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 2-108, 2-109, 3-602, 3-603, 3-610, 3-702, 3-703, 3-752, 3-753, and 3-807 and by adding Section 1-101.3 as follows:

(405 ILCS 5/1-101.3 new)

Sec. 1-101.3. Advanced practice psychiatric nurse.

"Advanced practice psychiatric nurse" means a nurse who is

licensed to practice as an advanced practice registered nurse

under Section 65-5 of the Nurse Practice Act and has been

certified by the American Nurses Credentialing Center as a

psychiatric mental health clinical nurse specialist or a

psychiatric mental health nurse practitioner.

(405 ILCS 5/2-108) (from Ch. 91 1/2, par. 2-108)

Sec. 2-108. Use of restraint. Restraint may be used only as a therapeutic measure to prevent a recipient from causing physical harm to himself or physical abuse to others. Restraint may only be applied by a person who has been trained in the application of the particular type of restraint to be utilized. In no event shall restraint be utilized to punish or discipline

a recipient, nor is restraint to be used as a convenience for the staff.

(a) Except as provided in this Section, restraint shall be employed only upon the written order of a physician, clinical psychologist, clinical social worker, clinical professional counselor, advanced practice psychiatric nurse, or registered nurse with supervisory responsibilities. No restraint shall be ordered unless the physician, clinical psychologist, clinical social worker, clinical professional counselor, advanced practice psychiatric nurse, or registered nurse with supervisory responsibilities, after personally observing and examining the recipient, is clinically satisfied that the use of restraint is justified to prevent the recipient from causing physical harm to himself or others. In no event may restraint continue for longer than 2 hours unless within that time period a nurse with supervisory responsibilities, advanced practice psychiatric nurse, or a physician confirms, in writing, following a personal examination of the recipient, that the restraint does not pose an undue risk to the recipient's health in light of the recipient's physical or medical condition. The order shall state the events leading up to the need for restraint and the purposes for which restraint is employed. The order shall also state the length of time restraint is to be employed and the clinical justification for that length of time. No order for restraint shall be valid for more than 16 hours. If further restraint is required, a new order must be

issued pursuant to the requirements provided in this Section.

- (b) In the event there is an emergency requiring the immediate use of restraint, it may be ordered temporarily by a qualified person only where physician, a psychologist, clinical social worker, clinical professional counselor, advanced practice psychiatric nurse, or registered nurse with supervisory responsibilities is not immediately available. In that event, an order by a nurse, clinical psychologist, clinical social worker, clinical professional counselor, advanced practice psychiatric nurse, or physician shall be obtained pursuant to the requirements of this Section as quickly as possible, and the recipient shall be examined by a physician or supervisory nurse within 2 hours after the initial employment of the emergency restraint. Whoever orders restraint in emergency situations shall document its necessity and place that documentation in the recipient's record.
- (c) The person who orders restraint shall inform the facility director or his designee in writing of the use of restraint within 24 hours.
- (d) The facility director shall review all restraint orders daily and shall inquire into the reasons for the orders for restraint by any person who routinely orders them.
- (e) Restraint may be employed during all or part of one 24 hour period, the period commencing with the initial application of the restraint. However, once restraint has been employed during one 24 hour period, it shall not be used again on the

same recipient during the next 48 hours without the prior written authorization of the facility director.

- (f) Restraint shall be employed in a humane and therapeutic manner and the person being restrained shall be observed by a qualified person as often as is clinically appropriate but in no event less than once every 15 minutes. The qualified person shall maintain a record of the observations. Specifically, unless there is an immediate danger that the recipient will physically harm himself or others, restraint shall be loosely applied to permit freedom of movement. Further, the recipient shall be permitted to have regular meals and toilet privileges free from the restraint, except when freedom of action may result in physical harm to the recipient or others.
- (g) Every facility that employs restraint shall provide training in the safe and humane application of each type of restraint employed. The facility shall not authorize the use of any type of restraint by an employee who has not received training in the safe and humane application of that type of restraint. Each facility in which restraint is used shall maintain records detailing which employees have been trained and are authorized to apply restraint, the date of the training and the type of restraint that the employee was trained to use.
- (h) Whenever restraint is imposed upon any recipient whose primary mode of communication is sign language, the recipient shall be permitted to have his hands free from restraint for brief periods each hour, except when freedom may result in

physical harm to the recipient or others.

