



Sen. Heather A. Steans

**Filed: 4/25/2017**

10000SB1322sam001

LRB100 08882 MJP 25417 a

1 AMENDMENT TO SENATE BILL 1322

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1322 by replacing  
3 everything after the enacting clause with the following:

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

1 administrative hearing, notice of violation, or other  
2 enforcement action, except for a pending notice of revocation,  
3 authorized under the Nursing Home Care Act shall not be a  
4 barrier to the provisional licensure of a facility under this  
5 Act. Provisional licensure under this Act shall not relieve a  
6 facility from the responsibility for the payment of any past,  
7 current, or future fines or penalties, or for any other  
8 enforcement remedy, imposed upon the facility under the Nursing  
9 Home Care Act.

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

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

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

21 (210 ILCS 49/1-102)

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

24 "Abuse" means any physical or mental injury or sexual  
25 assault inflicted on a consumer other than by accidental means

1 in a facility.

2 "Accreditation" means any of the following:

3 (1) the Joint Commission;

4 (2) the Commission on Accreditation of Rehabilitation  
5 Facilities;

6 (3) the Healthcare Facilities Accreditation Program;

7 or

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

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

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

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

17 (i) an individual requiring a locked setting;

18 (ii) an individual requiring psychiatric  
19 hospitalization because of an acute psychiatric crisis;

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

21 (iv) an individual who is actively suicidal or violent  
22 toward others;

23 (v) an individual who has been found unfit to stand  
24 trial;

25 (vi) an individual who has been found not guilty by  
26 reason of insanity based on committing a violent act, such

1 as sexual assault, assault with a deadly weapon, arson, or  
2 murder;

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

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

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

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

15 "Controlled drugs" means those drugs covered under the  
16 federal Comprehensive Drug Abuse Prevention Control Act of  
17 1970, as amended, or the Illinois Controlled Substances Act.

18 "Department" means the Department of Public Health.

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

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

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

5 "Emergency" means a situation, physical condition, or one  
6 or more practices, methods, or operations which present  
7 imminent danger of death or serious physical or mental harm to  
8 consumers of a facility.

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

20 (1) 100% of the consumer population of the facility has  
21 a diagnosis of serious mental illness;

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

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

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

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

7           "Facility" does not include the following:

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

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

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

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

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

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

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

7           (8) a supportive living facility in good standing with  
8 the program established under Section 5-5.01a of the  
9 Illinois Public Aid Code, except only for purposes of the  
10 employment of persons in accordance with Section 3-206.01  
11 of the Nursing Home Care Act;

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

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

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

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

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

1 or

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

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

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

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

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

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

20 (ii) a felony offense described in Section 4, 5, 6,  
21 8, or 17.02 of the Illinois Credit Card and Debit Card  
22 Act;

23 (iii) a felony offense described in Section 5, 5.1,  
24 5.2, 7, or 9 of the Cannabis Control Act;

25 (iv) a felony offense described in Section 401,  
26 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois



1           Controlled Substances Act; and

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

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

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

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

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

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

1 anguish of a consumer.

2 "Personal care" means assistance with meals, dressing,  
3 movement, bathing, or other personal needs, maintenance, or  
4 general supervision and oversight of the physical and mental  
5 well-being of an individual who is incapable of maintaining a  
6 private, independent residence or who is incapable of managing  
7 his or her person, whether or not a guardian has been appointed  
8 for such individual. "Personal care" shall not be construed to  
9 confine or otherwise constrain a facility's pursuit to develop  
10 the skills and abilities of a consumer to become  
11 self-sufficient and capable of increasing levels of  
12 independent functioning.

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

19 "Restraint" means:

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

1 purposes of this Section; or

2 (ii) a chemical restraint that is any drug used for  
3 discipline or convenience and not required to treat medical  
4 symptoms; the Department shall, by rule, designate certain  
5 devices as restraints, including at least all those devices  
6 that have been determined to be restraints by the United  
7 States Department of Health and Human Services in  
8 interpretive guidelines issued for the purposes of  
9 administering Titles XVIII and XIX of the federal Social  
10 Security Act. For the purposes of this Act, restraint shall  
11 be administered only after utilizing a coercive free  
12 environment and culture.

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

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

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

25 "Triage center" means a non-residential 23-hour center  
26 that serves as an alternative to emergency room care,

1 hospitalization, or re-hospitalization for consumers in need  
2 of short-term crisis stabilization. Consumers may access a  
3 triage center from a number of referral sources, including  
4 family, emergency rooms, hospitals, community behavioral  
5 health providers, federally qualified health providers, or  
6 schools, including colleges or universities. A triage center  
7 may be located in a building separate from the licensed  
8 location of a facility, but shall not be more than 1,000 feet  
9 from the licensed location of the facility and must meet all of  
10 the facility standards applicable to the licensed location. If  
11 the triage center does operate in a separate building, safety  
12 personnel shall be provided, on site, 24 hours per day and the  
13 triage center shall meet all other staffing requirements  
14 without counting any staff employed in the main facility  
15 building.

16 (Source: P.A. 98-104, eff. 7-22-13; 98-651, eff. 6-16-14;  
17 99-180, eff. 7-29-15; revised 9-8-16.)

