ILLINOIS STATE BAR ASSOCIATION

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Mental Health Matters

The newsletter of the Illinois State Bar Association's Section on Mental Health Law

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Letter from the Chair

BY BARBARA GOEBEN

Think of your own or your colleague's mental health.

As you well know, the legal profession at times can be both stressful and challenging. This is reflected in the sad fact that lawyers are three times more likely than the general population to suffer from depression. This naturally impacts a person's capacity to practice our profession. The warning signs for an impaired attorney include attendance issues (missed deadlines or lateness), personal problems, financial issues, performance problems and health issues. At least 25% of those facing a disciplinary charge have an underlying mental illness and/or substance abuse problem. Depression, in fact, is the most frequently reported problem to the Lawyer's Assistance Program.[1]

A resource to face this is the Lawyer's Assistance Program (LAP), which helps lawyers, judges and law students get assistance with substance abuse, addiction and mental health problems. Founded in 1980, LAP provides resources, support and intervention tools to help yourself or a colleague who is in trouble. For further information please visit the LAP website at www.illinoislap.org.

If you weren't able to attend in person, I also recommend you view our February CLE program, ***What's New in Mental Health Law?*** at which Christine Anderson, Director of Probation and Lawyer Deferral Services of the Illinois Attorney Registration and Disciplinary Commission, spoke about this very issue, providing detailed information about the applicable rules of professional conduct that cover this situation.

Remember, it is never too early or too late to address this common problem. ■

1. LAP's Annual Report: www.Illinoislap.org

Appellate update

BY ANDREAS LIEWALD

Illinois Supreme Court

***In re Linda B.*, 2015 IL App (1st) 132134, Opinion filed 2/18/15**

The appellate court upheld the involuntary commitment order on the basis of a petition filed 17 days after involuntary admission to a hospital where respondent received mental health treatment as well as non-psychiatric medical treatment. On September 30, 2015, the Illinois Supreme Court allowed the Illinois Guardianship and Advocacy Commission's (GAC) petition for leave to appeal (PLA) filed on respondent's behalf.

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Appellate update

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***In re Benny M.*, 2015 IL App (2d) 141075, Opinion filed 11/2/15**

State has filed a PLA. See appellate court opinion below.

***In re Megan G.*, 2015 IL App (2d) 140148, Opinion filed 11/17/15**

State has filed a PLA. Appellate court held that trial court properly dismissed pending petitions for involuntary admission and involuntary treatment because of pending felony charges.

Illinois Appellate Courts

***In re Maureen D.*, 2015 IL App (1st) 141517, Opinion filed 8/14/15, Rehearing denied 9/10/15**

Respondent appealed an order for involuntary administration of psychotropic medication pursuant to section 2-107.1(a-5)(4) of the Mental Health Code. ¶1. Respondent argued there was no evidence shown that she was advised, in writing of the side effects, risks and benefits of the medications as well as alternatives thereto as required by section 2-102(a-5) of the Mental Health Code. ¶1.

At the medication trial, the treating psychiatrist testified that he attempted to give respondent written information on two occasions regarding the psychotropic medications, as well as the non-medical alternatives to the proposed treatment. ¶14. The psychiatrist testified that when he attempted to hand the written information to respondent, she walked away from him and did not take it in her hands. ¶16. He then left the information on a counter in a nursing station. ¶16.

The appellate court addressed whether the psychiatrist complied with section 2-102(a-5), which requires respondent be advised in writing of the side effects, risks and benefits of the medications as well as alternatives thereto. ¶25, 26

Citing *In re A.W.,* 381 Ill. App. 3d 950, 958 (4th Dist. 2008), in order to comply with section 2-102(a-5), the psychiatrist or his designee should present written information advising of the side effects, risks and benefits of the treatment to respondent, ideally by placing the information in her hands. ¶29. "However, since respondent cannot be forced to accept such a tender of the written information against her will, section 2-102(a-5) is complied with as long as the psychiatrist or his designee *attempts* to place the information in respondent's hands, even if the attempt is unsuccessful." *Id.* ¶29. The psychiatrist's two attempts to tender the written information to respondent satisfied the requirement of section 2-102(a-5), even though respondent refused to accept the tenders and walked away. ¶30. The psychiatrist was not obliged to leave the written information in any particular place (such as her nightstand, or in her room, or "personal area") upon her refusal to take it. ¶30. Affirmed. ¶32.

