

AN ACT concerning regulation.

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

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

(210 ILCS 49/1-101.5)

Sec. 1-101.5. Prior law.

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

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

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

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

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

(210 ILCS 49/1-102)

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

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

"Accreditation" means any of the following:

- (1) the Joint Commission;
  - (2) the Commission on Accreditation of Rehabilitation Facilities;
  - (3) the Healthcare Facilities Accreditation Program;
- or

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

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

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

"Consumer" does not mean any of the following:

- (i) an individual requiring a locked setting;
- (ii) an individual requiring psychiatric hospitalization because of an acute psychiatric crisis;
- (iii) an individual under 18 years of age;
- (iv) an individual who is actively suicidal or violent toward others;
- (v) an individual who has been found unfit to stand trial;
- (vi) an individual who has been found not guilty by reason of insanity based on committing a violent act, such as sexual assault, assault with a deadly weapon, arson, or murder;
- (vii) an individual subject to temporary detention and examination under Section 3-607 of the Mental Health and Developmental Disabilities Code;
- (viii) an individual deemed clinically appropriate for inpatient admission in a State psychiatric hospital; and

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

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

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

"Department" means the Department of Public Health.

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

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

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

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

consumers of a facility.

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

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

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

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

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

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

"Facility" does not include the following:

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

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

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

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

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

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

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

(8) a supportive living facility in good standing with

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

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

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

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

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

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

or

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

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

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

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

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

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

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

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

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

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

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



Board Act.

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

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

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

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

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

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

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

"Restraint" means:

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

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

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

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

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

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

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

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

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

(210 ILCS 49/2-103)

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

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

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

(210 ILCS 49/4-104.5 new)

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

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

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

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

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

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

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

(210 ILCS 49/4-105)

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

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

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

(210 ILCS 49/4-108.5)

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



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

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

Public Act 100-0365

HB2465 Enrolled

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

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

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