18 (210 ILCS 49/2-103)

19 Sec. 2-103. Staff training. Training for all new employees  
20 specific to the various levels of care offered by a facility  
21 shall be provided to employees during their orientation period  
22 and annually thereafter. Training shall be independent of the  
23 Department and overseen by the Division of Mental Health to  
24 determine the content of all facility employee training and to  
25 provide training for all trainers of facility employees.

1 Training of employees shall be consistent with nationally  
2 recognized national accreditation standards as defined later  
3 in this Act. Training of existing staff of a recovery and  
4 rehabilitation support center shall be conducted in accordance  
5 with, and on the schedule provided in, the staff training plan  
6 approved by the Division of Mental Health. Training of existing  
7 staff for any other level of care licensed under this Act,  
8 including triage, crisis stabilization, and transitional  
9 living shall be completed at a facility prior to the  
10 implementation of that level of care. Training shall be  
11 required for all existing staff at a facility prior to the  
12 implementation of any new services authorized under this Act.  
13 (Source: P.A. 98-104, eff. 7-22-13.)

14 (210 ILCS 49/4-104.5 new)

15 Sec. 4-104.5. Waiver of compliance. Upon application by a  
16 facility, the Director may grant or renew the waiver of the  
17 facility's compliance with a rule or standard for a period not  
18 to exceed the duration of the current license or, in the case  
19 of an application for license renewal, the duration of the  
20 renewal period. The waiver may be conditioned upon the facility  
21 taking action prescribed by the Director as a measure  
22 equivalent to compliance. In determining whether to grant or  
23 renew a waiver, the Director shall consider the duration and  
24 basis for any current waiver with respect to the same rule or  
25 standard and the validity and effect upon patient health and

1 safety of extending it on the same basis, the effect upon the  
2 health and safety of consumers, the quality of consumer care,  
3 the facility's history of compliance with the rules and  
4 standards of this Act and the facility's attempts to comply  
5 with the particular rule or standard in question. Upon request  
6 by a facility, the Department must evaluate or allow for an  
7 evaluation of compliance with the Life Safety Code using the  
8 Fire Safety Evaluation System. In determining whether to grant  
9 or renew a waiver of a standard pertaining to Chapter 33 of the  
10 National Fire Protection Association (NFPA) 101 Life Safety  
11 Code, the Director shall use Fire Safety Evaluation Systems in  
12 determining whether to grant or renew the waiver. The  
13 Department may provide, by rule, for the automatic renewal of  
14 waivers concerning physical plant requirements upon the  
15 renewal of a license. The Department shall renew waivers  
16 relating to physical plant standards issued in accordance with  
17 this Section at the time of the indicated reviews, unless it  
18 can show why such waivers should not be extended for either of  
19 the following reasons:

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

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

1       increase in cost.

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

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

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

13           (210 ILCS 49/4-105)

14       Sec. 4-105. Provisional licensure duration. A provisional  
15 license shall be valid upon fulfilling the requirements  
16 established by the Department by emergency rule. The license  
17 shall remain valid as long as a facility remains in compliance  
18 with the licensure provisions established in rule. Provisional  
19 licenses issued upon initial licensure as a specialized mental  
20 health rehabilitation facility shall expire at the end of a  
21 3-year period, which commences on the date the provisional  
22 license is issued. Issuance of a provisional license for any  
23 reason other than initial licensure (including, but not limited  
24 to, change of ownership, location, number of beds, or services)  
25 shall not extend the maximum 3-year period, at the end of which

1 a facility must be licensed pursuant to Section 4-201.  
2 Notwithstanding any other provision of this Act or the  
3 Specialized Mental Health Rehabilitation Facilities Code, 77  
4 Ill. Admin. Code 380, to the contrary, if a facility has  
5 received notice from the Department that its application for  
6 provisional licensure to provide recovery and rehabilitation  
7 services has been accepted as complete and the facility has  
8 attested in writing to the Department that it will comply with  
9 the staff training plan approved by the Division of Mental  
10 Health, then a provisional license for recovery and  
11 rehabilitation services shall be issued to the facility within  
12 60 days after the Department determines that the facility is in  
13 compliance with the requirements of the Life Safety Code in  
14 accordance with Section 4-104.5 of this Act.

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

16 (210 ILCS 49/4-108.5)

17 Sec. 4-108.5. Provisional licensure period; surveys.  
18 During the provisional licensure period, the Department shall  
19 conduct surveys to determine compliance with timetables and  
20 benchmarks with a facility's provisional licensure application  
21 plan of operation. Timetables and benchmarks shall be  
22 established in rule and shall include, but not be limited to,  
23 the following: (1) training of new and existing staff; (2)  
24 establishment of a data collection and reporting program for  
25 the facility's Quality Assessment and Performance Improvement



1 Program; and (3) compliance with building environment  
2 standards beyond compliance with Chapter 33 of the National  
3 Fire Protection Association (NFPA) 101 Life Safety Code.  
4 Waivers granted by the Department in accordance with Section  
5 4-104.5 of this Act shall be considered by the Department in  
6 its determination of the facility's compliance with the Life  
7 Safety Code.

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

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

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

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

13           Section 99. Effective date. This Act takes effect July 1,  
14 2017."