

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 Sections 2-107,
6 2-107.1, and 3-209 and by adding Section 2-107.3 as follows:

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

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

9 (a) An adult recipient of services or the recipient's
10 guardian, if the recipient is under guardianship, and the
11 recipient's substitute decision maker, if any, must be informed
12 of the recipient's right to refuse medication. The recipient
13 and the recipient's guardian or substitute decision maker shall
14 be given the opportunity to refuse generally accepted mental
15 health or developmental disability services, including but not
16 limited to medication. If such services are refused, they shall
17 not be given unless such services are necessary to prevent the
18 recipient from causing serious and imminent physical harm to
19 the recipient or others and no less restrictive alternative is
20 available. The facility director shall inform a recipient,
21 guardian, or substitute decision maker, if any, who refuses
22 such services of alternate services available and the risks of
23 such alternate services, as well as the possible consequences
24 to the recipient of refusal of such services.

25 (b) Authorized involuntary treatment may be given under
26 this Section for up to 24 hours only if the circumstances
27 leading up to the need for emergency treatment are set forth in
28 writing in the recipient's record.

29 (c) Authorized involuntary treatment may not be continued
30 unless the need for such treatment is redetermined at least
31 every 24 hours based upon a personal examination of the
32 recipient by a physician or a nurse under the supervision of a

1 physician and the circumstances demonstrating that need are set
2 forth in writing in the recipient's record.

3 (d) Authorized involuntary treatment may not be
4 administered under this Section for a period in excess of 72
5 hours, excluding Saturdays, Sundays, and holidays, unless a
6 petition is filed under Section 2-107.1 and the treatment
7 continues to be necessary under subsection (a) of this Section.
8 Once the petition has been filed, treatment may continue in
9 compliance with subsections (a), (b), and (c) of this Section
10 until the final outcome of the hearing on the petition.

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

25 (f) The provisions of this Section with respect to the
26 emergency administration of authorized involuntary treatment
27 do not apply to facilities licensed under the Nursing Home Care
28 Act.

29 (g) Under no circumstances may long-acting psychotropic
30 medications be administered under this Section.

31 (h) Whenever psychotropic medication is refused pursuant
32 to subsection (a) of this Section at least once that day, the
33 physician shall determine and state in writing the reasons why
34 the recipient did not meet the criteria for involuntary
35 treatment under subsection (a) and whether the recipient meets
36 the standard for authorized involuntary treatment under

1 Section 2-107.1 of this Code. If the physician determines that
2 the recipient meets the standard for authorized involuntary
3 treatment under Section 2-107.1, the facility director or his
4 or her designee shall petition the court for authorized
5 involuntary treatment pursuant to that Section unless the
6 facility director or his or her designee states in writing in
7 the recipient's record why the filing of such a petition is not
8 warranted. This subsection (h) applies only to State-operated
9 mental health facilities.

10 (i) The Department shall conduct annual trainings for all
11 physicians and registered nurses working in State-operated
12 mental health facilities on the appropriate use of emergency
13 authorized involuntary treatment, standards for its use, and
14 the methods of authorization under this Section.

15 (Source: P.A. 90-538, eff. 12-1-97; 91-726, eff. 6-2-00.)

16 (405 ILCS 5/2-107.1) (from Ch. 91 1/2, par. 2-107.1)

17 Sec. 2-107.1. Administration of authorized involuntary
18 treatment upon application to a court.

19 (a) An adult recipient of services and the recipient's
20 guardian, if the recipient is under guardianship, and the
21 substitute decision maker, if any, shall be informed of the
22 recipient's right to refuse medication. The recipient and the
23 recipient's guardian or substitute decision maker shall be
24 given the opportunity to refuse generally accepted mental
25 health or developmental disability services, including but not
26 limited to medication.

