

1 AN ACT in relation to 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 3-802 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  
12 informed of the recipient's right to refuse medication. The  
13 recipient and the recipient's guardian or substitute decision  
14 maker shall be given the opportunity to refuse generally  
15 accepted mental health or developmental disability services,  
16 including but not limited to medication. If such services  
17 are refused, they shall not be given unless such services are  
18 necessary to prevent the recipient from causing serious and  
19 imminent physical harm to the recipient or others and no less  
20 restrictive alternative is available. The facility director  
21 shall inform a recipient, guardian, or substitute decision  
22 maker, if any, who refuses such services of alternate  
23 services available and the risks of such alternate services,  
24 as well as the possible consequences to the recipient of  
25 refusal of such services.

26 (b) Authorized involuntary treatment may be given under  
27 this Section for up to 72 24 hours only if the circumstances  
28 leading up to the need for emergency treatment are set forth  
29 in writing in the recipient's record.

30 (c) Authorized involuntary treatment may not be  
31 continued unless the need for such treatment is redetermined

1 at least every 72 24 hours based upon a personal examination  
2 of the recipient by a physician or a nurse under the  
3 supervision of a physician and the circumstances  
4 demonstrating that need are set forth in writing in the  
5 recipient's record.

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

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

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

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

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

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

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

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

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

18 (1) Any person 18 years of age or older, including  
19 any guardian, may petition the circuit court for an order  
20 authorizing the administration of authorized involuntary  
21 treatment to a recipient of services. The petition shall  
22 state that the petitioner has made a good faith attempt  
23 to determine whether the recipient has executed a power  
24 of attorney for health care under the Powers of Attorney  
25 for Health Care Law or a declaration for mental health  
26 treatment under the Mental Health Treatment Preference  
27 Declaration Act and to obtain copies of these instruments  
28 if they exist. If either of the above-named instruments  
29 is available to the petitioner, the instrument or a copy  
30 of the instrument shall be attached to the petition as an  
31 exhibit. The petitioner shall deliver a copy of the  
32 petition, and notice of the time and place of the  
33 hearing, to the respondent, his or her attorney, any

1 known agent or attorney-in-fact, if any, and the  
2 guardian, if any, no later than 3 days prior to the date  
3 of the hearing. Service of the petition and notice of the  
4 time and place of the hearing may be made by transmitting  
5 them via facsimile machine to the respondent or other  
6 party. Upon receipt of the petition and notice, the  
7 party served, or the person delivering the petition and  
8 notice to the party served, shall acknowledge service.  
9 If the party sending the petition and notice does not  
10 receive acknowledgement of service within 24 hours,  
11 service must be made by personal service.

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

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

26 (2) The court shall hold a hearing within 7 days of  
27 the filing of the petition. The People, the petitioner,  
28 or the respondent shall be entitled to a continuance of  
29 up to 10 7 days as of right. An additional continuance  
30 of not more than 10 7 days may be granted to any party  
31 (i) upon a showing that the continuance is needed in  
32 order to adequately prepare for or present evidence in a  
33 hearing under this Section or (ii) under exceptional  
34 circumstances. The court may grant an additional

1           continuance not to exceed 21 days when, in its  
2           discretion, the court determines that such a continuance  
3           is necessary in order to provide the recipient with an  
4           examination pursuant to Section 3-803 or 3-804 of this  
5           Act, to provide the recipient with a trial by jury as  
6           provided in Section 3-802 of this Act, or to arrange for  
7           the substitution of counsel as provided for by the  
8           Illinois Supreme Court Rules. The hearing shall be  
9           separate from a judicial proceeding held to determine  
10          whether a person is subject to involuntary admission but  
11          may be heard immediately preceding or following such a  
12          judicial proceeding and may be heard by the same trier of  
13          fact or law as in that judicial proceeding.

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

19                 (4) Authorized involuntary treatment shall not be  
20                 administered to the recipient unless it has been  
21                 determined by clear and convincing evidence that all of  
22                 the following factors are present:

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

25                         (B) That because of said mental illness or  
26                         developmental disability, the recipient exhibits any  
27                         one of the following: (i) deterioration of his or  
28                         her ability to function, (ii) suffering, or (iii)  
29                         threatening behavior.

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

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

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

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

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

11          (5) In no event shall an order issued under this  
12          Section be effective for more than 90 days. A second  
13          90-day period of involuntary treatment may be authorized  
14          pursuant to a hearing that complies with the standards  
15          and procedures of this subsection (a-5). Thereafter,  
16          additional 180-day periods of involuntary treatment may  
17          be authorized pursuant to the standards and procedures of  
18          this Section without limit. If a new petition to  
19          authorize the administration of authorized involuntary  
20          treatment is filed at least 15 days prior to the  
21          expiration of the prior order, and if any continuance of  
22          the hearing is agreed to by the recipient, the  
23          administration of the treatment may continue in  
24          accordance with the prior order pending the completion of  
25          a hearing under this Section.

26          (6) An order issued under this subsection (a-5)  
27          shall designate the persons authorized to administer the  
28          authorized involuntary treatment under the standards and  
29          procedures of this subsection (a-5). Those persons shall  
30          have complete discretion not to administer any treatment  
31          authorized under this Section or to change the specific  
32          medications and dosages. Whenever a medication or a  
33          dosage is changed, the specifics must be entered in the  
34          individual's record. ~~The order shall also specify the~~

1           medications--and--the--anticipated--range--of--dosages--that  
2           have--been--authorized-

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

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

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

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

20           (Source: P.A. 91-726, eff. 6-2-00; 91-787, eff. 1-1-01;  
21 92-16, eff. 6-28-01.)

22           (405 ILCS 5/3-802) (from Ch. 91 1/2, par. 3-802)

23           Sec. 3-802. The respondent is entitled to a jury on the  
24 question of whether he is subject to involuntary admission.  
25 The jury shall consist of 6 persons to be chosen in the same  
26 manner as are jurors in other civil proceedings. A respondent  
27 is not entitled to a jury on the question of whether  
28 authorized involuntary treatment may be administered under  
29 Section 2-107.

30           (Source: P.A. 80-1414.)

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