***In re Robin V.Q.*, 2015 IL App (5th) 120383-U, Rule 23 Order, Decision filed 8/3/15**

Respondent appeals a trial court's order for involuntary admission, arguing that the petition was defective because it failed to disclose the name, badge number, and employer of the transporting police officer as required by section 3-606 of the Mental Health Code. ¶2.

The petition was completed by a "crisis intervention specialist", who did not fill out a portion of the petition that asked "Did a peace officer detain respondent, take him or her into custody, and/or transport him or her to the mental health facility?" ¶5. During the commitment hearing, a social worker testified that the police apprehended respondent and brought him to a hospital for psychiatric evaluation. ¶7. No one at the trial discussed the fact that the petition failed to identify the officer or officers involved, nor were any motions filed prior to the hearing regarding this failure. ¶11.

"While courts have consistently reversed decisions due to a failure to comply with section 3-606 of the Mental Health Code, none of the previous cases on this issue have been directly analogous to the respondent's case." ¶18. The appellate court reviewed a failure to comply with section 3-606 under the plain error doctrine and

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ultimately reversed. *In re Joseph P.,* 406 Ill. App. 3d 341 (4th Dist. 2010), *overruled on other grounds by In re Rita P.,* 2014 IL 115798, ¶¶33-34. ¶18. "However, the case had numerous procedural issues, and the court held that "the totality of the procedural irregularities in this case," and not any individual issue, "require[d] reversal."" *Id.* ¶18. In *In re Demir,* 322 Ill. App. 3d 989 (4th Dist. 2001), respondent brought a motion to dismiss the petition based upon the State's failure to comply with section 3-606, and the appellate court found reversible error when the circuit court denied this motion. *Id.* ¶18. In none of these cases did respondent seek a plain-error review on the sole issue of failure to comply with section 3-606 after having failed to raise the issue before the circuit court. ¶18.

A recent Illinois Supreme Court opinion *In re James W.,* 2014 IL 114483, held that "the law presumes that statutory language issuing a procedural command to a governmental official is directory rather than mandatory, meaning that the failure to comply with a particular procedural step will not have the effect of invalidating the governmental action to which the procedural requirement relates." Based on *James W.*, the appellate court sought first to determine whether the petition in this case was prepared by a government official or a private person. ¶19, 20. If the petition were prepared by a private person, the appellate court would need to decide what standard to apply. ¶20. Because the appellate court was unable to determine whether the petition was prepared by a government official or a private person, the court declined to create a new legal standard for when a private person fails to comply with the Mental Health Code and affirmed the decision of the circuit court. ¶24.

In re Benny M., 2015 IL App (2d) 141075, Opinion filed 11/2/15

Respondent appeals an order for involuntary administration of psychotropic medication, arguing that he was denied a fair trial when the trial court denied his request to remove his shackles during the trial, and without making any findings that such shackling was necessary. ¶1

At the onset of the medication hearing, respondent's counsel asked that her client's shackles be removed. ¶6 When the court asked a security officer if there were any reasons for the shackles in the courtroom, the officer stated that respondent is listed as a high elopement risk and provided the judge a patient transport list, which was not entered into evidence. ¶6 Respondent's request to remove the shackles was denied. ¶6 Shortly thereafter, respondent's counsel asked, if at a minimum, that her client's right hand be free for him to be able to take notes and participate in the proceedings. ¶6, 28 The court responded that if there is a need to take notes, that it would consider the request. ¶6 During the hearing, which lasted a few hours, respondent remained in shackles and made comments indicating that the shackles were bothering him. ¶7, 8 His counsel noted for the record that respondent has been complaining about the shackles throughout the whole hearing. ¶9