- (i) A recipient who is restrained may only be secluded at the same time pursuant to an explicit written authorization as provided in Section 2-109 of this Code. Whenever a recipient is restrained, a member of the facility staff shall remain with the recipient at all times unless the recipient has been secluded. A recipient who is restrained and secluded shall be observed by a qualified person as often as is clinically appropriate but in no event less than every 15 minutes.
- (j) Whenever restraint is used, the recipient shall be advised of his right, pursuant to Sections 2-200 and 2-201 of this Code, to have any person of his choosing, including the Guardianship and Advocacy Commission or the agency designated pursuant to the Protection and Advocacy for Persons with Developmental Disabilities Act notified of the restraint. A recipient who is under guardianship may request that any person of his choosing be notified of the restraint whether or not the guardian approves of the notice. Whenever the Guardianship and Advocacy Commission is notified that a recipient has been restrained, it shall contact that recipient to determine the circumstances of the restraint and whether further action is warranted.

(Source: P.A. 98-137, eff. 8-2-13; 99-143, eff. 7-27-15.)

(405 ILCS 5/2-109) (from Ch. 91 1/2, par. 2-109)

Sec. 2-109. Seclusion. Seclusion may be used only as a

therapeutic measure to prevent a recipient from causing physical harm to himself or physical abuse to others. In no event shall seclusion be utilized to punish or discipline a recipient, nor is seclusion to be used as a convenience for the staff.

(a) Seclusion shall be employed only upon the written order of a physician, clinical psychologist, clinical social worker, clinical professional counselor, advanced practice psychiatric nurse, or registered nurse with supervisory responsibilities. No seclusion shall be ordered unless the physician, clinical psychologist, clinical social worker, clinical professional counselor, advanced practice psychiatric nurse, or registered nurse with supervisory responsibilities, after personally observing and examining the recipient, is clinically satisfied that the use of seclusion is justified to prevent the recipient from causing physical harm to himself or others. In no event may seclusion continue for longer than 2 hours unless within that time period a nurse with supervisory responsibilities, advanced practice psychiatric nurse, or a physician confirms in writing, following a personal examination of the recipient, that the seclusion does not pose an undue risk to the recipient's health in light of the recipient's physical or medical condition. The order shall state the events leading up to the need for seclusion and the purposes for which seclusion is employed. The order shall also state the length of time seclusion is to be employed and the clinical justification for

the length of time. No order for seclusion shall be valid for more than 16 hours. If further seclusion is required, a new order must be issued pursuant to the requirements provided in this Section.

- (b) The person who orders seclusion shall inform the facility director or his designee in writing of the use of seclusion within 24 hours.
- (c) The facility director shall review all seclusion orders daily and shall inquire into the reasons for the orders for seclusion by any person who routinely orders them.
- (d) Seclusion may be employed during all or part of one 16 hour period, that period commencing with the initial application of the seclusion. However, once seclusion has been employed during one 16 hour period, it shall not be used again on the same recipient during the next 48 hours without the prior written authorization of the facility director.
- (e) The person who ordered the seclusion shall assign a qualified person to observe the recipient at all times. A recipient who is restrained and secluded shall be observed by a qualified person as often as is clinically appropriate but in no event less than once every 15 minutes.
- (f) Safety precautions shall be followed to prevent injuries to the recipient in the seclusion room. Seclusion rooms shall be adequately lighted, heated, and furnished. If a door is locked, someone with a key shall be in constant attendance nearby.

(g) Whenever seclusion is used, the recipient shall be advised of his right, pursuant to Sections 2-200 and 2-201 of this Code, to have any person of his choosing, including the Guardianship and Advocacy Commission notified of the seclusion. A person who is under guardianship may request that any person of his choosing be notified of the seclusion whether or not the guardian approves of the notice. Whenever the Guardianship and Advocacy Commission is notified that a recipient has been secluded, it shall contact that recipient to determine the circumstances of the seclusion and whether further action is warranted.

(Source: P.A. 98-137, eff. 8-2-13.)

