sums of money received from
6 all sources, how all monies have been expended and for what
7 purposes, how the Program has conformed with the mental health
8 needs assessment conducted in the territory, and such other
9 statistics and Program information in regard to the work of the
10 Governing Commission as it may deem of general interest.

11 (4) To manage, administer, and invest the financial
12 resources contained in the expanded mental health services
13 fund.

14 (5) To employ necessary personnel, acquire necessary
15 office space, enter into contractual relationships, and
16 disburse funds in accordance with the provisions of this Act.
17 In this regard, to the extent the Governing Commission chooses
18 to retain the services of another public or private agency with
19 respect to the provision of expanded mental health services
20 under this Act, such selection shall be based upon receipt of a
21 comprehensive plan addressing the following factors: the
22 conducting of a thorough mental health needs assessment for the
23 territory; the development of specific mental health programs
24 and services tailored to this assessment; and the percentage of
25 the proposed budget devoted to responding to these demonstrated
26 needs. Within 14 days of the selection of any individual or

1 organization, the Governing Commission shall provide a written
2 report of its decision, with specific reference to the factors
3 used in reaching its decision, to the Mayor of the
4 municipality, the Governor, and the voters of the territory.
5 Subsequent decisions by the Governing Commission to retain or
6 terminate the services of a provider shall be based upon the
7 provider's success in achieving its stated goals, especially
8 with regards to servicing the maximum number of residents of
9 the territory identified as needing mental health services in
10 the initial needs assessment and subsequent updates to it.

11 (6) To disburse the funds collected annually from tax
12 revenue in such a way that no less than 85% of those funds are
13 expended on direct mental and emotional health services
14 provided by licensed mental health professionals or by mental
15 health interns or persons with a bachelor's degree in social
16 work supervised by those professionals.

17 (7) To establish criteria and standards necessary for
18 hiring the licensed mental health professionals to be employed
19 to provide the direct services of the Program.

20 (8) To identify the mental and emotional health needs
21 within the Program territory and determine the programs for
22 meeting those needs annually as well as the eligible persons
23 whom the Program may serve.

24 (9) To obtain errors and omissions insurance for all
25 commissioners in an amount of no less than \$1,000,000.

26 (10) To perform such other functions in connection with the

1 Program and the expanded mental health services fund as
2 required under this Act.

3 Section 25. Expanded mental health services fund.

4 (a) The Governing Commission shall maintain the expanded
5 mental health services fund for the purposes of paying the
6 costs of administering the Program and carrying out its duties
7 under this Act, subject to the limitations and procedures set
8 forth in this Act.

9 (b) The expanded mental health services fund shall be
10 raised by means of an annual tax levied on each property within
11 the territory of the Program. The rate of this tax may be
12 changed from year to year by majority vote of the Governing
13 Commission but in no case shall it exceed the ceiling rate
14 established by the voters in the territory of the Program in
15 the binding referendum to approve the creation of the Expanded
16 Mental Health Services Program. The ceiling rate must be set
17 within the range of .004 to .007 on each property in the
18 territory of the Program. A higher ceiling rate for a territory
19 may be established within that range only by the voters in a
20 binding referendum from time to time to be held in a manner as
21 set forth in this legislation. The commissioners shall cause
22 the amount to be raised by taxation in each year to be
23 certified to the county clerk in the manner provided by law,
24 and any tax so levied and certified shall be collected and
25 enforced in the same manner and by the same officers as those

1 taxes for the purposes of the county and city within which the
2 territory of the Governing Commission is located. Any such tax,
3 when collected, shall be paid over to the proper officer of the
4 Governing Commission who is authorized to receive and receipt
5 for such tax. The Governing Commission may issue tax
6 anticipation warrants against the taxes to be assessed for a
7 calendar year.

8 (c) The moneys deposited in the expanded mental health
9 services fund shall, as nearly as practicable, be fully and
10 continuously invested or reinvested by the Governing
11 Commission in investment obligations which shall be in such
12 amounts, and shall mature at such times, that the maturity or
13 date of redemption at the option of the holder of such
14 investment obligations shall coincide, as nearly as
15 practicable, with the times at which monies will be required
16 for the purposes of the Program. For the purposes of this
17 Section, "investment obligation" means direct general
18 municipal, state, or federal obligations which at the time are
19 legal investments under the laws of this State and the payment
20 of principal of and interest on which are unconditionally
21 guaranteed by the governing body issuing them.

22 (d) The fund shall be used solely and exclusively for the
23 purpose of providing expanded mental health services and no
24 more than 15% of the annual levy may be used for reasonable
25 salaries, expenses, bills, and fees incurred in administering
26 the Program.