27 (a-5) Notwithstanding the provisions of Section 2-107 of
28 this Code, authorized involuntary treatment may be
29 administered to an adult recipient of services without the
30 informed consent of the recipient under the following
31 standards:

32 (1) Any person 18 years of age or older, including any
33 guardian, may petition the circuit court for an order
34 authorizing the administration of authorized involuntary
35 treatment to a recipient of services. The petition shall

1 state that the petitioner has made a good faith attempt to
2 determine whether the recipient has executed a power of
3 attorney for health care under the Powers of Attorney for
4 Health Care Law or a declaration for mental health
5 treatment under the Mental Health Treatment Preference
6 Declaration Act and to obtain copies of these instruments
7 if they exist. If either of the above-named instruments is
8 available to the petitioner, the instrument or a copy of
9 the instrument shall be attached to the petition as an
10 exhibit. The petitioner shall deliver a copy of the
11 petition, and notice of the time and place of the hearing,
12 to the respondent, his or her attorney, any known agent or
13 attorney-in-fact, if any, and the guardian, if any, no
14 later than 3 days prior to the date of the hearing. Service
15 of the petition and notice of the time and place of the
16 hearing may be made by transmitting them via facsimile
17 machine to the respondent or other party. Upon receipt of
18 the petition and notice, the party served, or the person
19 delivering the petition and notice to the party served,
20 shall acknowledge service. If the party sending the
21 petition and notice does not receive acknowledgement of
22 service within 24 hours, service must be made by personal
23 service.

24 The petition may include a request that the court
25 authorize such testing and procedures as may be essential
26 for the safe and effective administration of the authorized
27 involuntary treatment sought to be administered, but only
28 where the petition sets forth the specific testing and
29 procedures sought to be administered.

30 If a hearing is requested to be held immediately
31 following the hearing on a petition for involuntary
32 admission, then the notice requirement shall be the same as
33 that for the hearing on the petition for involuntary
34 admission, and the petition filed pursuant to this Section
35 shall be filed with the petition for involuntary admission.

36 (2) The court shall hold a hearing within 7 days of the

1 filing of the petition. The People, the petitioner, or the
2 respondent shall be entitled to a continuance of up to 7
3 days as of right. An additional continuance of not more
4 than 7 days may be granted to any party (i) upon a showing
5 that the continuance is needed in order to adequately
6 prepare for or present evidence in a hearing under this
7 Section or (ii) under exceptional circumstances. The court
8 may grant an additional continuance not to exceed 21 days
9 when, in its discretion, the court determines that such a
10 continuance is necessary in order to provide the recipient
11 with an examination pursuant to Section 3-803 or 3-804 of
12 this Act, to provide the recipient with a trial by jury as
13 provided in Section 3-802 of this Act, or to arrange for
14 the substitution of counsel as provided for by the Illinois
15 Supreme Court Rules. The hearing shall be separate from a
16 judicial proceeding held to determine whether a person is
17 subject to involuntary admission but may be heard
18 immediately preceding or following such a judicial
19 proceeding and may be heard by the same trier of fact or
20 law as in that judicial proceeding.

21 (3) Unless otherwise provided herein, the procedures
22 set forth in Article VIII of Chapter 3 of this Act,
23 including the provisions regarding appointment of counsel,
24 shall govern hearings held under this subsection (a-5).

25 (4) Authorized involuntary treatment shall not be
26 administered to the recipient unless it has been determined
27 by clear and convincing evidence that all of the following
28 factors are present. In determining whether a person meets
29 the criteria specified in the following paragraphs (A)
30 through (G), the court may consider evidence of the
31 person's history of serious violence, repeated past
32 pattern of specific behavior, actions related to the
33 person's illness, or past outcomes of various treatment
34 options.÷

35 (A) That the recipient has a serious mental illness
36 or developmental disability.

1 (B) That because of said mental illness or
2 developmental disability, the recipient currently
3 exhibits any one of the following: (i) deterioration of
4 his or her ability to function, as compared to the
5 recipient's ability to function prior to the current
6 onset of symptoms of the mental illness or disability
7 for which treatment is presently sought, (ii)
8 suffering, or (iii) threatening behavior.

9 (C) That the illness or disability has existed for
10 a period marked by the continuing presence of the
11 symptoms set forth in item (B) of this subdivision (4)
12 or the repeated episodic occurrence of these symptoms.