(405 ILCS 5/3-602) (from Ch. 91 1/2, par. 3-602)

Sec. 3-602. The petition shall be accompanied by a certificate executed by a physician, qualified examiner, psychiatrist, advanced practice psychiatric nurse, or clinical psychologist which states that the respondent is subject to involuntary admission on an inpatient basis and requires immediate hospitalization. The certificate shall indicate that the physician, qualified examiner, psychiatrist, advanced practice psychiatric nurse, or clinical psychologist personally examined the respondent not more than 72 hours prior to admission. It shall also contain the physician's, qualified examiner's, psychiatrist's, advanced practice psychiatric nurse's, or clinical psychologist's clinical observations,

other factual information relied upon in reaching a diagnosis, and a statement as to whether the respondent was advised of his rights under Section 3-208.

(Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

(405 ILCS 5/3-603) (from Ch. 91 1/2, par. 3-603)

Sec. 3-603. (a) If no physician, qualified examiner, psychiatrist, advanced practice psychiatric nurse, or clinical psychologist is immediately available or it is not possible after a diligent effort to obtain the certificate provided for in Section 3-602, the respondent may be detained for examination in a mental health facility upon presentation of the petition alone pending the obtaining of such a certificate.

- (b) In such instance the petition shall conform to the requirements of Section 3-601 and further specify that:
 - 1. the petitioner believes, as a result of his personal observation, that the respondent is subject to involuntary admission on an inpatient basis;
 - 2. a diligent effort was made to obtain a certificate;
 - 3. no physician, qualified examiner, psychiatrist, or clinical psychologist could be found who has examined or could examine the respondent; and
 - 4. a diligent effort has been made to convince the respondent to appear voluntarily for examination by a physician, qualified examiner, psychiatrist, or clinical psychologist, unless the petitioner reasonably believes

that effort would impose a risk of harm to the respondent or others.

(Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

(405 ILCS 5/3-610) (from Ch. 91 1/2, par. 3-610)

Sec. 3-610. As soon as possible but not later than 24 hours, excluding Saturdays, Sundays and holidays, after admission of a respondent pursuant to this Article, the respondent shall be personally examined by a psychiatrist. The psychiatrist may be a member of the staff of the facility but shall not be the person who executed the first certificate. If a certificate has already been completed by a psychiatrist following the respondent's admission, the respondent shall be examined by another psychiatrist or by a physician, clinical psychologist, advanced practice psychiatric nurse, qualified examiner. If, as a result of this second examination, a certificate is executed, the certificate shall be promptly filed with the court. If the certificate states that the respondent is subject to involuntary admission but not in need of immediate hospitalization, the respondent may remain in his or her place of residence pending a hearing on the petition unless he or she voluntarily agrees to inpatient treatment. If the respondent is not examined or if the psychiatrist, physician, clinical psychologist, advanced practice psychiatric nurse, or qualified examiner does not execute a certificate pursuant to Section 3-602, the respondent shall be

released forthwith. For the purpose of this Section, a personal examination includes an examination performed in real time (synchronous examination) via an Interactive Telecommunication System as defined in 89 Ill. Adm. Code 140.403(a)(5). An examination via an Interactive Telecommunication System may only be used for certification under this Section when a psychiatrist is not on-site within the time period set forth in this Section. If the examination is performed via an Interactive Communication System, that fact shall be noted on the certificate.

(Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

(405 ILCS 5/3-702) (from Ch. 91 1/2, par. 3-702)

Sec. 3-702. (a) The petition may be accompanied by the certificate of a physician, qualified examiner, psychiatrist, advanced practice psychiatric nurse, or clinical psychologist which certifies that the respondent is subject to involuntary admission on an inpatient basis and which contains the other information specified in Section 3-602.

(b) Upon receipt of the petition either with or without a certificate, if the court finds the documents are in order, it may make such orders pursuant to Section 3-703 as are necessary to provide for examination of the respondent. If the petition is not accompanied by 2 certificates executed pursuant to Section 3-703, the court may order the respondent to present himself for examination at a time and place designated by the

court. If the petition is accompanied by 2 certificates executed pursuant to Section 3-703 and the court finds the documents are in order, it shall set the matter for hearing.

(Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

(405 ILCS 5/3-703) (from Ch. 91 1/2, par. 3-703)

Sec. 3-703. If no certificate was filed, the respondent shall be examined separately by a physician, or clinical psychologist, advanced practice psychiatric nurse, qualified examiner and by a psychiatrist. If a certificate executed by a psychiatrist was filed, the respondent shall be examined by a physician, clinical psychologist, qualified examiner, advanced practice psychiatric nurse, psychiatrist. If a certificate executed by a qualified examiner, clinical psychologist, advanced practice psychiatric nurse, or a physician who is not a psychiatrist was filed, the respondent shall be examined by a psychiatrist. The examining physician, clinical psychologist, qualified examiner, advanced practice psychiatric nurse, or psychiatrist may interview by telephone or in person any witnesses or other persons listed in the petition for involuntary admission. If, as a result of an examination, a certificate is executed, the certificate shall be promptly filed with the court. If a certificate is executed, the examining physician, clinical psychologist, qualified examiner, advanced practice psychiatric nurse, or psychiatrist may also submit for filing with the court a report in which his

findings are described in detail, and may rely upon such findings for his opinion that the respondent is subject to involuntary admission on an inpatient basis. Copies of the certificates shall be made available to the attorneys for the parties upon request prior to the hearing. A certificate prepared in compliance with this Article shall state whether or not the respondent is in need of immediate hospitalization. However, if both the certificates state that the respondent is not in need of immediate hospitalization, the respondent may remain in his or her place of residence pending a hearing on the petition unless he or she voluntarily agrees to inpatient treatment.

(Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

(405 ILCS 5/3-752)

Sec. 3-752. Certificate.

(a) The petition may be accompanied by the certificate of a physician, qualified examiner, psychiatrist, advanced practice psychiatric nurse, or clinical psychologist which certifies that the respondent is subject to involuntary admission on an outpatient basis. The certificate shall indicate that the physician, qualified examiner, advanced practice psychiatric nurse, or clinical psychologist personally examined the respondent not more than 72 hours prior to the completion of the certificate. It shall also contain the physician's, qualified examiner's, advanced practice psychiatric nurse's,

or clinical psychologist's clinical observations, other factual information relied upon in reaching a diagnosis, and a statement as to whether the respondent was advised of his or her rights under Section 3-208.

(b) Upon receipt of the petition either with or without a certificate, if the court finds the documents are in order, it may make such orders pursuant to Section 3-753 as are necessary to provide for examination of the respondent. If the petition is not accompanied by 2 certificates executed pursuant to Section 3-753, the court may order the respondent to present himself or herself for examination at a time and place designated by the court. If the petition is accompanied by 2 certificates executed pursuant to Section 3-753 and the court finds the documents are in order, the court shall set the matter for hearing.

(Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

(405 ILCS 5/3-753)

Sec. 3-753. Examination. If no certificate was filed, the respondent shall be examined separately by a physician, or clinical psychologist, advanced practice psychiatric nurse, or qualified examiner and by a psychiatrist. If a certificate executed by a psychiatrist was filed, the respondent shall be examined by a physician, clinical psychologist, qualified examiner, advanced practice psychiatric nurse, or psychiatrist. If a certificate executed by a qualified

examiner, clinical psychologist, advanced practice psychiatric nurse, or a physician who is not a psychiatrist was filed, the respondent shall be examined by a psychiatrist. The examining physician, clinical psychologist, qualified examiner, advanced practice psychiatric nurse, or psychiatrist may interview by telephone or in person any witnesses or other persons listed in the petition for involuntary admission. If, as a result of an examination, a certificate is executed, the certificate shall be promptly filed with the court. If a certificate is executed, the examining physician, clinical psychologist, qualified examiner, advanced practice psychiatric nurse, or psychiatrist may also submit for filing with the court a report in which his or her findings are described in detail, and may rely upon such findings for his opinion that the respondent is subject to involuntary admission. Copies of the certificates shall be made available to the attorneys for the parties upon request prior to the hearing.

(Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

(405 ILCS 5/3-807) (from Ch. 91 1/2, par. 3-807)

Sec. 3-807. No respondent may be found subject to involuntary admission on an inpatient or outpatient basis unless at least one psychiatrist, clinical social worker, clinical psychologist, advanced practice psychiatric nurse, or qualified examiner who has examined the respondent testifies in person at the hearing. The respondent may waive the requirement

97-121, eff. 7-14-11.)

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of the testimony subject to the approval of the court. (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10;