The appellate court held that the *Boose* presumption against restraints in criminal proceedings also applies in civil proceedings for involuntary commitment or treatment, and that the *Boose* factors should be considered in deciding whether a respondent must remain shackled. ¶29, citing *People v. Boose,* 66 Ill. 2d 261 (1977). In *Boose*, the Illinois Supreme Court adopted a set of factors to be considered by the trial court when it receives a request for the removal of shackles or other restraints in criminal cases. ¶26, *People v. Boose,* 66 Ill. 2d 261. "Those factors (later incorporated into Rule 430) include the following: "'[t]he seriousness of the present charge against the defendant; [the] defendant's temperament and character, his age and physical attributes; his past record; past escapes or attempted escapes, and evidence of a present plan to escape; threats to harm others or cause a disturbance; self-destructive tendencies; the risk of mob violence or of attempted revenge by others; the possibility of rescue by other offenders still at large; the size and mood of the audience, the nature and physical security of the courtroom; and the adequacy of availability of alternative remedies [*i.e.,* alternative security arrangements].' " ¶26, *People v. Boose*, 66 Ill. 2d at 266-67, *other citations omitted*. Factors such as "the 'charge' against the respondent, and his 'past record' – are relevant if read broadly to incorporate the mental health context, including the respondent's mental health diagnosis and past record of being able to conform his behavior to peaceable interaction, either in the courtroom or in other settings." ¶26 A trial court should consider all of the relevant factors listed above, when faced with a request for unshackling during a civil proceeding for commitment or involuntary treatment. ¶26 When a trial court has taken the applicable *Boose* factors into consideration and has placed on the record the reasons for its decision, the decision to shackle is reviewed for abuse of discretion. ¶26, *citation omitted.*

Here, the trial court did not place on the record its reasons for keeping respondent shackled. ¶27 Although the trial court briefly inquired into the risk of escape, it deferred to the assessment of a security officer and person who prepared the patient transport document. ¶30 "The record does not reflect that the trial court engaged in any independent assessment of this factor." ¶30 "Similarly, the record does not reflect any consideration by the trial court as to whether shackling was necessary to prevent disruption of the proceedings." ¶31 "[T]he record suggests that keeping the respondent shackled *increased* the verbal disruptions: the respondent was unable to write notes for his attorney and thus was obliged to speak any comments he wished to have noted, and remaining shackled appears to have increased the respondent's agitation and his propensity to interrupt the proceedings." ¶31.

Because the trial court did not explicitly make any findings supporting shackling and the record demonstrates that the trial court conducted almost no independent assessment of the factors involved in the shackling decision, the appellate court found that the trial court abused its discretion in ordering the shackling. ¶33 Reversed. ¶39

In re Megan G., 2015 IL App (2d) 140148, Opinion filed 11/17/15

The State appealed the dismissals of two petitions for involuntary admission and one petition for involuntary administration of psychotropic medication, naming Megan

G. as respondent. ¶1. The State argued that the trial court erred by dismissing the initial petition for involuntary admission and petition for involuntary medication for lack of jurisdiction, because at the time of the hearing the felony charges against respondent had been *nolle-prossed*. ¶1. The State also argued that the trial court erred by dismissing the second petition for involuntary admission for the failure to file proof of service of the petition and statement of rights, because respondent received actual notice of the petition. ¶1.

Respondent was in the early stages of pregnancy when she stopped taking medication prescribed for bipolar disorder. ¶3. Her condition deteriorated and she reportedly chased her husband with a knife. ¶3. Her husband called the police and respondent was arrested and charged with two counts of a Class 2 felony, aggravated battery to a peace officer. ¶3. Respondent was jailed for one week and then release on a recognizance bond. ¶3. Immediately upon her release, the sheriff took respondent to a medical facility, where she was admitted to a psychiatric unit. ¶3.