1 (e) The fund shall be maintained, invested, and expended
2 exclusively by the Governing Commission of the Program for
3 whose purposes it was created. Under no circumstances shall the
4 fund be used by any person or persons, governmental body, or
5 public or private agency or concern other than the Governing
6 Commission of the Program for whose purposes it was created.
7 Under no circumstances shall the fund be commingled with other
8 funds or investments.

9 (f) No commissioner or family member of a commissioner, or
10 employee or family member of an employee, may receive any
11 financial benefit, either directly or indirectly, from the
12 fund. Nothing in this subsection shall be construed to prohibit
13 payment of expenses to a commissioner in accordance with
14 subsection (g) of Section 15.

15 (g) Annually, the Governing Commission shall prepare for
16 informational purposes in the appropriations process: (1) an
17 annual budget showing the estimated receipts and intended
18 disbursements pursuant to this Act for the fiscal year
19 immediately following the date the budget is submitted, which
20 date must be at least 30 days prior to the start of the fiscal
21 year; and (2) an independent financial audit of the fund and
22 the management of the Program detailing the income received and
23 disbursements made pursuant to this Act during the fiscal year
24 just preceding the date the annual report is submitted, which
25 date must be within 90 days of the close of that fiscal year.
26 These reports shall be made available to the public through any

1 office of the Governing Commission or a public facility such as
2 a local public library located within the territory of the
3 Program. In addition, and in an effort to increase transparency
4 of public programming, the Governing Commission shall
5 effectively create and operate a publicly accessible website,
6 which shall publish results of all audits for a period of no
7 less than six months after the initial disclosure of the
8 results and findings of each audit.

9 Section 30. Termination of a Program. An Expanded Mental
10 Health Services Program may be terminated only by the
11 submission of and approval of the issue in the form of a public
12 question before the voters of the territory of the Program at a
13 regularly scheduled election in the same manner as the question
14 of the creation of the Program, as set forth in Section 15 of
15 this Act. If a majority of the voters voting upon the question
16 approve the termination of the Expanded Mental Health Services
17 Program, as certified by the proper election authorities, the
18 Program shall conclude its business and cease operations within
19 one year of the date on which the election containing the
20 public question was held.

21 Section 35. Immunity and indemnification. No commissioner,
22 officer, or employee, whether on salary, wage, or voluntary
23 basis, shall be personally liable and no cause of action may be
24 brought for damages resulting from the exercise of judgment or

1 discretion in connection with the performance of Program duties
2 or responsibilities, unless the act or omission involved
3 willful or wanton conduct.

4 A Program shall indemnify each commissioner, officer, and
5 employee, except for the mental health professionals who will
6 be expected to maintain malpractice insurance appropriate to
7 their professional positions, whether on salary, wage, or
8 voluntary basis against any and all losses, damages, judgments,
9 interest, settlements, fines, court costs and other reasonable
10 costs and expenses of legal proceedings including attorney
11 fees, and any other liabilities incurred by, imposed upon, or
12 suffered by such individual in connection with or resulting
13 from any claim, action, suit, or proceeding, actual or
14 threatened, arising out of or in connection with the
15 performance of Program duties. Any settlement of any claim must
16 be made with prior approval of the Governing Commission in
17 order for indemnification, as provided in this Section, to be
18 available.

19 The immunity and indemnification provided by a Program
20 under this Section shall not cover any acts or omissions which
21 involve willful or wanton conduct, breach of good faith,
22 intentional misconduct, knowing violation of the law, or for
23 any transaction from which such individual derives an improper
24 personal benefit.

25 Section 40. Legal actions. No lawsuit or any other type of

1 legal action brought under the terms of this Act shall be
2 sustainable in a court of law or equity unless all conditions,
3 stipulations, and provisions of the Program have been complied
4 with, and unless the suit is brought within 12 months after the
5 event which is the subject of the legal action.

6 Section 45. Penalty. Any person violating the provisions of
7 this Act or any procedure, regulation, or bylaw of a Governing
8 Commission and Program created under the provisions of this Act
9 shall, in addition to all other remedies provided by law, be
10 guilty of a petty offense and shall be fined not more than
11 \$1,000 for each offense.

12 Section 50. Home rule. The authority or duty to establish
13 or prohibit the establishment of Expanded Mental Health
14 Services Programs in any municipality with more than 1,000,000
15 inhabitants, including home rule units, and the determination
16 of the terms of such Programs are declared to be exclusive
17 powers and functions of the State which may not be exercised
18 concurrently by any such municipality. No municipality with
19 more than 1,000,000 inhabitants, including home rule units,
20 shall establish or maintain an Expanded Mental Health Services
21 Program other than as provided in this Act, and any such
22 municipality shall affirmatively establish and maintain an
23 Expanded Mental Health Services Program when required to do so
24 pursuant to this Act. This Section is a denial and limitation

1 of home rule powers and functions under subsection (h) of
2 Section 6 of Article VII of the Illinois Constitution.