

1 AN ACT in relation to mental health.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the MI
5 Olmstead Initiative of 2002.

6 Section 5. Purposes.

7 (a) The General Assembly recognizes that the United
8 States Supreme Court in *Olmstead v. L.C. ex Rel. Zimring*, 119
9 S. Ct. 2176 (1999), affirmed that the unjustifiable
10 institutionalization of a person with a disability who could
11 live in the community with proper support, and wishes to do
12 so, is unlawful discrimination in violation of the Americans
13 with Disabilities Act (ADA). The State of Illinois, along
14 with all other states, is required to provide appropriate
15 residential and community-based support services to persons
16 with disabilities who wish to live in less restrictive
17 settings.

18 (b) It is the purpose of this Act to implement the MI
19 Olmstead Initiative in response to the U.S. Supreme Court's
20 decision in *Olmstead v. L.C.* in order (1) to enable 1,000
21 persons with mental illness or a co-occurring disorder of
22 mental illness and substance abuse who currently reside in
23 nursing facilities, to move, within the next 5 years, to the
24 most integrated residential settings in the community as
25 possible and (2) to provide cost effective community
26 residential environments and supports to enable these persons
27 to live successfully in the community.

28 (c) It is the further purpose of this Act to create a
29 continuum of residential and supportive services in community
30 settings for persons with mental illness or a co-occurring
31 disorder of mental illness and substance abuse, while

1 increasing federal and client financial participation through
2 the Medicaid and Social Security programs, wherever possible.

3 (d) The MI Olmstead Initiative is not intended to
4 substitute for or replace the obligation of the State of
5 Illinois to develop and implement a comprehensive,
6 effectively working plan for placing persons with
7 disabilities in less restrictive settings, under the Supreme
8 Court decision in Olmstead v. L.C.

9 Section 10. Definitions. For purposes of this Act:

10 "Department" means the Department of Human Services.

11 "Institution for mental diseases" (IMD) means a nursing
12 facility licensed by the Illinois Department of Public Health
13 under the Nursing Home Care Act as defined, consistent with
14 federal regulations, by the Illinois Department of Public Aid
15 where services to residents are ineligible for federal
16 financial participation under the Medicaid program because
17 mental illness is the specific reason for being in the
18 facility for more than 50% of the residents over 21 and under
19 65 years of age.

20 "Qualified individual" means an adult who is over 21
21 years and under 65 years of age who agrees to participate in
22 the MI Olmstead Initiative and meets one of the following
23 criteria:

24 (1) the person is substantially impaired in 2 or
25 more major life activities as a consequence of a mental
26 illness or a co-occurring mental illness and substance
27 abuse disorder; or

28 (2) the person has a record of having been
29 substantially impaired in 2 or more major life activities
30 as a consequence of a mental illness or a co-occurring
31 mental illness and substance abuse disorder.

32 Section 15. Programs and services of the MI Olmstead

1 Initiative.

2 (a) The Department shall identify 200 qualified
3 individuals during each of the 5 years following the
4 implementation date of this Act or 1,000 persons in total,
5 who agree to and are able to be transitioned to alternative
6 residential settings within the community. In order to
7 appropriately select persons for the MI Olmstead Initiative,
8 the Department, by working in conjunction with an owner or
9 operator of a nursing facility or an IMD, and with the
10 guardian of the qualified individual, if any, shall assure
11 that:

12 (1) a comprehensive evaluation and diagnosis of the
13 qualified individual has been administered by a qualified
14 examiner, including an assessment of skills, abilities,
15 and potential for residential and work placement, adapted
16 to the person's primary language, cultural background,
17 and ethnic origin;

18 (2) an individual program plan or individual
19 treatment plan, or both, has been completed for the
20 qualified individual, outlining a range of services to be
21 provided as outlined in subsection (b) of this Section;

22 (3) the qualified individual is advised of
23 available and appropriate community-based alternatives
24 for his or her care before a decision on placement is
25 made; and

26 (4) a planning specialist or case manager assists
27 the individual in making the move from an institution to
28 a community setting.

29 (b) The MI Olmstead Initiative shall be designed with a
30 capacity for 1,000 qualified individuals over 5 years and
31 shall offer, or create as necessary, services and supports
32 for these individuals to live in the most integrated
33 community-based setting possible. The services and supports
34 in community-based settings shall include, but not be limited

1 to:

2 (1) residence in the most integrated setting
3 possible, whether independent living in a private
4 residence, a supported residential program, a supervised
5 residential program, or supportive housing, as
6 appropriate;

7 (2) rehabilitation and support services, including
8 assertive community treatment, case management,
9 supportive and supervised day treatment, and psychosocial
10 rehabilitation;

11 (3) vocational training, as appropriate, that
12 contributes to the person's independence and employment
13 potential;

14 (4) employment, as appropriate, free from
15 discrimination pursuant to the Constitution and laws of
16 this State;

17 (5) periodic reevaluation and review of the
18 individual program plan or the individual treatment plan,
19 or both, at least twice each year, in order to measure
20 progress, to modify or change objectives if necessary,
21 and to provide guidance and remediation techniques. The
22 qualified individual and his or her guardian, if any,
23 shall have the right (i) to participate in the planning
24 and decision-making process regarding the plan and (ii)
25 to be informed in writing, or in that individual's mode
26 of communication, of progress at reasonable time
27 intervals;

28 (6) due process so that any individual aggrieved by
29 a decision of the Department regarding services provided
30 under this Act is given an opportunity to present
31 complaints at a due process hearing before a hearing
32 officer designated by the Director of the Department, in
33 addition to any other rights under federal, State, or
34 local laws.

1 (c) The Department shall implement, coordinate, monitor,
2 and evaluate the MI Olmstead Initiative in cooperation with
3 the Department of Public Aid, the Department of Public
4 Health, the Bureau of the Budget, and other State agencies as
5 appropriate, as well as organizations or service providers
6 whose mission includes advocacy for or the provision of
7 quality services to persons with mental illness or a
8 co-occurring disorder of mental illness and substance abuse.

9 Section 20. Report to the General Assembly. The
10 Department, in cooperation with the Department of Public Aid
11 and the Department of Public Health, shall report to the
12 General Assembly on the status of the MI Olmstead Initiative
13 by October 1 each year of the 5-year initiative, and shall
14 include in the report an analysis of the costs and benefits
15 of the Initiative, a review of the State's continued use of
16 IMD's and a plan for consolidation and conversion of those
17 facilities to non-IMD nursing facilities for the purpose of
18 maximizing federal financial participation under the Medicaid
19 program.

20 Section 25. Implementation Dates. The Department shall
21 promulgate rules to govern all aspects of this Act by April
22 1, 2003. Subject to available appropriations, the Department
23 shall begin implementation of the MI Olmstead initiative by
24 July 1, 2003.