On January 3, 2014, a petition for involuntary admission of respondent was filed, pursuant to section 3-600 of the Mental Health Code. ¶4. At the first court date on January 8, the trial court granted the State's motion to continue and set the hearing date to January 16. ¶5. On January 9, a petition for involuntary medication was filed for respondent. ¶5. The hearing date for the petition for involuntary medication was to be heard with the petition for involuntary admission. ¶5. On January 15, the State sought another continuance for both petitions, stating that if the felony charged are not reduced prior to a hearing, the court would lack jurisdiction to enter an order for involuntary admission. ¶6. The State explained that it was attempting to work with respondent's attorney to reduce the charges from felonies to misdemeanors. ¶6. Also, on January 15, respondent filed a motion to dismiss the petition for involuntary admission, asserting that the trial court lacked jurisdiction to grant the petition, because felony charges were pending against her. ¶6. On January 16, the State voluntarily dismissed the felony charges against respondent. ¶7. Respondent argued that her motion to dismiss should be granted even though the felony charged had been dismissed, because the trial court did not have authority to act when the proceedings began. ¶7. The trial court dismissed the petitions, stating that the court lacked personal jurisdiction over the respondent because she was charged with a felony at the time proceedings began and all orders entered to date in this matter were without effect. ¶7.

Respondent remained hospitalized, and on January 17, a second petition for involuntary admission was filed. ¶8. Respondent moved to dismiss the second petition for involuntary admission, because the two final pages – proof of service of the petition and statement of rights – were incomplete in violation of section 3-600 of the Mental Health Code. ¶8 The trial court granted respondent's motion to dismiss. ¶8.

The appellate court held that because the trial court was procedurally limited from hearing the initial petition for involuntary admission at any time while the felony charges were pending, it properly dismissed the petition pursuant to section 3-100 of the Mental Health Code. ¶26. Dismissal was appropriate because respondent was a person "charged with a felony" when the petition was filed and when the trial court granted the State's numerous motions to continue. ¶26 The appellate court affirmed the trial court's dismissal of the petition for involuntary admission based on a lack of statutory authority, and not on a lack of jurisdiction. ¶27. Citing, *In re John N.,* 364 Ill. App. 3d 996, 998 (3rd Dist. 2006), the trial court properly dismissed the petition for medication, where such petition is dependent on a respondent receiving inpatient treatment and the order granting a petition for involuntary admission was improper. ¶28.

The appellate court also held that the trial court properly dismissed the second petition for involuntary admission, when the State failed to file the required proof of service and statement of rights within 24 hours of the dismissal of the first petition. ¶32. The appellate noted that because involuntary commitment affects important liberty interests, those seeking to keep an individual confined must strictly comply with procedural safeguards included within the Mental Health Code. ¶33, citing *In re Lance H.,* 402 Ill. App. 3d 382, 386 (5th Dist. 2010).

***Fiala v. Bickford Senior Living Group, LLC,* 2015 IL App (2d) 150067, Opinion filed 11/19/15**

Plaintiff, Edward M. Fiala, Jr., appealed the judgment of trial court dismissing his medical-battery and civil-conspiracy claims against defendant Dr. Naveed and striking his request for punitive damages. ¶1. The trial court dismissed plaintiff's medical-battery count, pursuant to section 2-619 of the Illinois Code of Civil Procedure (Code) (735 ILCS 5/2-619), because plaintiff had not filed a health-professional's report pursuant to section 2-622 of the Code (735 ILCS 5/2-622). ¶1, 14, 15. The trial court struck plaintiff's request for punitive damages that it ran afoul of section 2-604.1 of the Code (735 ILCS 5/2-604.1) (section 2-604 bars punitive damages based on negligence). ¶1, 51, 53. Finally, it dismissed plaintiff's claim of civil conspiracy for failing to state a claim pursuant to section 2-615 of the Code. ¶1, 61.

