

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 3-400 as
6 follows:

7 (405 ILCS 5/3-400) (from Ch. 91 1/2, par. 3-400)

8 Sec. 3-400. Voluntary admission to mental health facility.

9 (a) Any person 16 or older, including a person adjudicated
10 a disabled person, may be admitted to a mental health facility
11 as a voluntary recipient for treatment of a mental illness upon
12 the filing of an application with the facility director of the
13 facility if the facility director determines and documents in
14 the recipient's medical record that the person (1) is
15 clinically suitable for admission as a voluntary recipient and
16 (2) has the capacity to consent to voluntary admission.

17 (b) For purposes of consenting to voluntary admission, a
18 person has the capacity to consent to voluntary admission if,
19 in the professional judgment of the facility director or his or
20 her designee, the person is able to understand that:

21 (1) He or she is being admitted to a mental health
22 facility.

23 (2) He or she may request discharge at any time. The

1 request must be in writing, and discharge is not automatic.

2 (3) Within 5 business days after receipt of the written
3 request for discharge, the facility must either discharge
4 the person or initiate commitment proceedings. ~~deems such~~
5 ~~person clinically suitable for admission as a voluntary~~
6 ~~recipient.~~

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

8 Section 10. The Probate Act of 1975 is amended by changing
9 Section 11a-17 as follows:

10 (755 ILCS 5/11a-17) (from Ch. 110 1/2, par. 11a-17)

11 Sec. 11a-17. Duties of personal guardian.

12 (a) To the extent ordered by the court and under the
13 direction of the court, the guardian of the person shall have
14 custody of the ward and the ward's minor and adult dependent
15 children and shall procure for them and shall make provision
16 for their support, care, comfort, health, education and
17 maintenance, and professional services as are appropriate, but
18 the ward's spouse may not be deprived of the custody and
19 education of the ward's minor and adult dependent children,
20 without the consent of the spouse, unless the court finds that
21 the spouse is not a fit and competent person to have that
22 custody and education. The guardian shall assist the ward in
23 the development of maximum self-reliance and independence. The
24 guardian of the person may petition the court for an order

1 directing the guardian of the estate to pay an amount
2 periodically for the provision of the services specified by the
3 court order. If the ward's estate is insufficient to provide
4 for education and the guardian of the ward's person fails to
5 provide education, the court may award the custody of the ward
6 to some other person for the purpose of providing education. If
7 a person makes a settlement upon or provision for the support
8 or education of a ward, the court may make an order for the
9 visitation of the ward by the person making the settlement or
10 provision as the court deems proper. A guardian of the person
11 may not admit a ward to a mental health facility except at the
12 ward's request as provided in Article IV of the Mental Health
13 and Developmental Disabilities Code and unless the ward has the
14 capacity to consent to such admission as provided in Article IV
15 of the Mental Health and Developmental Disabilities Code.

16 (a-5) If the ward filed a petition for dissolution of
17 marriage under the Illinois Marriage and Dissolution of
18 Marriage Act before the ward was adjudicated a disabled person
19 under this Article, the guardian of the ward's person and
20 estate may maintain that action for dissolution of marriage on
21 behalf of the ward.

22 (b) If the court directs, the guardian of the person shall
23 file with the court at intervals indicated by the court, a
24 report that shall state briefly: (1) the current mental,
25 physical, and social condition of the ward and the ward's minor
26 and adult dependent children; (2) their present living

1 arrangement, and a description and the address of every
2 residence where they lived during the reporting period and the
3 length of stay at each place; (3) a summary of the medical,
4 educational, vocational, and other professional services given
5 to them; (4) a resume of the guardian's visits with and
6 activities on behalf of the ward and the ward's minor and adult
7 dependent children; (5) a recommendation as to the need for
8 continued guardianship; (6) any other information requested by
9 the court or useful in the opinion of the guardian. The Office
10 of the State Guardian shall assist the guardian in filing the
11 report when requested by the guardian. The court may take such
12 action as it deems appropriate pursuant to the report.

13 (c) Absent court order pursuant to the Illinois Power of
14 Attorney Act directing a guardian to exercise powers of the
15 principal under an agency that survives disability, the
16 guardian has no power, duty, or liability with respect to any
17 personal or health care matters covered by the agency. This
18 subsection (c) applies to all agencies, whenever and wherever
19 executed.

20 (d) A guardian acting as a surrogate decision maker under
21 the Health Care Surrogate Act shall have all the rights of a
22 surrogate under that Act without court order including the
23 right to make medical treatment decisions such as decisions to
24 forgo or withdraw life-sustaining treatment. Any decisions by
25 the guardian to forgo or withdraw life-sustaining treatment
26 that are not authorized under the Health Care Surrogate Act

1 shall require a court order. Nothing in this Section shall
2 prevent an agent acting under a power of attorney for health
3 care from exercising his or her authority under the Illinois
4 Power of Attorney Act without further court order, unless a
5 court has acted under Section 2-10 of the Illinois Power of
6 Attorney Act. If a guardian is also a health care agent for the
7 ward under a valid power of attorney for health care, the
8 guardian acting as agent may execute his or her authority under
9 that act without further court order.

10 (e) Decisions made by a guardian on behalf of a ward shall
11 be made in accordance with the following standards for decision
12 making. Decisions made by a guardian on behalf of a ward may be
13 made by conforming as closely as possible to what the ward, if
14 competent, would have done or intended under the circumstances,
15 taking into account evidence that includes, but is not limited
16 to, the ward's personal, philosophical, religious and moral
17 beliefs, and ethical values relative to the decision to be made
18 by the guardian. Where possible, the guardian shall determine
19 how the ward would have made a decision based on the ward's
20 previously expressed preferences, and make decisions in
21 accordance with the preferences of the ward. If the ward's
22 wishes are unknown and remain unknown after reasonable efforts
23 to discern them, the decision shall be made on the basis of the
24 ward's best interests as determined by the guardian. In
25 determining the ward's best interests, the guardian shall weigh
26 the reason for and nature of the proposed action, the benefit

1 or necessity of the action, the possible risks and other
2 consequences of the proposed action, and any available
3 alternatives and their risks, consequences and benefits, and
4 shall take into account any other information, including the
5 views of family and friends, that the guardian believes the
6 ward would have considered if able to act for herself or
7 himself.

8 (f) Upon petition by any interested person (including the
9 standby or short-term guardian), with such notice to interested
10 persons as the court directs and a finding by the court that it
11 is in the best interest of the disabled person, the court may
12 terminate or limit the authority of a standby or short-term
13 guardian or may enter such other orders as the court deems
14 necessary to provide for the best interest of the disabled
15 person. The petition for termination or limitation of the
16 authority of a standby or short-term guardian may, but need
17 not, be combined with a petition to have another guardian
18 appointed for the disabled person.

19 (Source: P.A. 90-250, eff. 7-29-97; 90-796, eff. 12-15-98;
20 91-139, eff. 1-1-00.)