



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2465

by Rep. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

210 ILCS 49/1-102
210 ILCS 49/3-213 new
210 ILCS 49/4-105
210 ILCS 49/4-108.5

Amends the Specialized Mental Health Rehabilitation Act of 2013. Provides that provisional licenses shall be awarded to every entity with a pending application for licensure on the effective date. Provides that the provisional licenses shall be awarded and in effect immediately upon the effective date of the amendatory Act. Provides that for the purpose of compliance with specified Life Safety Code requirements, the Department of Public Health shall accept certain evaluations and waivers. Makes changes to the definition of "executive director". Provides that for comparative purposes, facilities licensed under the Act shall make a specified quarterly report to the Department of specified incidents. Effective July 1, 2017.

LRB100 08234 MJP 18334 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 1-102, 4-105, and
6 4-108.5 and by adding Section 3-213 as follows:

7 (210 ILCS 49/1-102)

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

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

13 "Accreditation" means any of the following:

14 (1) the Joint Commission;

15 (2) the Commission on Accreditation of Rehabilitation
16 Facilities;

17 (3) the Healthcare Facilities Accreditation Program;

18 or

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

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

23 "Consumer" means a person, 18 years of age or older,

1 admitted to a mental health rehabilitation facility for
2 evaluation, observation, diagnosis, treatment, stabilization,
3 recovery, and rehabilitation.

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

5 (i) an individual requiring a locked setting;

6 (ii) an individual requiring psychiatric
7 hospitalization because of an acute psychiatric crisis;

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

9 (iv) an individual who is actively suicidal or violent
10 toward others;

11 (v) an individual who has been found unfit to stand
12 trial;

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

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

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

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

25 "Consumer record" means a record that organizes all
26 information on the care, treatment, and rehabilitation

1 services rendered to a consumer in a specialized mental health
2 rehabilitation facility.

3 "Controlled drugs" means those drugs covered under the
4 federal Comprehensive Drug Abuse Prevention Control Act of
5 1970, as amended, or the Illinois Controlled Substances Act.

6 "Department" means the Department of Public Health.

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

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

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

19 "Emergency" means a situation, physical condition, or one
20 or more practices, methods, or operations which present
21 imminent danger of death or serious physical or mental harm to
22 consumers of a facility.

23 "Facility" means a specialized mental health
24 rehabilitation facility that provides at least one of the
25 following services: (1) triage center; (2) crisis
26 stabilization; (3) recovery and rehabilitation supports; or

1 (4) transitional living units for 3 or more persons. The
2 facility shall provide a 24-hour program that provides
3 intensive support and recovery services designed to assist
4 persons, 18 years or older, with mental disorders to develop
5 the skills to become self-sufficient and capable of increasing
6 levels of independent functioning. It includes facilities that
7 meet the following criteria:

8 (1) 100% of the consumer population of the facility has
9 a diagnosis of serious mental illness;

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

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

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

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

21 "Facility" does not include the following:

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

25 (2) a hospital, sanitarium, or other institution whose
26 principal activity or business is the diagnosis, care, and

1 treatment of human illness through the maintenance and
2 operation as organized facilities therefor which is
3 required to be licensed under the Hospital Licensing Act;

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

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

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

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

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

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

26 (9) an assisted living or shared housing establishment

1 licensed under the Assisted Living and Shared Housing Act,
2 except only for purposes of the employment of persons in
3 accordance with Section 3-206.01 of the Nursing Home Care
4 Act;

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

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

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

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

15 or

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

17 "Executive director" means a person who is charged with the
18 general administration and supervision of a facility licensed
19 under this Act and who is a Licensed Nursing Home
20 Administrator, Licensed Practitioner of the Healing Arts, or
21 Qualified Mental Health Professional.

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

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

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

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

8 (ii) a felony offense described in Section 4, 5, 6,
9 8, or 17.02 of the Illinois Credit Card and Debit Card
10 Act;

11 (iii) a felony offense described in Section 5, 5.1,
12 5.2, 7, or 9 of the Cannabis Control Act;

13 (iv) a felony offense described in Section 401,
14 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois
15 Controlled Substances Act; and

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

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

23 "Transitional living units" are residential units within a
24 facility that have the purpose of assisting the consumer in
25 developing and reinforcing the necessary skills to live
26 independently outside of the facility. The duration of stay in

1 such a setting shall not exceed 120 days for each consumer.
2 Nothing in this definition shall be construed to be a
3 prerequisite for transitioning out of a facility.

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

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

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

16 "Personal care" means assistance with meals, dressing,
17 movement, bathing, or other personal needs, maintenance, or
18 general supervision and oversight of the physical and mental
19 well-being of an individual who is incapable of maintaining a
20 private, independent residence or who is incapable of managing
21 his or her person, whether or not a guardian has been appointed
22 for such individual. "Personal care" shall not be construed to
23 confine or otherwise constrain a facility's pursuit to develop
24 the skills and abilities of a consumer to become
25 self-sufficient and capable of increasing levels of
26 independent functioning.

