NO. 119392

IN THE

SUPREME COURT OF ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Appellate Court
Petitioner-Appellee,	)	of Illinois
	)	First District,
	)	Third Division,
	)	No. 1-13-2134
vs.	)	
	)	
	)	There Heard on Appeal
	)	from the Circuit Court
	)	of Cook County
	)	2013 CoMH 1381
	)	
LINDA B.,	)	
	)	Honorable
	)	David Skyrd,
Respondent-Appellant.	)	Judge Presiding.

BRIEF AND ARGUMENT FOR PETITIONER-APPELLEE

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ORAL ARGUMENT REQUESTED

IN THE

SUPREME COURT OF ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, vs. LINDA B., Respondent-Appellant.	)	Appeal from the Appellate Court of Illinois First District, Third Division, No. 1-13-2134 There Heard on Appeal from the Circuit Court of Cook County 2013 CoMH 1381 Honorable David Skyrd, Judge Presiding.

POINTS AND AUTHORITIES

ISSUES PRESENTED FOR REVIEW

I. Whether the appellate court properly found that the public interest exception to the mootness doctrine applies.

II. Whether, under Section 3-611 of the Mental Health Code (405 ILCS 5/3–611), the 24-hour period to file a petition for admission to a mental health facility under Article VI of the Code began when respondent started receiving voluntary medical treatment on the general medical floor of Mt. Sinai Hospital, or instead when she was later subject to involuntary mental health treatment in the psychiatric unit of the Hospital.

NATURE OF THE CASE

Respondent, Linda B., began receiving medical care on the medical floor of Mount Sinai Hospital on April 22, 2013. (R. 9-10) On May 9, 2013, a petition for involuntary admission to the mental health unit of the hospital was filed by Mount Sinai Hospital Director Connie Shay Hadley, who indicated that respondent suffered from a number of mental health problems that prevented her for caring for herself and necessitated further treatment. (C.L.R. 3-7) The circuit court conducted a hearing on that petition on June 11, 2013. (R. 56-57) Respondent moved to dismiss the case on the basis that the petition was not timely filed under Section 3611 of the Mental Health Code (405 ILCS 5/3-611). The court denied that motion and granted the petition for involuntary admission.

On appeal, the First District affirmed the circuit court's granting of the petition for involuntary treatment. *In Re Linda B.*, 2015 IL App (1st) 132134. The Appellate Court first determined that although the 90-day period of involuntary treatment had long since lapsed and the matter was moot, the case was still reviewable under the public interest exception. *Id.* at ¶13. The Appellate Court then rejected respondent's argument that the petition was untimely, holding that respondent was not admitted to a mental health facility, within the meaning of Section 3-611, at the time of her initial treatment on the medical floor at Mount Sinai Hospital. *Id.* at ¶ 23.

No issue is raised on the pleadings.

STATEMENT OF FACTS

Respondent, Linda B., was the subject of a petition for Involuntary Treatment that was filed on May 9, 2013. (C.L.R. 3-7) In that petition, Mount Sinai Hospital Director Connie Shay-Hadley indicated that respondent suffered from a number of mental health problems which necessitated further care. For example, respondent refused treatment for both medical and psychiatric illness and was aggressive towards the staff. (C.L.R. 4) Director Shay-Hadley also indicated that respondent was unable to care for herself and required further treatment. (C.L.R. 4) A hearing on the petition was held on June 11, 2013, and at the close of the hearing, the circuit court granted the petition for involuntary admission. (R. 56-57) The following facts were adduced at the hearing.