Plaintiff resided at Bickford's long-term care facility with his wife for ten months. ¶6. He was confined to a wheelchair and was diagnosed with Lewy body dementia, a progressively debilitating illness similar to Parkinson's disease and potentially also affecting his cognition. ¶6. Plaintiff's son and daughter held medical power of attorney for him. ¶6. Plaintiff's medical chart at Bickford indicated that his children held medical power of attorney and that no medications were to be given to plaintiff without prior consent. ¶6. In particular, the use of the medication Paxil was prohibited. ¶6.

Plaintiff alleged that at some point staff members began taking plaintiff to "Mary B's" area, a separate area within the facility, and he would be medicated with Paxil or other unknown medications. ¶7-8. Plaintiff further alleged that the drugs were given to him without prior consent; in particular, Paxil was administered despite the prohibition against its use. ¶8. Plaintiff alleged that the drugs would render him catatonic, and sometimes agitated and violent. ¶8. Plaintiff believed that the drugs were used on him as a form of "chemical restraint," to make it easier for Bickford's staff to deal with him. ¶8. Plaintiff alleged

that defendant prescribed the drugs, that defendant never met or consulted with plaintiff at any time, and that defendant never discussed or consulted with plaintiff's children. ¶9.

Regarding the medical-battery count, the appellate court held that by alleging a lack of consent rather than a deviation from consent given, plaintiff remained outside of the requirements of section 2-622 of the Code, and was not required to file a health professional report pursuant to section 2-622. ¶49. Accordingly the trial court erred in dismissing the medical-battery count. ¶49.

The appellate court held that the trial court also erred in striking plaintiff's request for punitive damages since section 2-604.1 of the Code, barring punitive damage actions, only applies to actions or claims sounding in negligence. ¶59. The plaintiff's claims did not sound in negligence, but in intentional tort. ¶57, 59.

Finally, the appellate court concluded that plaintiff had sufficiently alleged each element necessary to state a claim of civil conspiracy. ¶74. Accordingly, the appellate court held that the trial court erred in dismissing plaintiff's claim of civil conspiracy for failure to state a claim. ¶74.

***Stuckey v. Renaissance at Midway,* 2015 IL App (1st) 143111, Opinion filed 12/18/15, corrected 1/5/16**

Plaintiff sought to recover damages from a long-term care facility for being physically assaulted there by another resident (referred to as "John Doe"). ¶1, 5. John Doe, who suffered from Alzheimer's disease and is presently deceased, was not named as a defendant in the complaint. ¶4, 5, 12.

Plaintiff filed interrogatories, seeking information about John Doe, including his name, address, social security number, whether a criminal background check had been completed on him, whether there were any prior incidents of aggression, and whether any complaints were ever made about the conduct of John Doe. ¶6. Defendant refused to respond to these discovery requests, asserting that the information was protected under the Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. § 1320d *et seq.*). ¶6. Plaintiff then filed a motion to compel for an *in camera* inspection of John Doe's records, arguing that none of the information requested constituted medical information and that a qualified order could be entered to protect John Doe's privacy. ¶7. Defendant argued that plaintiff sought the production of information and documents protected by HIPAA, the physician-patient privilege (735 ILCS 5/8-802), and the Mental Health and Developmental Disabilities Confidentiality Act (Confidentiality Act) (740 ILCS 110/1 *et seq.*). ¶8. Plaintiff did not assert any exception to the Confidentiality Act authorized such disclosures. ¶9.

