



# CLIENT ADVISORY

## Mental Health Adopted Legislation *September 2007*

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### **Clinical Psychologist Licensing Act**

The Clinical Psychologist Licensing Act has been amended by adding a new section allowing the Department of Financial and Professional Regulation to temporarily authorize a clinical psychologist, who is licensed in another state, to practice in Illinois. The temporary permit will allow practice for up to 10 calendar days per year, for a total of two years.

Effective January 1, 2008. *See Public Act 95-0451.*

### **Inspector General for Mentally Ill and Disabled**

This Public Act amends the Department of Human Services Act to create the Office of Inspector General. The Inspector General shall be appointed by the Governor and shall investigate reports of suspected abuse or neglect of patients or residents in any mental health or developmental disabilities facility licensed, certified or funded by the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities). This amendment requires the Inspector General to promulgate rules establishing requirements for reporting abuse and neglect allegations, and defines who is a "required reporter". Additionally, this amendment changes the name of the nurse aide registry to the health care worker registry.

Effective August 28, 2007. *See Public Act 95-0545.*

### **Disability Pilot Project**

The Department of Healthcare and Family Services is authorized under this Public Act to establish a pilot

project to determine the effect of raising the income and non-exempt asset eligibility thresholds for certain persons with disabilities on their ability to maintain their homes in the community and avoid institutionalization. The amendment sets forth the criteria for who may be enrolled in the pilot project and authorizes the adoption of rules to implement the pilot project.

Effective August 17, 2007. *See Public Act 95-0248.*

### **Home and Community-Based Services Waivers**

This Public Act amends the Department of Human Services Act to include persons diagnosed with autism spectrum disorder for assessment for eligibility for services under Home and Community Based Services Waivers, so long as the person meets other applicable level of care criteria. The Department of Human Services' disability database shall also begin tracking individuals with autism spectrum disorders.

Effective August 17, 2007. *See Public Act 95-0251.*

### **Sexual Assault Education Program**

The Department of Human Services Act is amended to direct the Department to conduct a study of the needs of women with disabilities who reside in the community as well as structured living environments regarding sexual assault and the threat of sexual violence.

Effective June 1, 2008. *See Public Act 95-0489.*

### **Medicaid Eligibility Standards for Disabled**

The Illinois Public Aid Code is amended to establish eligibility standards for persons with disabilities who are employed and eligible for Medicaid as follows: (a) The income eligibility standard will now be set no lower than 350% of the federal poverty level; (b) exempt retirement accounts that cannot be accessed before age 59 ½, and medical savings accounts; (c) allow non-exempt assets up to \$25,000 accumulated during periods of eligibility; and (d) continue to apply (b) and (c) even if the person loses eligibility under this section.

Effective August 29, 2007. *See Public Act 95-0546.*

### **Mental Health Site Visits**

This Public Act amends the Mental Health and Developmental Disabilities Administrative Act by requiring the Department to establish regular and ongoing on-site investigations that shall occur at least annually. An additional purpose of the inspections is to identify and prevent abuse and neglect.

Requires the Department to study current and potential uses of electronic monitoring and recording for the purpose of preventing and identifying abuse and neglect within State operated developmental centers and developmental disabilities services that are funded, certified or licensed by the Department of Human Services.

Effective January 1, 2008. *See Public Act 095-0427.*

### **Group Houses For Adolescents with Autism**

This Public Act amends the Child Care Act of 1969 by authorizing the Department of Human Services to establish three group homes for adolescents diagnosed with autism between the ages of 15-18. Family involvement is required. The service providers must have a minimum of 5 years of experience serving individuals with autism

residentially, experienced staff and a full time Board Certified Behavior Analyst.

Effective July 1, 2007. *See Public Act 95-0411.*

### **Substance Abuse Referrals**

This Public Act amends the Mental Health and Developmental Disabilities Administrative Act to require medical, education and rehabilitative services, as well as assessment and referral of person's suffering from mental illness to appropriate alcoholism or substance abuse services. All such referrals for substance abuse services shall be made to providers who are able to accept and perform assessments within a clinically appropriate time.

Effective January 1, 2008. *See Public Act 95-0281*

### **Court Ordered Treatment**

This Public Act amends the Code of Criminal Procedure of 1963 to require that when a court orders a defendant to undergo treatment, a copy of the arrest report, criminal charges, arrest record, mental health fitness report and jail record must be provided to the treatment facility, Department of Human Services or other applicable agency.

Additionally, whenever the treatment facility recommends the defendant be allowed off-grounds or have unsupervised on-grounds privileges, or placement in a non-secure setting, the court is to conduct a hearing within 21 days of the recommendation.

Additionally, after a finding of "not guilty by reason of insanity", the defendant will be ordered to be evaluated as to whether he is in need of Mental Health Services. The court shall send a copy of the defendant's arrest

report, criminal charges, arrest record, psychiatrist or clinical psychologist report, and jail record.

Effective August 20, 2007. *See Public Act 95-0296.*

### **Community Mental Health Act**

This Public Act amends the Community Mental Health Act to define “direct recipient services”. These services are required to carry out a completed individual treatment plan. Crisis assessment and stabilization services are specifically excluded. This amendment also revises the definitions of “mental illness” and “person” to allow community mental health boards to add to these definitions. The amendment also creates a new definition of “substance use disorder”. Additionally, money from the community mental health fund can be dispensed for expenses of the board. This amendment also permits the community mental health board to enter into intergovernmental and or intragovernmental agreements for mental health services by other agencies or departments of the governmental unit or county. Deletes the requirement that the board submit a written plan to the Department of Human Services and the Health Systems Agency. The board is also now authorized to set policies for its personnel.