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

7 "Restraint" means:

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

16 (ii) a chemical restraint that is any drug used for
17 discipline or convenience and not required to treat medical
18 symptoms; the Department shall, by rule, designate certain
19 devices as restraints, including at least all those devices
20 that have been determined to be restraints by the United
21 States Department of Health and Human Services in
22 interpretive guidelines issued for the purposes of
23 administering Titles XVIII and XIX of the federal Social
24 Security Act. For the purposes of this Act, restraint shall
25 be administered only after utilizing a coercive free
26 environment and culture.

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

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

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

13 "Triage center" means a non-residential 23-hour center
14 that serves as an alternative to emergency room care,
15 hospitalization, or re-hospitalization for consumers in need
16 of short-term crisis stabilization. Consumers may access a
17 triage center from a number of referral sources, including
18 family, emergency rooms, hospitals, community behavioral
19 health providers, federally qualified health providers, or
20 schools, including colleges or universities. A triage center
21 may be located in a building separate from the licensed
22 location of a facility, but shall not be more than 1,000 feet
23 from the licensed location of the facility and must meet all of
24 the facility standards applicable to the licensed location. If
25 the triage center does operate in a separate building, safety
26 personnel shall be provided, on site, 24 hours per day and the

1 triage center shall meet all other staffing requirements
2 without counting any staff employed in the main facility
3 building.

4 (Source: P.A. 98-104, eff. 7-22-13; 98-651, eff. 6-16-14;
5 99-180, eff. 7-29-15; revised 9-8-16.)

6 (210 ILCS 49/3-213 new)

7 Sec. 3-213. Common reporting of critical incidents. For
8 comparative purposes, facilities licensed under this Act shall
9 report to the Department the following incidents on a quarterly
10 basis to be consistent with Level I reportable incidents
11 collected by the Department of Human Services, Division of
12 Mental Health:

13 (1) sexual assault;

14 (2) abuse, neglect, or other maltreatment;

15 (3) all deaths, including deaths of consumers who have
16 been transferred to a hospital;

17 (4) assaults;

18 (5) missing persons after 24 hours;

19 (6) criminal conduct, including arrests and other
20 interactions with police officers; and

21 (7) fires.

22 (210 ILCS 49/4-105)

23 Sec. 4-105. Provisional licensure duration. A provisional
24 license shall be valid upon fulfilling the requirements

1 established by the Department by emergency rule. The license
2 shall remain valid as long as a facility remains in compliance
3 with the licensure provisions established in rule. Provisional
4 licenses issued upon initial licensure as a specialized mental
5 health rehabilitation facility shall expire at the end of a
6 3-year period, which commences on the date the provisional
7 license is issued. Issuance of a provisional license for any
8 reason other than initial licensure (including, but not limited
9 to, change of ownership, location, number of beds, or services)
10 shall not extend the maximum 3-year period, at the end of which
11 a facility must be licensed pursuant to Section 4-201.

12 Notwithstanding any other provision of this Act to the
13 contrary, provisional licenses shall be awarded to every entity
14 with a pending application for licensure on the effective date
15 of this amendatory Act of the 100th General Assembly. The
16 provisional licenses shall be awarded and in effect immediately
17 upon the effective date of this amendatory Act of the 100th
18 General Assembly.

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

20 (210 ILCS 49/4-108.5)

21 Sec. 4-108.5. Provisional licensure period; surveys.
22 During the provisional licensure period, the Department shall
23 conduct surveys to determine compliance with timetables and
24 benchmarks with a facility's provisional licensure application
25 plan of operation. Timetables and benchmarks shall be

1 established in rule and shall include, but not be limited to,
2 the following: (1) training of new and existing staff; (2)
3 establishment of a data collection and reporting program for
4 the facility's Quality Assessment and Performance Improvement
5 Program; and (3) compliance with building environment
6 standards beyond compliance with Chapter 33 of the National
7 Fire Protection Association (NFPA) 101 Life Safety Code. For
8 the purpose of compliance with Life Safety Code requirements,
9 the Department shall accept Fire Safety Evaluation System
10 (FSES) evaluations and any existing or previously approved
11 waivers that have been granted to facilities previously under
12 the Nursing Home Care Act and have not been revoked.

13 During the provisional licensure period, the Department
14 shall conduct State licensure surveys as well as a conformance
15 standard review to determine compliance with timetables and
16 benchmarks associated with the accreditation process.
17 Timetables and benchmarks shall be met in accordance with the
18 preferred accrediting organization conformance standards and
19 recommendations and shall include, but not be limited to,
20 conducting a comprehensive facility self-evaluation in
21 accordance with an established national accreditation program.
22 The facility shall submit all data reporting and outcomes
23 required by accrediting organization to the Department of
24 Public Health for review to determine progress towards
25 accreditation. Accreditation status shall supplement but not
26 replace the State's licensure surveys of facilities licensed

1 under this Act and their certified programs and services to
2 determine the extent to which these facilities provide high
3 quality interventions, especially evidence-based practices,
4 appropriate to the assessed clinical needs of individuals in
5 the 4 certified levels of care.

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

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

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

18 Section 99. Effective date. This Act takes effect July 1,
19 2017.