The circuit court entered an order requiring defendant to produce John Doe's records for an *in camera* inspection. ¶11. Defendant contended that the records reflected that John Doe was admitted to Renaissance for "mental illness" and was being treated there for "mental health services," and all of his records were protected by the Confidentiality Act. ¶12. The circuit court concluded that the vast majority of John Doe's records were medical records, and were not subject to production. ¶13. However, the circuit court found that a small portion of the records were discoverable in a partially-redacted form, principally from the nurses notes, and any account of physical acting out by John Doe. ¶13. Defense counsel informed the circuit court that the redacted records would not be produced, and asked the circuit court to enter a "friendly contempt." ¶13.

On appeal, defendants argue that the circuit court erred in ordering the production of John Doe's partially-redacted records and in holding defense counsel in contempt for the refusal to do so, since the disclosure of the records was protected under the provisions of the Confidentiality Act, and the plaintiff failed to show any exception to the Confidentiality Act applies. ¶16.

The appellate court held that the definition of "mental health or developmental disability services" or "services" in the Confidentiality Act is very broad, as it "includes but is not limited to examination, diagnosis, evaluation, treatment, training, pharmaceuticals, aftercare, habilitation or rehabilitation." 740 ILCS 110/2. ¶23. The appellate court found that the records ordered by the circuit court constituted "records" or "communications" under the Confidentiality Act. ¶24. "[T]he Confidentiality Act defines records to include '*any record* kept by a therapist or by an agency in the course of providing mental health or developmental disabilities service to a recipient concerning the recipient and the services provided,' and communications are defined to include '*any communication* may be a recipient or other person to a therapist or to or in the presence of other persons during or in connection with providing mental health or developmental disability services to a recipient. Communication includes information which indicates that a person is a recipient.'" 740 ILCS 110/2. ¶24.

The appellate court found that the documents the circuit court required the long-term care facility to disclose constituted records and communications under the Confidentiality Act, thus bringing them under the broad, general statutory provision that "[a]ll records and communications shall be confidential and shall not be disclosed except as provided in this Act." 740 ILCS 110/3(a). ¶28. "[P]laintiff failed to make any attempt to demonstrate that any exception to the Confidentiality Act authorized disclosure below, and as a result the circuit court conducted no specific analysis and made no specific findings with respect to any possible exception to the protection offered by the Confidentiality Act." ¶30. "Under these particular circumstances, and with plaintiff having made no showing that any exception to the Confidentiality Act applies, we conclude that the trial court's discovery orders were improper." ¶30

Reverse and remanded. ¶36. Contempt order vacated. ¶36.

Federal Courts

***Hooper v. Proctor Health Care, Inc.,* No. 14-2344 (7th Cir. 2015)**

Plaintiff, a medical doctor, sued Proctor Health Care Inc. ("Proctor") under the Americans with Disabilities Act ("ADA"), 42 U.S.C. §12101 *et seq.,* after he was terminated by Proctor for non-action after he was cleared by a psychiatrist to return to work, repeatedly told that the psychiatrist

had cleared him, and warned that if he did not contact Proctor by a certain date regarding his return to work, he would be fired.

In order to establish a failure to accommodate claim under the ADA, plaintiff "had to present evidence that (1) he is a qualified individual with a disability, (2) Proctor was aware of his disability, and (3) Proctor failed to reasonably accommodate his disability." *Citation omitted.* Here, the appellate court found that a physician cleared plaintiff to return to work *without* accommodations. Regarding plaintiff's ADA discrimination claim, the appellate court found that plaintiff had failed to show any type of connection between any alleged discriminatory animus by Proctor and the termination decision.

The appellate court held that the trial court did not err in granting defendant's motion for summary judgment alleging that he was terminated on account of his mental illness and that Proctor had failed to accommodate his disability. The appellate court concluded that because no reasonable juror could find prohibited discrimination under any circumstances in the record, the district court properly granted summary judgment for defendant. Affirmed.

