

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.