Dr. Elizabeth Mirkin, a psychiatrist at Mt. Sinai Hospital was qualified as an expert witness in psychiatry and testified that she first made contact with respondent on May 25, 2013. (R. 8-10) Because respondent had been admitted at Mount Sinai previously, Dr. Mirkin knew that respondent had been diagnosed with schizophrenic disorder and had suffered from that condition for more than 10 years. (R. 11) According to the doctor, respondent suffers from a number of medical conditions; she is HIV positive, is anemic, has hypertension, and chronic obstructive pulmonary disease, and when respondent was admitted to Mount Sinai, she was not taking her medications. (R. 14) At the time of her entry into the hospital respondent was "very anemic" and she had not "been following up with anybody for treatment; and then she developed diarrhea, which is potentially very dangerous; and she was refusing to take medications for that." (R. 13) Dr. Mirkin testified respondent started receiving medical care on the medical floor at Mount Sinai Hospital on April 22, 2013,

because she was "agitated and [displayed] very angry behavior" and "she was tachycardia and found to be severely anemic." (R. 9-10) During the course of her treatment on the medical floor, respondent also received psychiatric treatment. (R. 9) At the hearing, counsel for respondent indicated that on May 14, 2013, in case number 2013 CoMH 1388, a court order was entered that provided for respondent's involuntary medication. (R. 12)

Dr. Mirkin said that although respondent made some progress with treatment, she remained "delusional" and appeared agitated. (R.12) While medicated, respondent still got "very easily upset and easily agitated, that means the mood changes very fast, quickly." (R.13-14) Dr. Mirkin opined that due to respondent's mental illness, she was unable to provide for her own physical needs and should be treated on an inpatient basis. (R. 13) Respondent's inability to care for her herself had consequences due to her ongoing medical conditions. For example, "because she has HIV, she's more susceptible to any infectious disease. She could get very sick very fast and suffer." (R.23) Respondent required care "[b]ecause of combination of mental health reason and medical reasons. In her case, her mental health conditions prevents [*sic*] her from taking care of her medical condition. When she has exacerbation of her mental illness, then she doesn't take care of herself, including her many medical conditions." (R. 28)

At the end of Dr. Mirkin's testimony, the People rested. Counsel for respondent then asked that the circuit court to dismiss the petition because it was filed more than 24 hours after respondent first started receiving treatment at Mount Sinai Hospital on April 22, 2013. (R. 41) Counsel argued that because Dr. Mirkin testified that respondent received psychiatric care in addition to the medical treatment, the petition was untimely. (R. 41) The People

responded by asking leave of court to re-call Dr. Mirkin to testify about respondent's treatment. (R. 42) The circuit court permitted the People to recall Dr. Mirkin, and the doctor explained that the hospital director does not file petitions for those patients on the medical floor "unless we start believing that patients need, either psychiatric admission or patient needs treatment against their will." (R. 43) Dr. Mirkin also testified that "[w]e do not do petitions unless we think the patient needs to go to court because the patient is noncompliant with treatment." (R. 43) When asked to elaborate on the decision to move respondent from a medical floor to the psychiatric wing of the hospital, Dr. Mirkin explained: "she was on the medical floor, we never ever start petitions while patient is on medical floor, unless we think that she needed more psych, more structured environment. It is not at all appropriate. We never do this." (R. 44) After this testimony, both parties rested. Respondent did not introduce any evidence that she received any involuntary psychiatric care before being admitted to the psychiatric unit. The circuit court then determined that the petition was timely filed. (R. 44) The circuit court then granted the petition and determined that without assistance, respondent "wouldn't be properly administered medication or be able to care for herself. So based on all of that, the Court is going to find that that, respondent is subject to [in]voluntary admission." (R. 56-57)

On appeal, respondent alleged "that the circuit court's order should be reversed because the petition to involuntarily admit her was untimely filed in violation of section 3-611 of the Mental Health and Developmental Disabilities Code." *In re Linda B.*, 2015 IL App (1st) 132134, ¶ 1. Furthermore, although respondent acknowledged the issue was moot since the 90 day order had already expired, she contended that it "falls within the public-

interest and capable-of-repetition-yet-avoiding-review exceptions to the mootness doctrine." *Id.* The appellate court agreed that the public interest exception applied and declared that "[t]his issue presents a question of public nature and substantial public concern because it involves a dispute over the procedural requirements for involuntary admission of individuals on an inpatient basis." *Id.* at ¶ 13. The appellate court also opined that "an authoritative determination of this issue will contribute to the efficient operation of our judicial system." *Id.* Finally, review was appropriate because "respondent's own history shows how this issue might recur as she has been found subject to involuntary admission at least once before this adjudication." *Id.*