***Illinois League of Advocates for the Developmentally Disabled v. Ill. Dept. of Human Services*, No. 14-2850, N.D. Ill., E. Div. (10/15/15)**

Early in 2012, in accordance with a national trend, Illinois launched a program to reduce the number of residents by one-third in state-operated developmental centers (SODC) by placing them in community-based facilities. The purpose of placing residents in community-based facilities was to have less crowding, to have more integration in society and less isolation for residents, and to save money. Two of the eight SODCs were scheduled to be closed, one of them was the Warren G. Murray Developmental Center in Centralia. The other one scheduled to be closed, Jacksonville Developmental Center, has already closed.

Two years ago plaintiff brought a lawsuit challenging the closure of Murray Center. Plaintiffs sought a preliminary injunction under 42 U.S.C. § 12132 of the Americans with Disabilities Act and section 504 of the Rehabilitation Act, 29 U.S.C. §794, to bar the Illinois Department of Human Services from assessing disabled residents living in Murray Center for purposes of potential placement of persons in community-based facilities, and to prevent the closing of Murray Center during pendency of the underlying lawsuit.

The court held that plaintiff failed to show the existence of irreparable harm during the pendency of the lawsuit so as to support the issuance of a preliminary injunction, where: (1) guardians of residents had the ability to block any transfer to a community-based facility; (2) plaintiff conceded that there was no right to placement specifically at the Murray Center; and (3) the Murray Center residents may be placed in other SODCs, should Murray Center ever close. The court further held that plaintiff had failed to establish that residents of community-based facilities are treated on average worse than residence living in SODCs, and that the grant of a preliminary injunction would impose costs on defendant that could not be recouped. In fact "[t]he plaintiffs have presented no evidence that their wards would be denied the lawfully required level of care even if Illinois were to close *all* its SODCs." Affirmed. ■

Andreas Liewald is a staff attorney with the Illinois Guardianship and Advocacy Commission, West Suburban (Hines) Office.

Review of Illinois mental health legislation—2015

BY MARK J. HEYRMAN

Although the Illinois Legislature did not enact any mental health legislation which was "earth-shattering," a number of bills were passed and signed into law which will affect persons with mental illnesses, mental health providers and lawyers and judges who work with persons with mental illnesses. Here are the highlights:

Improvement in Illinois Mental Health Parity Law. Public Act 99-0480

(Principal sponsors: Rep. Lou Lang and Sen. Dan Kotowski)

This legislation began as an effort to combat opiod-related deaths and contains number provisions designed to do so. However, as finally enacted, it also greatly strengthens Illinois law requiring health insurance companies to cover mental health and substance abuse treatment in the same manner that they cover treatments for physical illnesses. Among the changes are: (1) requiring counties and cities that self-insure their employees' health care comply with the Illinois parity law; (2) adding substance abuse treatment to the parity law; (3) authorizing the Illinois Department of Insurance to enforce the Federal parity law; (4) extending the parity law to health insurance policies sold on the health insurance exchanges created under the Affordable Care Act.

Prohibition of "conversion therapy." Public Act 99-0411

(Principal sponsors: Rep. Kelly Cassidy and Sen. Dan Biss)

Based on written legislative findings that there is no scientific support for such treatment, this Act prohibits mental health service providers from engaging in any effort to change the sexual orientation of someone under the age of 18.

Permit court-ordered involuntary psychotropic medication for persons facing felony charges. Public Act 99-0179

(Principal sponsors: Rep. Michael Tryon and Sen. Karen McConnaughay)

The Mental Health and Developmental

Disabilities Code, 405 ILCS 5/5-100, *et seq*., has for many years provided a process through which a court could order the administration of psychotropic medication to persons with serious mental illnesses, following a hearing. However, the Code expressly denied courts the power to do so for someone facing felony charges, including persons in pre-trial detention facilities. This meant that detainees who, due to their mental illness, were unable or unwilling to give informed consent to medication, could not get medication to treat their mental illness. This Act removes this exception from the Code.

