

Community Expanded Mental Health Services Act (405 ILCS 22/)

(405 ILCS 22/1)

Sec. 1. Short title. This Act may be cited as the Community Expanded Mental Health Services Act.
(Source: P.A. 96-1548, eff. 1-1-12.)

(405 ILCS 22/5)

Sec. 5. Purpose. The purpose of an Expanded Mental Health Services Program and Governing Commission created under the provisions of this Act by the voters of a territory within a municipality with a population of more than 1,000,000 shall be to expand the availability of mental health services to an additional population of mentally ill residents, in keeping with the model of community-based mental health care instituted by the 1963 federal Community Mental Health Centers Act. The Program is intended to expand and extend mental health services to mentally ill residents who need the assistance of their communities in overcoming or coping with mental or emotional disorders, with a special focus on early intervention and prevention of such disorders. The Expanded Mental Health Services Program may also assist the severely mentally ill, but shall not replace existing services currently mandated by law for the severely mentally ill.
(Source: P.A. 96-1548, eff. 1-1-12.)

(405 ILCS 22/10)

Sec. 10. Definitions. As used in this Act:

"Clinical psychologist" means a psychologist who is licensed by the Illinois Department of Financial and Professional Regulation and who: (i) has a doctoral degree from a regionally accredited university, college, or professional school, and has 2 years of supervised experience in health services of which at least one year is postdoctoral and one year is in an organized health service program; or (ii) has a graduate degree in psychology from a regionally accredited university or college, and has not less than 6 years of experience as a psychologist with at least 2 years of supervised experience in health services.

"Clinical social worker" means a person who is licensed as a clinical social worker by the Illinois Department of Financial and Professional Regulation and who: (i) has a master's or doctoral degree in social work from an accredited graduate school of social work; and (ii) has at least 2 years of supervised post-master's clinical social work practice which shall include the provision of mental health services for the evaluation, treatment and prevention of mental and emotional disorders.

"Community organization" means a not for profit organization which has been registered with this State for at least 5 years as a not for profit organization, which qualifies for tax exempt status under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as now or hereafter amended, which continuously maintains an office or business location within the territory of an Expanded Mental Health Services Program together with a current listed telephone number, or a majority of whose members reside within the territory of an Expanded Mental Health Services Program.

"Eligible person" means any person living within a described territory who suffers from, or is at risk of suffering from, a mental illness and such a person's immediate family (including a spouse, child, and parent). Each eligible person may receive described services within a territory, and those services shall be free of charge after the person has exhausted all available payment subsidies, including but not limited to Medicare, Medicaid, and private insurance.

"Governing Commission" means the governing body of an Expanded Mental Health Services Program created under this Act.

"Mental illness" means a mental or emotional disorder that substantially impairs a person's thought, perception of reality, emotional process, judgment, behavior, or ability to cope with the ordinary demands of life, but does not include a developmental disability, dementia, or Alzheimer's disease absent psychosis, or an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

"Mental health professionals" include clinical social workers, clinical psychologists, and psychiatrists as defined by this Act.

"Program" means the Expanded Mental Health Services Program governed by a specific Governing Commission.

"Program guidelines" means those policies, rules, regulations, and bylaws established from time to time by the Governing Commission to explain, clarify, or modify the Program in order to fulfill its goals and objectives.

"Psychiatrist" means a physician who has successfully completed a residency program in psychiatry accredited by either the Accreditation Council for Graduate Medical Education or the American Osteopathic Association.

"Severe mental illness" means the manifestation of all of the following characteristics: (i) a primary diagnosis of one of the major mental disorders in the current edition of the Diagnostic and Statistical Manual of Mental Disorders listed as follows: schizophrenia disorder; delusional disorder; schizoaffective disorder; bipolar affective disorder; atypical psychosis; major depression, recurrent; (ii) substantial impairment of functioning in at least 2 of the following areas: self-maintenance, social functioning, activities of community living, and work skills; and (iii) presence or expected presence of the disability for at least one year.

A determination of severe mental illness shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or psychiatrist, and shall not be based solely on behaviors relating to environmental, cultural or economic differences.

"Territory" means a geographically contiguous area with a population of 75,000 to 250,000 based on the most recent decennial census.

"Treatment" means an effort to accomplish an improvement in the mental condition or related behavior of a recipient. "Treatment" includes, but is not limited to, examination, diagnosis, evaluation, care, training, psychotherapy, pharmaceuticals, outpatient services, and other services provided for recipients by mental health facilities.

(Source: P.A. 96-1548, eff. 1-1-12.)

(405 ILCS 22/15)

Sec. 15. Creation of Expanded Mental Health Services Program and Governing Commission.