However, the court rejected the substance of respondent's argument. After reviewing the relevant statutory authority, the court indicated "respondent's construction of the term 'admission' as meaning only physical entry into a facility is inconsistent with the use of the term in other provisions of the Mental Health Code, which allow a patient physically inside a mental health facility to be subjected to another 'admission' when circumstances warrant further treatment or care." *Id.* at ¶ 19. The appellate court similarly determined that respondent

> "was not admitted in a legal sense pursuant to article VI when she first entered the medical floor of Mount Sinai Hospital on April 22, 2013; Dr. Mirkin testified that respondent was admitted to the medical floor because she was experiencing tachycardia and found to be severely anemic. Furthermore, the plain language of the statutory definitions of 'mental health facility' and 'licensed private hospital' recognizes that there may be sections within a licensed private hospital dedicated to treatment of mentally ill patients."

Id. at ¶ 23. Relying upon *In re Moore*, 301 Ill. App. 3d 759 (4th Dist. 1998), the appellate court found that because respondent was admitted to the medical floor originally,

"'[t]hose sections or units, and not the entire hospital, are mental health facilities for purposes of the involuntary admission provisions of the [Mental Health] Code.' This is consistent with Dr. Mirkin's explanation that respondent was monitored by a psychiatrist and a sitter throughout her stay on the medical floor, considering her prior admission to the 'psychiatric unit' of Mount Sinai Hospital in January of the same year and her failure to take her medications. Because respondent was not admitted under article VI of the Mental Health on April 22, 2013, the 24-hour filing requirement of section 3-611 is inapplicable."

(*internal citations omitted*). *Id.*

This appeal follows.

ARGUMENT

THIS COURT SHOULD DISMISS THE INSTANT APPEAL AS MOOT WHERE IT CAN NO LONGER GRANT RESPONDENT ANY EFFECTIVE RELIEF AND NONE OF THE EXCEPTIONS TO THE MOOTNESS DOCTRINE APPLIES. IN THE ALTERNATIVE, THIS COURT SHOULD DETERMINE THAT RESPONDENT WAS NOT ADMITTED TO A MENTAL HEALTH FACILITY WHEN SHE WAS ADMITTED TO A MEDICAL FLOOR FOR MEDICAL TREATMENT AND RECEIVED PSYCHIATRIC CARE IN CONJUNCTION WITH OTHER SERVICES.

Respondent makes several challenges to the Appellate Court's judgment in this case. Respondent acknowledges the matter is moot, but argues that her claims should be considered because the public interest exception to the mootness doctrine is applicable. (Resp. Br. at 8). Respondent then contends that the appellate court failed to adhere to the bright line rules of the Mental Health Code where respondent was treated for her physical maladies on a medical floor, and also received mental-health care while on the medical floor, but a petition for involuntary treatment was not filed until she was transferred to a psychiatric floor. (Resp. Br. at 11-18). Similarly, respondent challenges the appellate court's determination that respondent was not "admitted" within the meaning of the Code when she was treated as an inpatient on a medical floor of Mount Sinai Hospital and received mental health care in conjunction with her medical care. (Resp. Br. at 32-37). Next, respondent argues that the appellate court erred when it determined that the medical floor, where respondent was housed during the initial part of her care, was not a mental-health facility within the meaning of the Code. (Resp. Br. at 18-32). Respondent's final contention is that,

as a policy matter, a bright line ruling in this case would provide greater clarity to hospitals and health care providers. (Resp. Br. at 37-38).

