

HB1323



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB1323

Introduced 2/17/2021, by Rep. Emanuel Chris Welch

SYNOPSIS AS INTRODUCED:

405 ILCS 5/2-107

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

Amends the Mental Health and Developmental Disabilities Code. Makes a technical change in a Section concerning refusal of services and informing of risks.

LRB102 03338 KTG 13351 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; informing of risks.

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

1 available and the risks of such alternate services, as well as
2 the possible consequences to the recipient of refusal of such
3 services.

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

8 (c) Administration of medication or electroconvulsive
9 therapy may not be continued unless the need for such
10 treatment is redetermined at least every 24 hours based upon a
11 personal examination of the recipient by a physician or a
12 nurse under the supervision of a physician and the
13 circumstances demonstrating that need are set forth in writing
14 in the recipient's record.

15 (d) Neither psychotropic medication nor electroconvulsive
16 therapy may be administered under this Section for a period in
17 excess of 72 hours, excluding Saturdays, Sundays, and
18 holidays, unless a petition is filed under Section 2-107.1 and
19 the treatment continues to be necessary under subsection (a)
20 of this Section. Once the petition has been filed, treatment
21 may continue in compliance with subsections (a), (b), and (c)
22 of this Section until the final outcome of the hearing on the
23 petition.

24 (e) The Department shall issue rules designed to insure
25 that in State-operated mental health facilities psychotropic
26 medication and electroconvulsive therapy are administered in

1 accordance with this Section and only when appropriately
2 authorized and monitored by a physician or a nurse under the
3 supervision of a physician in accordance with accepted medical
4 practice. The facility director of each mental health facility
5 not operated by the State shall issue rules designed to insure
6 that in that facility psychotropic medication and
7 electroconvulsive therapy are administered in accordance with
8 this Section and only when appropriately authorized and
9 monitored by a physician or a nurse under the supervision of a
10 physician in accordance with accepted medical practice. Such
11 rules shall be available for public inspection and copying
12 during normal business hours.

13 (f) The provisions of this Section with respect to the
14 emergency administration of psychotropic medication and
15 electroconvulsive therapy do not apply to facilities licensed
16 under the Nursing Home Care Act, the Specialized Mental Health
17 Rehabilitation Act of 2013, the ID/DD Community Care Act, or
18 the MC/DD Act.

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

21 (h) Whenever psychotropic medication or electroconvulsive
22 therapy is refused pursuant to subsection (a) of this Section
23 at least once that day, the physician shall determine and
24 state in writing the reasons why the recipient did not meet the
25 criteria for administration of medication or electroconvulsive
26 therapy under subsection (a) and whether the recipient meets

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

13 (i) The Department shall conduct annual trainings for all
14 physicians and registered nurses working in State-operated
15 mental health facilities on the appropriate use of emergency
16 administration of psychotropic medication and
17 electroconvulsive therapy, standards for their use, and the
18 methods of authorization under this Section.

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