Effective August 21, 2007. *See Public Act 095-0336.*

### **Maximum Family Income**

Section 3-5 of the Developmental Disability and Mental Disability Services Act is amended by setting the maximum taxable family income for families to be eligible for the Family Assistance Program for Mentally Disabled Children at not less than \$65,000 beginning January 1, 2008. However, this language was poorly drafted and as such is open to interpretation.

Effective August 13, 2007. *See Public Act 095-0112.*

### **Adults with Autism**

This Public Act adds a new section to the Mental Health and Developmental Disabilities Administrative Act by mandating that the Department or its contractors, research possible funding streams for the development and implementation of services for adults who have autism but do not have mental retardation. The Department is to report its findings and recommendations to the Governor and the General Assembly by April 1, 2008.

Effective January 1, 2008. *See Public Act 095-0106.*

### **Psychiatric Services**

This Public Act amends the Illinois Public Aid Code to require that access to psychiatric mental health services be provided in a timely manner in order to improve quality of life and to avoid costly inpatient hospitalization. The Department of Healthcare and Family Services will therefore reimburse psychiatrists and federally qualified health centers for mental health services provided to recipients via telepsychiatry. The Department will establish criteria for said services to be reimbursed and a method to reimburse providers for services provided by telepsychiatry.

Effective July 18, 2007. *See Public Act 095-0016.*

### **Electroconvulsive Therapy or Psychotropic Medication**

This Public Act amends the Mental Health and Developmental Disabilities Code by changing throughout the Code the reference to “authorized involuntary treatment” and replacing it with a more narrowed and specific service definition of “electroconvulsive

therapy or psychotropic medication” (herein referred to as “services”). Deletes the requirement that the adult recipient and guardian must be informed of the right to refuse such services if the services are to be administered upon order of the court. The court may also appoint a guardian ad litem or authorize an existing guardian to monitor treatment and compliance with court orders.

Effective August 14, 2007. *See Public Act 095-0172.*

### **Nursing Services for Community Integrated Living Arrangements**

This Public Act amends the Community Integrated Living Arrangements Licensure and Certification Act by requiring the Department to adjust its rate methodology for community integrated living arrangements using the CILA nursing services reimbursement working group recommendations as its guide. The intent is to increase the levels of nursing services as well as to improve access and availability of nursing services in an efficient and effective manner.

Effective August 31, 2007. *See Public Act 095-0577.*

### **Firearm Owners Identification Card**

This Public Act amends the Firearm Owners Identification Card Act to require that the State Police report the name, date of birth, and physical description of any person prohibited from possessing a firearm to the FBI for the purpose of implementing the National Instant Criminal Background Check System Index. Additionally, this act amends the Mental Health and Developmental Disabilities Confidentiality Act by requiring public or private hospitals and mental health facilities to furnish within 7 seven days after admission to those facilities certain information to the State Police that is required to determine whether an individual is disqualified from receiving or retaining a Firearm Owner’s Identification Card. “Patient” has also been redefined to include only (i) a person who is an inpatient or resident of any public or private hospital or mental

health facility or (ii) a person who is an outpatient or who was provided services by a hospital, facility, or mental health whose mental condition is manifested by violent, suicidal, threatening or assaultive or reported behavior for which there is a reasonable belief by a physician, clinical psychologist or qualified examiner that the patient’s condition poses a clear and present or imminent danger to the patient or any other person or community in accordance with the Firearm Owners Identification Card Act.

Effective June 1, 2008. *See Public Act 095-0564.*

### **Perinatal Mental Health Disorders Prevention and Treatment Act**

This Public Act revises the Perinatal Mental Health Disorders Prevention and Treatment Act, which addresses perinatal mental health disorders (otherwise known as “postpartum depression”). These disorders include a wide range of emotional, psychological and physiological reactions to childbirth and impair a woman’s ability to function and care for her child. The purpose of the Act is to develop policies, procedures, and educational materials and provide information to women and their families about perinatal mental health disorders, and to develop procedures for assessing and promoting early detection of such disorders.

Effective January 1, 2008. *See Public Act 095-0469.*

### **Mental Health Court Treatment Act**

This Public Act creates the Mental Health Court Treatment Act. This Act authorizes the Chief Judge for each judicial circuit to establish a mental health court program, including the format under which it will operate. The mental health court program is a

structured judicial intervention process for mental health treatment of eligible defendants that brings together mental health professionals, local social programs and intensive judicial monitoring and will specifically address persons with co-occurring mental illness and substance abuse problems. A defendant may be admitted into a mental health court program only upon the agreement of the prosecutor and the defendant and with the approval of the court. The defendant must enter into a written agreement regarding his/her participation in the program. The court may order the defendant to complete mental health or substance abuse treatment in an outpatient, inpatient, residential or jail-based custodial treatment program.

Effective June 1, 2008. *See Public Act 095-0606.*

### **Report on Children with Disabilities**

This Public Act amends the Department of Human Services Act to mandate that the Department submit a report on or before March 1, 2008 to the Governor and General Assembly concerning the extent to which children with developmental disabilities, mental illness, and/or severe emotional disorders, and who are currently in an institution, could otherwise be served in a community or home-based setting for the same or lower cost. Bi-annual updated reports must be submitted every even-numbered year beginning in 2010.

Effective September 17, 2007. *See Public Act 95-0622.*