In response, the People first submit that it would be inappropriate to invoke the public interest exception where the question presented is not a "broad public issue" as is required under the public interest exception and because there is absolutely no indication that the law regarding the proper construction of section 3-611 is "conflicting or is in disarray." Therefore, the People ask this Court to dismiss the instant appeal as moot. If this Court does choose to invoke the public interest exception and address respondent's contentions, the People submit that the argument raised by respondent of whether the now-challenged petition for involuntary commitment was timely filed must be rejected because in *In re Andrew B.*, 237 Ill. 2d 340 (2010), this Court explained that a patient's "admission" is not defined solely by that person's entry into a hospital. As applied to this case, respondent's initial entry to Mount Sinai Hospital, and subsequent transfer to a medical floor, was primarily for medical, and not psychological, care. The appellate court, in this case, properly recognized that the respondent was only receiving mental-health care in conjunction with the medical care that was the primary purpose for her admission to a medical floor of the hospital. Furthermore, and contrary to respondent's claim that this Court should reject the appellate court's logic in order to provide greater clarity, there is nothing in respondent's position that would provide for greater guidance. Instead, this Court can provide as much clarity by affirming the judgment of the appellate court and endorsing the policies enacted by Mount Sinai Hospital. Therefore, the People ask that this Court reject respondent's arguments and affirm the judgment of the appellate court.

A. The Instant Appeal Should Be Dismissed as Moot Because the Public Interest Exception does not apply.

Respondent admits that because the 90-day commitment order expired in 2013, the underlying case is moot. (Resp. Br. at 8). However, respondent urges this Court to determine, like the appellate court below, that the public interest exception applies, and address her arguments on the merits. (Resp. Br. at 8). The People submit that the public interest exception is inapplicable because this is not a "broad public issue" as required under the public interest exception and because there is absolutely no indication that the law regarding the proper construction of section 3-611 is "conflicting or is in disarray." Therefore, this Court should properly dispose of the case as moot.

"A case is rendered moot where the issues that were presented in the trial court do not exist any longer because intervening events have rendered it impossible for the reviewing court to grant the complaining party effectual relief." *In re India B.*, 202 Ill. 2d 522, 543 (2002); *In re A Minor*, 127 Ill. 2d 247, 255 (1989) (same). Thus, because "[i]t is a basic tenet of justiciability that reviewing courts will not decide moot or abstract questions" *(In re J.T.*, 221 Ill. 2d 338, 349-50 (2006)), and because "[t]he existence of an actual controversy is an essential requisite to appellate jurisdiction" (*In re Andrea F.*, 208 Ill. 2d 148, 156 (2003)), a reviewing court "must dismiss an appeal when the issues involved have ceased to exist." *People v. Hill*, 2011 IL 110928, ¶ 6. Moreover, the burden of establishing that an exception to the mootness doctrine applies falls on the party claiming the exception. See *In re Hernandez*, 239 Ill. 2d 195, 202 (2010).

Respondent argues that this Court should apply the public interest exception to the

mootness doctrine, as the appellate court did below. "Review of an otherwise moot issue under the public interest exception requires a clear showing of each of the following criteria: '(1) the question presented is of a public nature; (2) an authoritative determination of the question is desirable for the future guidance of public officers; and (3) the question is likely to recur.'" *In re Rita P.*, 2014 IL 115798, ¶ 36 (quoting *In re Shelby R.*, 2013 IL 114994, ¶ 16). However, "[t]he exception must be narrowly construed and *each of its criteria must* be clearly established." *People v. Wanda B.*, 204 Ill. 2d 382, 387 (2003) (emphasis added). Moreover, "[w]ith respect to the first criterion, case-specific inquiries, such as sufficiency of the evidence, do not present the kinds of broad public issues required for review under the public interest exception." *Rita P.*, 2014 IL 115798, ¶ 36 (citing *In re Alfred H.H.*, 233 Ill. 2d 345, 357-58 (2009). Similarly, "[w]ith respect to the second criterion, the need for an authoritative determination of the question, [courts] consider the state of the law as it relates to the moot question." *Id.* at ¶ 37. See also *Alfred H.H.*, 233 Ill. 2d at 357-58 ("the second requirement is only satisfied 'where the law is in disarray or there is conflicting precedent'") (quoting *In re Adoption of Walgreen*, 186 Ill. 2d 362, 365-66 (1999)).