(a) Whenever in a municipality with more than 1,000,000 inhabitants, the question of creating an Expanded Mental Health Services Program within a contiguous territory included entirely within the municipality is initiated by resolution or ordinance of the corporate authorities of the municipality or by a petition signed by not less than 8% of the total votes cast for candidates for Governor in the preceding gubernatorial election by registered voters of the territory, the registered voters of which are eligible to sign the petition, it shall be the duty of the election authority having jurisdiction over such municipality to submit the question of creating an Expanded Mental Health Services Program to the electors of the territory at the regular election specified in the resolution, ordinance, or petition initiating the question. A petition initiating a question described in this Section shall be filed with the election authority having jurisdiction over the municipality. The petition shall be filed and objections thereto shall be made in the manner provided in the general election law. A resolution, ordinance, or petition initiating a question

described in this Section shall specify the election at which the question is to be submitted. The referendum on such question shall be held in accordance with general election law. Such question, and the resolution, ordinance, or petition initiating the question, shall include a description of the territory, the name of the proposed Expanded Mental Health Services Program, and the maximum rate at which the Expanded Mental Health Services Program shall be able to levy a property tax. The question shall be in substantially the following form:

Shall there be established, to serve the territory commonly described on this ballot or notice of this question, a (fill in community name) Expanded Mental Health Services Program, to provide direct free mental health services for any resident of the territory who needs assistance in overcoming or coping with mental or emotional disorders, where such program will be funded through an increase of not more than (fill in tax rate from .025% to .044%) of the equalized assessed valuation of all properties within the boundaries of the territory?

All of that area within the geographic boundaries of the territory described in such question shall be included in the Program, and no area outside the geographic boundaries of the territory described in such question shall be included in the Program. If the election authority determines that the description cannot be included within the space limitations of the ballot, the election authority shall prepare large printed copies of a notice of the question, which shall be prominently displayed in the polling place of each precinct in which the question is to be submitted.

(b) Whenever a majority of the voters on such public question approve the creation of an Expanded Mental Health Services Program as certified by the proper election authorities, within 90 days of the passage of the referendum the Governor shall appoint 5 members and the Mayor of the municipality shall appoint 4 members, to be known as commissioners, to serve as the governing body of the Expanded Mental Health Services Program.

(c) Of the 5 commissioners appointed by the Governor, the Governor shall choose 4 commissioners from a list of nominees supplied by a community organization or community organizations as defined in this Act; these 4 commissioners shall reside in the territory of the Program. Of the commissioners appointed by the Governor, one shall be a mental health professional and one shall be a mental health consumer residing in the territory of the Program.

(d) Of the 4 commissioners appointed by the Mayor of the municipality, the Mayor shall choose 3 commissioners from a list of nominees supplied by a community organization or community organizations as defined in this Act; these 3 commissioners shall reside in the territory of the Program. Of the commissioners appointed by the Mayor, one shall be a mental health professional and one shall be a mental health consumer residing in the territory of the Program.

(e) A community organization may recommend up to 10 individuals to the Governor and up to 10 individuals to the Mayor to serve on the Governing Commission.

(f) No fewer than 7 commissioners serving at one time shall reside within the territory of the Program.

(g) Upon creation of a Governing Commission, the terms of the initial commissioners shall be as follows: (i) of the Governor's initial appointments, 2 shall be for 3 years, one for 2 years, and 2 for one year; and (ii) of the Mayor's initial appointments, one shall be for 3 years, 2 for 2 years, and one for one year. All succeeding terms shall be for 3 years, or until a successor is appointed and qualified. Commissioners shall serve without compensation except for reimbursement for reasonable expenses incurred in the performance of duties as a commissioner. A vacancy in the office of a member of a Governing Commission shall be filled in like manner as an original appointment.

(h) Any member of the Governing Commission may be removed by a majority vote of all other commissioners for absenteeism, neglect of duty, misconduct or malfeasance in the office, after being given a written statement of the charges and an opportunity to be heard thereon.

(i) All proceedings and meetings of the Governing Commission shall be conducted in accordance with the provisions of the Open Meetings Act.

(Source: P.A. 98-630, eff. 5-29-14.)

(405 ILCS 22/20)

Sec. 20. Duties and functions of Governing Commission. The duties and functions of the Governing Commission of an Expanded Mental Health Services Program shall include the following:

(1) To, immediately after appointment, meet and organize, by the election of one of its number as president and one as secretary and such other officers as it may deem necessary. It shall establish policies, rules, regulations, bylaws, and procedures for both the Governing Commission and the Program concerning the rendition or operation of services and facilities which it directs, supervises, or funds, not inconsistent with the provisions of this Act. No policies, rules, regulations, or bylaws shall be adopted by the Governing Commission without prior notice to the residents of the territory of a Program and an opportunity for such residents to be heard.