Facilitate Medicaid enrollment for persons leaving prisons. Public Act 99-0414

(Principal sponsors: Rep. Camille Lilly and Sen. Don Harmon)

Illinois' decision to expand Medicaid coverage under the Affordable Care Act to person with incomes up to 138% of the poverty level means that a huge percentage of people leaving state prisons at the end of their sentences will now be eligible for Medicaid. Approximately 15% of the prison population has a serious mental illness. For many of these individuals it is vital that they receive mental health services promptly upon discharge and, if they are on medication for their illness, that this medication not be discontinued. This Act requires the Illinois Department of Corrections to assist inmates in applying for Medicaid prior to discharge in order to ensure continuity of care.

Disclosures of student mental health conditions to parents. Public Act 99-0278

(Principal sponsors: Rep. David Leitch and Sen. David Koehler)

This Act requires colleges and university to offer students, at the time of enrollment, the opportunity to authorize in writing the disclosure of mental health information to a relative or other person should the student, at some later date, pose an imminent risk of serious harm to her/himself or others.

Transfers the Individual Care Grant (ICG) program for minors with serious mental illnesses from the Department of Human Services (DHS) to the Department of Healthcare and Family Services (DHFS). Public Act 99-0479

(Principal sponsors: Rep. Sara Feigenholtz and Sen. Heather Steans)

The Individual Care Grant program has, for many decades, funded services for children and adolescents with very serious mental illnesses, particularly for those in need of residential care. For the last several years, the number persons approved for this program has declined substantially. This Act is designed to resuscitate the ICG program by transferring it from DHS to DHFS and requiring the promulgation of new rules.

Requires the Illinois Law Enforcement Training and Standards Board to develop a standard curriculum for training law enforcement officers to respond appropriately to persons in mental health crisis and to provide such training to officers. Public Act 99-0261

Principal sponsors: Rep. Jehan A. Gordon-Booth and Sen. William Haine)

Law enforcement officers are frequently the first responders to mental health emergencies and also are called upon to arrest persons with mental illnesses for suspected criminal behavior. Some decades ago, a model program call Crisis Intervention Team (CIT) was developed. While many officers in Illinois have been getting some training in how to respond to mental health crisis, the training has not always been done in fidelity to the evidence-based CIT model. This Act is designed to correct that.

Provides that the Mental Health and Developmental Disabilities Confidentiality Act protects mental health records and communications even if they are not made as part of a "therapeutic relationship." Public Act 99-0028

(Principal sponsors: Sen. Chris Nybo and Rep. Will Guzzardi)

Several Illinois court opinions have held that the Confidentiality Act does not protect mental health records and communications unless they are made in the course of a "therapeutic relationship." *Johnson v. Weil*, 241 Ill. 2d 169, 349 Ill. Dec. 135 (2011); *Quigg v. Walgreen*, 388 Ill. App 3d 696, 328 Ill. Dec. 759 (2009). Unfortunately, these decisions appear to leave unprotected many important communications, including those made in the course of obtaining a preliminary evaluation, a referral for treatment or services provided to persons with serious mental illnesses by ancillary personnel, such as pharmacists. This Act is intended to ensure that these important communications are protected.

Amends venue provisions governing commitment hearings. Public Act 99-0220

(Principal sponsors: Sen. William Haine and Rep. Laura Fine)

Most of Illinois' 102 counties do not have an inpatient psychiatric facility. If the residents of these counties need inpatient care, they must travel to another county which has such a facility. When the person is unable or unwilling to become a voluntary patient, involuntary commitment proceedings may sometimes be necessary. However, the existing venue provisions in Section 3-800(a) the Mental Health and Developmental Disabilities Code, 405 ICLS 5/3-800(a), give the respondent the right to have these proceedings transferred back to her or his home county for any reason. This often results in substantial delay, a substantial burden on the treating physician who must testify at the hearing, or even the dismissal of the petition if the home county chooses not to proceed. This Act permits a change of venue only if "necessary to ensure the attendance of any material witness." ■

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