13 (D) That the benefits of the treatment outweigh the
14 harm.

15 (E) That the recipient lacks the capacity to make a
16 reasoned decision about the treatment.

17 (F) That other less restrictive services have been
18 explored and found inappropriate.

19 (G) If the petition seeks authorization for
20 testing and other procedures, that such testing and
21 procedures are essential for the safe and effective
22 administration of the treatment.

23 (5) In no event shall an order issued under this
24 Section be effective for more than 90 days. A second 90-day
25 period of involuntary treatment may be authorized pursuant
26 to a hearing that complies with the standards and
27 procedures of this subsection (a-5). Thereafter,
28 additional 180-day periods of involuntary treatment may be
29 authorized pursuant to the standards and procedures of this
30 Section without limit. If a new petition to authorize the
31 administration of authorized involuntary treatment is
32 filed at least 15 days prior to the expiration of the prior
33 order, and if any continuance of the hearing is agreed to
34 by the recipient, the administration of the treatment may
35 continue in accordance with the prior order pending the
36 completion of a hearing under this Section.

1 (6) An order issued under this subsection (a-5) shall
2 designate the persons authorized to administer the
3 authorized involuntary treatment under the standards and
4 procedures of this subsection (a-5). Those persons shall
5 have complete discretion not to administer any treatment
6 authorized under this Section. The order shall also specify
7 the medications and the anticipated range of dosages that
8 have been authorized and may include a list of any
9 alternative medications and range of dosages deemed
10 necessary.

11 (b) A guardian may be authorized to consent to the
12 administration of authorized involuntary treatment to an
13 objecting recipient only under the standards and procedures of
14 subsection (a-5).

15 (c) Notwithstanding any other provision of this Section, a
16 guardian may consent to the administration of authorized
17 involuntary treatment to a non-objecting recipient under
18 Article XIa of the Probate Act of 1975.

19 (d) Nothing in this Section shall prevent the
20 administration of authorized involuntary treatment to
21 recipients in an emergency under Section 2-107 of this Act.

22 (e) Notwithstanding any of the provisions of this Section,
23 authorized involuntary treatment may be administered pursuant
24 to a power of attorney for health care under the Powers of
25 Attorney for Health Care Law or a declaration for mental health
26 treatment under the Mental Health Treatment Preference
27 Declaration Act.

28 (f) The Department shall conduct annual trainings for
29 physicians and registered nurses working in State-operated
30 mental health facilities on the appropriate use of authorized
31 involuntary treatment, standards for its use, and the
32 preparation of court petitions under this Section.

33 (Source: P.A. 92-16, eff. 6-28-01; 93-573, eff. 8-21-03.)

34 (405 ILCS 5/2-107.3 new)

35 Sec. 2-107.3. Reports. Each facility director of a

1 State-operated mental health facility shall prepare a
2 quarterly report stating the number of persons who were
3 determined to meet the standard for authorized involuntary
4 treatment but for whom it was determined that the filing of
5 such a petition was not warranted as provided for in subsection
6 (h) of Section 2-107 of this Code and the reasons for each such
7 determination. The Department shall prepare and publish an
8 annual report summarizing the information received under this
9 Section. The Department's report shall include the data from
10 each facility filing such a report and shall separately report
11 the data from each such facility, identified by facility.

12 (405 ILCS 5/3-209) (from Ch. 91 1/2, par. 3-209)

13 Sec. 3-209. Within three days of admission under this
14 Chapter, a treatment plan shall be prepared for each recipient
15 of service and entered into his or her record. The plan shall
16 include an assessment of the recipient's treatment needs, a
17 description of the services recommended for treatment, the
18 goals of each type of element of service, an anticipated
19 timetable for the accomplishment of the goals, and a
20 designation of the qualified professional responsible for the
21 implementation of the plan. The plan shall include a written
22 assessment of whether or not the recipient is in need of
23 psychotropic medications. The plan shall be reviewed and
24 updated as the clinical condition warrants, but not less than
25 every 30 days.

26 (Source: P.A. 81-920.)

27 Section 99. Effective date. This Act takes effect upon
28 becoming law.