(2) To hold meetings at least quarterly, and to hold special meetings upon a written request signed by at least 2 commissioners and filed with the secretary of the Governing Commission.

(3) To provide annual status reports on the Program to the Governor, the Mayor of the municipality, and the voters of the territory within 120 days after the end of the fiscal year, such report to show the condition of the expanded mental health services fund for that year, the sums of money received from all sources, how all monies have been expended and for what purposes, how the Program has conformed with the mental health needs assessment conducted in the territory, and such other statistics and Program information in regard to the work of the Governing Commission as it may deem of general interest.

(4) To manage, administer, and invest the financial resources contained in the expanded mental health services fund.

(5) To employ necessary personnel, acquire necessary office space, enter into contractual relationships, and disburse funds in accordance with the provisions of this Act. In this regard, to the extent the Governing Commission chooses to retain the services of another public or private agency with respect to the provision of expanded mental health services under this Act, such selection shall be based upon receipt of a comprehensive plan addressing the following factors: the conducting of a thorough mental health needs assessment for the territory; the development of specific mental health programs and services tailored to this assessment; and the percentage of the proposed budget devoted to responding to these demonstrated needs. Within 14 days of the selection of any individual or organization, the Governing Commission shall provide a written report of its decision, with specific reference to the factors used in reaching its decision, to the Mayor of the municipality, the Governor, and the voters of the territory. Subsequent decisions by the Governing Commission to retain or terminate the services of a provider shall be based upon the provider's success in achieving its stated goals, especially with regards to servicing the maximum number of residents of the territory identified as needing mental health services in the initial needs assessment and subsequent updates to it.

(6) To disburse the funds collected annually from tax revenue in such a way that no less than 85% of those funds are expended on direct mental and emotional health services provided by licensed mental health professionals or by mental health interns or persons with a bachelor's degree in social work supervised by those professionals.

(7) To establish criteria and standards necessary for hiring the licensed mental health professionals to be employed to provide the direct services of the Program.

(8) To identify the mental and emotional health needs within the Program territory and determine the programs for meeting those needs annually as well as the eligible persons whom the Program may serve.

(9) To obtain errors and omissions insurance for all commissioners in an amount of no less than \$1,000,000.

(10) To perform such other functions in connection with the Program and the expanded mental health services fund as required under this Act.

(Source: P.A. 96-1548, eff. 1-1-12; 97-813, eff. 7-13-12.)

(405 ILCS 22/25)

Sec. 25. Expanded mental health services fund.

(a) The Governing Commission shall maintain the expanded mental health services fund for the purposes of paying the costs of administering the Program and carrying out its duties under this Act, subject to the limitations and procedures set forth in this Act.

(b) The expanded mental health services fund shall be raised by means of an annual tax levied on each property within the territory of the Program. The rate of this tax may be changed from year to year by majority vote of the Governing Commission but in no case shall it exceed the ceiling rate established by the voters in the territory of the Program in the binding referendum to approve the creation of the Expanded Mental Health Services Program. The ceiling rate must be set within the range of .025% to .044% of the equalized assessed valuation of all properties in the territory of the Program. A higher ceiling rate for a territory may be established within that range only by the voters in a binding referendum from time to time to be held in a manner as set forth in this legislation. The commissioners shall cause the amount to be raised by taxation in each year to be certified to the county clerk in the manner provided by law, and any tax so levied and certified shall be collected and enforced in the same manner and by the same officers as those taxes for the purposes of the county and city within which the territory of the Governing Commission is located. Any such tax, when collected, shall be paid over to the proper officer of the Governing Commission who is authorized to receive and receipt for such tax. The Governing Commission may issue tax anticipation warrants against the taxes to be assessed for a calendar year.

(c) The moneys deposited in the expanded mental health services fund shall, as nearly as practicable, be fully and continuously invested or reinvested by the Governing Commission in investment obligations which shall be in such amounts, and shall mature at such times, that the maturity or date of redemption at the option of the holder of such investment obligations shall coincide, as nearly as practicable, with the times at which monies will be required for the purposes of the Program. For the purposes of this Section, "investment obligation" means direct general municipal, state, or federal obligations which at the time are legal investments under the laws of this State and the payment of principal of and interest on which are unconditionally guaranteed by the governing body issuing them.

(d) The fund shall be used solely and exclusively for the purpose of providing expanded mental health services and no more than 15% of the annual levy may be used for reasonable salaries, expenses, bills, and fees incurred in administering the Program.

