

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(405 ILCS 5/2-107.3 new)

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

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

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

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

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

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