

AN ACT concerning health.

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

Section 5. The Mental Health and Developmental Disabilities Code is amended by changing Sections 2-200, 3-207, and 3-908 as follows:

(405 ILCS 5/2-200) (from Ch. 91 1/2, par. 2-200)

Sec. 2-200. (a) Upon commencement of services, or as soon thereafter as the condition of the recipient permits, every adult recipient, as well as the recipient's guardian or substitute decision maker, and every recipient who is 12 years of age or older and the parent or guardian of a minor or person under guardianship shall be informed orally and in writing of the rights guaranteed by this Chapter which are relevant to the nature of the recipient's services program. The notice shall include, if applicable, the recipient's right to request a transfer to a different Department facility under Section 3-908. Every facility shall also post conspicuously in public areas a summary of the rights which are relevant to the services delivered by that facility as well as contact information for the Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of the Protection and Advocacy for Persons with Developmental

Disabilities Act.

(b) A recipient who is 12 years of age or older and the parent or guardian of a minor or person under guardianship at any time may designate, and upon commencement of services shall be informed of the right to designate, a person or agency to receive notice under Section 2-201 or to direct that no information about the recipient be disclosed to any person or agency.

(c) Upon commencement of services, or as soon thereafter as the condition of the recipient permits, the facility shall ask the adult recipient or minor recipient admitted pursuant to Section 3-502 whether the recipient wants the facility to contact the recipient's spouse, parents, guardian, close relatives, friends, attorney, advocate from the Guardianship and Advocacy Commission or the agency designated by the Governor under Section 1 of the Protection and Advocacy for Persons with Developmental Disabilities Act, or others and inform them of the recipient's presence at the facility. The facility shall by phone or by mail contact at least two of those people designated by the recipient and shall inform them of the recipient's location. If the recipient so requests, the facility shall also inform them of how to contact the recipient.

(d) Upon commencement of services, or as soon thereafter as the condition of the recipient permits, the facility shall advise the recipient as to the circumstances under which the

law permits the use of emergency forced medication or electroconvulsive therapy under subsection (a) of Section 2-107, restraint under Section 2-108, or seclusion under Section 2-109. At the same time, the facility shall inquire of the recipient which form of intervention the recipient would prefer if any of these circumstances should arise. The recipient's preference shall be noted in the recipient's record and communicated by the facility to the recipient's guardian or substitute decision maker, if any, and any other individual designated by the recipient. If any such circumstances subsequently do arise, the facility shall give due consideration to the preferences of the recipient regarding which form of intervention to use as communicated to the facility by the recipient or as stated in the recipient's advance directive.

(Source: P.A. 100-915, eff. 1-1-19.)

(405 ILCS 5/3-207) (from Ch. 91 1/2, par. 3-207)

Sec. 3-207. (a) Hearings under Sections 3-405, 3-904, 3-908, and 3-911 of this Chapter shall be conducted by a utilization review committee. The Secretary shall appoint a utilization review committee at each Department facility. Each such committee shall consist of a multi-disciplinary group of professional staff members who are trained and equipped to deal with the clinical and treatment needs of recipients. The recipient and the objector may be represented by persons of

their choice.

(b) The committee shall not be bound by rules of evidence or procedure but shall conduct the proceedings in a manner intended to ensure a fair hearing. The committee may make such investigation as it deems necessary. A record of the proceedings shall be made and shall be kept in the recipient's record. Within 3 days of conclusion of the hearing, the committee shall submit to the facility director its written recommendations which include its factual findings and conclusions. A copy of the recommendations shall be given to the recipient and the objector.

(c) Within 7 days of receipt of the recommendations, the facility director shall give written notice to the recipient and objector of his acceptance or rejection of the recommendations and his reason therefor. If the director of the facility rejects the recommendations or if the recipient or objector requests review of the director's decision, the director shall promptly forward a copy of his decision, the recommendations, and the record of the hearing to the Secretary of the Department for final review. The decision of the director or the decision of the Secretary of the Department, if his review was requested, shall be considered a final administrative decision.

(Source: P.A. 91-726, eff. 6-2-00.)

(405 ILCS 5/3-908) (from Ch. 91 1/2, par. 3-908)

Sec. 3-908. Application for transfer of recipient to another Department facility.

(a) The facility director of any Department facility may transfer a recipient to another Department facility if he determines the transfer to be clinically advisable and consistent with the treatment needs of the recipient.

(b) A recipient, his or her attorney, guardian, if any, and responsible relative, in any Department facility may make a written application to the facility director of the recipient's current facility to transfer to another Department facility. The Department shall provide the form to make such an application to a recipient, his or her attorney, guardian, if any, and responsible relative upon request. A recipient of services shall not include a person with the primary diagnosis of a developmental disability.

(c) Upon receipt of the recipient's application, the facility director shall promptly schedule a hearing to be held within 7 days under Section 3-207. The hearing shall be held at the recipient's current facility.

(d) At the hearing the recipient shall have the burden of proving that:

(1) the facility to which the recipient is requesting a transfer to a less restrictive facility that provides treatment which is more clinically appropriate for the recipient. If the recipient refuses the transfer it shall be considered the same as if the recipient was denied a

transfer and the recipient shall be prohibited from making another request for 180 days after the initial denial of transfer; and

(2) the transfer does not threaten the safety of the recipient or others.

If the utilization review committee finds that the recipient has sustained his burden and the request for transfer is supported by substantial evidence, it shall recommend that the transfer proceed within 30 days. If it does not so find, it shall recommend that the recipient not be transferred. If the transfer to a less restricted facility cannot be executed due to lack of beds, the transferring facility shall inform the recipient and his petitioning attorney or guardian, in writing, and provide an estimated time frame for the transfer.

(e) If a recipient's application for transfer is denied, no application may be filed for 180 days. The recipient does, however, have the right to administratively appeal any decision of the utilization review committee.

(Source: P.A. 88-380.)

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