



# Advancing the human and civil rights of people with disabilities

SELF-ADVOCACY ASSISTANCE ★ LEGAL SERVICES ★ DISABILITY RIGHTS EDUCATION ★ PUBLIC POLICY ADVOCACY ★ ABUSE INVESTIGATIONS

June 5, 2013

The Honorable Pat Quinn  
Governor  
State of Illinois  
James R. Thompson Center  
100 W. Randolph, 16-100  
Chicago, IL 60601

## Re: Amendatory Veto of SB 26

Dear Governor Quinn:

With its recent passage by both Houses of the General Assembly, SB 26 will soon be sent to you for your consideration. When that legislation appears on your desk, we request that you take the opportunity to right a significant wrong.

SB 26 was amended in the waning hours of the legislative session by a stealth process that ignored the voices of those persons with mental illness that the amendment purported to serve, and those of their advocates, in order to do the bidding of wealthy owners of nursing homes. As amended by HA 1, SB 26 authorizes Institutions for Mental Diseases (IMDs) to expand their roles and functions by offering an array of mental health services (such as crisis intervention) in which they have neither experience nor expertise, for which their outdated facilities are neither designed nor appropriate, and which are concentrated in a limited geographic area that does not reflect statewide need. Unquestionably, this amendment was *not* motivated by a desire to address the needs of people with mental illness. Rather, it was intended and solely driven by a desire to perpetuate the IMDs, whose business was adversely impacted by the *Williams* consent decree, by providing them with new avenues for profit. At this critical juncture, you have the ability to remedy this problem by issuing an amendatory veto of SB 26 to remove the provisions authorizing the expansion of the IMDs (set forth in the Specialized Mental Health Rehabilitation Act of 2013) and, on behalf of people with mental illness in Illinois, we implore you to take that action.

It is especially egregious that SB 26 was used as the vehicle to achieve this self-serving and extremely harmful measure. Prior to the adoption of HA 1, the sole purpose of SB 26 was to enable Illinois to fully implement Medicaid expansion under the Affordable Care Act, thus paving the way for thousands of individuals who are currently uninsured to receive Medicaid benefits for the first time (and for the State to receive an unprecedented infusion of federal dollars to pay for those benefits). In that form, SB 26 was thoroughly vetted and widely supported by the disability community, including Equip for Equality. However, the IMDs were allowed to quietly amend the bill at the very last moment, forcing legislators, advocates, and people with disabilities to choose between critically needed expanded Medicaid benefits for

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individuals with disabilities and taking a stand against the irresponsible expansion of IMDs. Tying Medicaid expansion to IMD expansion may have been a shrewd move on the part of the IMDs, but it was an unconscionable abuse of the legislative process and a gross violation of the public trust.

At a time when your administration has committed to rebalancing the system towards increased community-based services, it is irrational to enact legislation that enables IMDs to expand their businesses and grow their profits by offering new services in their buildings. Historically, IMDs have done a very poor job of caring for people with mental illness. They rely on an outmoded model of care that does not encourage or promote the independence and recovery of the individuals they purport to serve. Rather, these institutions are driven to reap the rewards of retaining clients for the long term.

A decline in IMD census occasioned by the transitioning of individuals into the community under the *Williams* consent decree should be viewed as a positive and forward-moving development. It is certainly not a reason—and should not be used as an opportunity—to perpetuate a state preference for the very institutions that gave rise to the *Williams* class action in the first place. Indeed, doing so may undermine compliance with the *Williams* consent decree and may run afoul of the State's legal obligation to comply with the ADA and the *Olmstead* decision, possibly subjecting the State to new litigation.

As you know, Equip for Equality stands in strong support of your rebalancing initiative and has partnered with state agencies to effectuate that initiative. We urge you to honor *your* commitment—so eloquently articulated as recently as this week in your remarks at the Access Living Gala—to promote community integration and increase the quality and accessibility of community mental health services in Illinois. This commitment will be undermined by signing into law the provisions of the Specialized Mental Health Rehabilitation Act of 2013 (SMHRA of 2013), the part of SB 26 that authorizes the expansion of the IMDs. Please send a strong message to individuals with mental illness that their needs and desires not only matter, but are superior to the interests of a select set of providers seeking to preserve their businesses and their profits. We urge you to amendatorily veto SB 26 by removing the provisions of the SMHRA of 2013.

Thank you for your consideration.

Sincerely,



Zena Naiditch