

HB5557



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5557

by Rep. Ann M. Williams

SYNOPSIS AS INTRODUCED:

405 ILCS 5/2-107

from Ch. 91 1/2, par. 2-107

Amends the Mental Health and Developmental Disabilities Code. Provides that electroconvulsive therapy may not be administered under the emergency treatment provisions of the Code but may be administered under the administration of psychotropic medication and electroconvulsive therapy provisions of the Code upon application to a court. Provides that the same written advisements about the treatment as required under other provisions of the Code of the side effects, risks, and benefits of the treatment, as well as alternatives to the proposed treatment, to the extent the advice is consistent with the recipient's ability to understand the information communicated and shall be given to the recipient as soon as the condition of the recipient permits and promptly to any substitute decision maker, unless already given under those provisions.

LRB100 19779 RLC 35054 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

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

4 Section 5. The Mental Health and Developmental
5 Disabilities Code is amended by changing Section 2-107 as
6 follows:

7 (405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

8 Sec. 2-107. Refusal of services; emergency treatment;
9 informing of risks.

10 (a) An adult recipient of services or the recipient's
11 guardian, if the recipient is under guardianship, and the
12 recipient's substitute decision maker, if any, must be informed
13 of the recipient's right to refuse medication or
14 electroconvulsive therapy. The recipient and the recipient's
15 guardian or substitute decision maker shall be given the
16 opportunity to refuse generally accepted mental health or
17 developmental disability services, including but not limited
18 to medication or electroconvulsive therapy. Excluding
19 electroconvulsive therapy, if ~~if~~ such services are refused,
20 they shall not be given unless such services are necessary to
21 prevent the recipient from causing serious and imminent
22 physical harm to the recipient or others and no less
23 restrictive alternative is available. Electroconvulsive

1 therapy may not be administered under this Section but may be
2 administered under Section 2-107.1 of this Code. The facility
3 director shall inform a recipient, guardian, or substitute
4 decision maker, if any, who refuses such services of alternate
5 services available and the risks of such alternate services, as
6 well as the possible consequences to the recipient of refusal
7 of such services. The same written advisements about the
8 treatment as required under subsection (a-5) of Section 2-102
9 of this Code shall be given to the recipient as soon as the
10 condition of the recipient permits and promptly to any
11 substitute decision maker, unless already given under
12 subsection (a-5) of Section 2-102.

13 (b) Psychotropic medication ~~or electroconvulsive therapy~~
14 may be administered under this Section for up to 24 hours only
15 if the circumstances leading up to the need for emergency
16 treatment are set forth in writing in the recipient's record.

17 (c) Administration of medication ~~or electroconvulsive~~
18 ~~therapy~~ may not be continued unless the need for such treatment
19 is redetermined at least every 24 hours based upon a personal
20 examination of the recipient by a physician or a nurse under
21 the supervision of a physician and the circumstances
22 demonstrating that need are set forth in writing in the
23 recipient's record.

24 (d) Psychotropic ~~Neither psychotropic medication nor~~
25 ~~electroconvulsive therapy~~ may not be administered under this
26 Section for a period in excess of 72 hours, excluding

1 Saturdays, Sundays, and holidays, unless a petition is filed
2 under Section 2-107.1 and the treatment continues to be
3 necessary under subsection (a) of this Section. Once the
4 petition has been filed, treatment may continue in compliance
5 with subsections (a), (b), and (c) of this Section until the
6 final outcome of the hearing on the petition.

7 (e) The Department shall issue rules designed to insure
8 that in State-operated mental health facilities psychotropic
9 medication is ~~and electroconvulsive therapy~~ are administered
10 in accordance with this Section and only when appropriately
11 authorized and monitored by a physician or a nurse under the
12 supervision of a physician in accordance with accepted medical
13 practice. The facility director of each mental health facility
14 not operated by the State shall issue rules designed to insure
15 that in that facility psychotropic medication is ~~and~~
16 ~~electroconvulsive therapy~~ are administered in accordance with
17 this Section and only when appropriately authorized and
18 monitored by a physician or a nurse under the supervision of a
19 physician in accordance with accepted medical practice. Such
20 rules shall be available for public inspection and copying
21 during normal business hours.

22 (f) The provisions of this Section with respect to the
23 emergency administration of psychotropic medication ~~and~~
24 ~~electroconvulsive therapy~~ do not apply to facilities licensed
25 under the Nursing Home Care Act, the Specialized Mental Health
26 Rehabilitation Act of 2013, the ID/DD Community Care Act, or

1 the MC/DD Act.

2 (g) Under no circumstances may electroconvulsive therapy
3 or long-acting psychotropic medications be administered under
4 this Section.

5 (h) Whenever psychotropic medication ~~or electroconvulsive~~
6 ~~therapy~~ is refused pursuant to subsection (a) of this Section
7 at least once that day, the physician shall determine and state
8 in writing the reasons why the recipient did not meet the
9 criteria for administration of medication ~~or electroconvulsive~~
10 ~~therapy~~ under subsection (a) and whether the recipient meets
11 the standard for administration of psychotropic medication ~~or~~
12 ~~electroconvulsive therapy~~ under Section 2-107.1 of this Code.
13 If the physician determines that the recipient meets the
14 standard for administration of psychotropic medication ~~or~~
15 ~~electroconvulsive therapy~~ under Section 2-107.1, the facility
16 director or his or her designee shall petition the court for
17 administration of psychotropic medication ~~or electroconvulsive~~
18 ~~therapy~~ pursuant to that Section unless the facility director
19 or his or her designee states in writing in the recipient's
20 record why the filing of such a petition is not warranted. This
21 subsection (h) applies only to State-operated mental health
22 facilities.

23 (i) The Department shall conduct annual trainings for all
24 physicians and registered nurses working in State-operated
25 mental health facilities on the appropriate use of emergency
26 administration of psychotropic medication ~~and~~

1 ~~electroconvulsive therapy~~, standards for its ~~their~~ use, and the
2 methods of authorization under this Section.

3 (Source: P.A. 98-104, eff. 7-22-13; 99-180, eff. 7-29-15.)