(e) The fund shall be maintained, invested, and expended exclusively by the Governing Commission of the Program for whose purposes it was created. Under no circumstances shall the fund be used by any person or persons, governmental body, or public or private agency or concern other than the Governing Commission of the Program for whose purposes it was created. Under no circumstances shall the fund be commingled with other funds or investments.

(f) No commissioner or family member of a commissioner, or employee or family member of an employee, may receive any financial benefit, either directly or indirectly, from the fund. Nothing in this subsection shall be construed to prohibit payment of expenses to a commissioner in accordance with subsection (g) of Section 15.

(g) Annually, the Governing Commission shall prepare for informational purposes in the appropriations process: (1) an annual budget showing the estimated receipts and intended disbursements pursuant to this Act for the fiscal year immediately following the date the budget is submitted, which date must be at least 30 days prior to the start of the fiscal year; and (2) an

independent financial audit of the fund and the management of the Program detailing the income received and disbursements made pursuant to this Act during the fiscal year just preceding the date the annual report is submitted, which date must be within 90 days of the close of that fiscal year. These reports shall be made available to the public through any office of the Governing Commission or a public facility such as a local public library located within the territory of the Program. In addition, and in an effort to increase transparency of public programming, the Governing Commission shall effectively create and operate a publicly accessible website, which shall publish results of all audits for a period of no less than six months after the initial disclosure of the results and findings of each audit.

(h) Any expanded Mental Health Services Program existing on the effective date of this amendatory Act of the 98th General Assembly and created before December 31, 2012 by majority voter support on a binding referendum shall be authorized to levy for the 2013 levy year at the minimum tax rate of .025% of the equalized assessed valuation of all properties within its territory.

(Source: P.A. 97-813, eff. 7-13-12; 98-630, eff. 5-29-14.)

(405 ILCS 22/30)

Sec. 30. Termination of a Program. An Expanded Mental Health Services Program may be terminated only by the submission of and approval of the issue in the form of a public question before the voters of the territory of the Program at a regularly scheduled election in the same manner as the question of the creation of the Program, as set forth in Section 15 of this Act. If a majority of the voters voting upon the question approve the termination of the Expanded Mental Health Services Program, as certified by the proper election authorities, the Program shall conclude its business and cease operations within one year of the date on which the election containing the public question was held.

(Source: P.A. 96-1548, eff. 1-1-12.)

(405 ILCS 22/35)

Sec. 35. Immunity and indemnification. No commissioner, officer, or employee, whether on salary, wage, or voluntary basis, shall be personally liable and no cause of action may be brought for damages resulting from the exercise of judgment or discretion in connection with the performance of Program duties or responsibilities, unless the act or omission involved willful or wanton conduct.

A Program shall indemnify each commissioner, officer, and employee, except for the mental health professionals who will be expected to maintain malpractice insurance appropriate to their professional positions, whether on salary, wage, or voluntary basis against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney fees, and any other liabilities incurred by, imposed upon, or suffered by such individual in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of Program duties. Any settlement of any claim must be made with prior approval of the Governing Commission in order for indemnification, as provided in this Section, to be available.

The immunity and indemnification provided by a Program under this Section shall not cover any acts or omissions which involve willful or wanton conduct, breach of good faith, intentional misconduct, knowing violation of the law, or for any transaction from which such individual derives an improper personal benefit.

(Source: P.A. 96-1548, eff. 1-1-12.)

(405 ILCS 22/40)

Sec. 40. Legal actions. No lawsuit or any other type of legal action brought under the terms of this Act shall be sustainable in a court of law or equity unless all conditions, stipulations, and provisions of the

Program have been complied with, and unless the suit is brought within 12 months after the event which is the subject of the legal action.

(Source: P.A. 96-1548, eff. 1-1-12.)

(405 ILCS 22/45)

Sec. 45. Penalty. Any person violating the provisions of this Act or any procedure, regulation, or bylaw of a Governing Commission and Program created under the provisions of this Act shall, in addition to all other remedies provided by law, be guilty of a petty offense and shall be fined not more than \$1,000 for each offense.

(Source: P.A. 96-1548, eff. 1-1-12.)

(405 ILCS 22/50)

Sec. 50. Home rule. The authority or duty to establish or prohibit the establishment of Expanded Mental Health Services Programs in any municipality with more than 1,000,000 inhabitants, including home rule units, and the determination of the terms of such Programs are declared to be exclusive powers and functions of the State which may not be exercised concurrently by any such municipality. No municipality with more than 1,000,000 inhabitants, including home rule units, shall establish or maintain an Expanded Mental Health Services Program other than as provided in this Act, and any such municipality shall affirmatively establish and maintain an Expanded Mental Health Services Program when required to do so pursuant to this Act. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(Source: P.A. 96-1548, eff. 1-1-12.)