

# HB1734



## 98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1734

by Rep. Tom Cross

### 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.

LRB098 06702 RLC 36748 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 informed  
12 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 treatment  
10 is redetermined at least every 24 hours based upon a personal  
11 examination of the recipient by a physician or a nurse under  
12 the supervision of a physician and the circumstances  
13 demonstrating that need are set forth in writing in the  
14 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 holidays,  
18 unless a petition is filed under Section 2-107.1 and the  
19 treatment continues to be necessary under subsection (a) of  
20 this Section. Once the petition has been filed, treatment may  
21 continue in compliance with subsections (a), (b), and (c) of  
22 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, or the ID/DD Community Care Act.

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

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

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

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

18 (Source: P.A. 96-339, eff. 7-1-10; 97-38, eff. 6-28-11; 97-227,  
19 eff. 1-1-12; 97-813, eff. 7-13-12.)