Here, respondent seeks review of whether section 3-611 and its requirement that a petition be filed within 24 hours of the respondent's admission to a mental health facility were violated and the appellate court incorrectly employed the public interest exception to evaluate respondent's argument. 2015 IL App (1st) 132134, ¶¶ 12-13. The lower court gave three reasons to support that position; first, that the current "issue presents a question of public nature and substantial policy concern because it involves a dispute over the procedural requirements of involuntary admission of individuals on an inpatient basis." *Id.* at ¶ 13.

However, the mere fact that this is a mental health case is insufficient to warrant the application of the public interest exception, given this Court's expressed rejection of a "*per se* exception to mootness that universally applies to mental health cases." *In re Alfred H.H.*, 233 Ill. 2d at 355.

Furthermore, there is absolutely no indication that the law regarding the proper construction of section 3-611 is "conflicting or is in disarray." In fact, Illinois law is clear that "section 3-611's 24-hour filing requirement is triggered by an individual's admission" and not her "physical entry" into the facility. *In re Andrew B.*, 237 Ill. 2d 340, 351 (2010). The only authority offered by respondent, *Muellner v. Blessing Hosp.*, 335 Ill. App. 3d 1079 (4th Dist. 2002) (Resp. Br. at 7), is consistent with the appellate court's conclusion, in this case, that only those parts of a facility that are designated "for the treatment of mentally ill persons" are considered "mental health facilities." 335 Ill. App. 3d at 1084.

Next, the appellate court remarked "that an authoritative determination of this issue will contribute to the efficient operation of our judicial system." 2015 IL App (1st) 132134 at ¶ 13. However, this Court has explained "this court does not review cases merely to set precedent or guide future litigation." *Berlin v. Sarah Bush Lincoln Health Ctr.*, 179 Ill. 2d 1, 8 (1997).

Lastly, the lower court found that "respondent's own history shows how this issue might recur as she has been found subject to involuntary admission at least once before this adjudication." *Id.* The appellate court's determination is incorrect and does not justify the invocation of the public interest exception here. (Resp. Br. at 11-18). It is highly unlikely that respondent or another individual would be subjected to involuntary admission after first

being treated for several days for serious medical issues, there is no reason to conclude that any decision by this Court would impact future litigation. See *Alfred H.H.*, 233 Ill. 2d at 358 (holding that the exception did not apply because "there is no substantial likelihood that the material facts that give rise to respondent's insufficiency claim are likely to recur either as to him or anyone else. Any future commitment proceedings must be based on the current condition of the respondent's illness and the decision to commit must be based upon a fresh evaluation of the respondent's conduct and mental state") (internal quotation marks and citations omitted); See also *Commonwealth Edison Co. v. Ill. Commerce Comm'n.*, 2016 IL 118129 at ¶ 20 (application of public interest exception not appropriate where the "[a]ppellants have made no showing of any probability or 'substantial likelihood' that the issue will ever recur...Appellants merely speculate that the question might recur.") Respondent admitted that this was her first involuntary commitment proceeding and there is nothing in the record to support the position that it might re-occur in the future[1]. Additionally, "Any future commitment proceedings 'must be based on the current condition of the respondent's illness' and the 'decision to commit must be based upon a fresh evaluation of the respondent's conduct and mental state.'" *In re Alfred H.H.*, 233 Ill. 2d at 358. Thus, the public interest exception does not apply to this case, and the appellate court's application of it was in error.

[1] In respondent's brief, counsel clarified the appellate court's statement that "respondent's own history shows how this issue might recur as she has been found subject to involuntary admission at least once before this adjudication" and indicated instead that respondent has only been subject to involuntary medication during a previous adjudication. (Resp. Br. at 10, footnote 1).

B. The Appellate Court Properly Determined that Respondent's Entry to a Medical Floor at Mount Sinai Hospital Did Not Constitute an Admission Pursuant to Article VI of the Mental Health Code.

Assuming, *arguendo*, that the public interest exception applies, the Court should affirm the appellate court's decision rejecting respondent's argument that Mount Sinai Hospital failed to comply with Section 3-611 of the Mental Health Code because she entered the hospital on April 22, 2013, but the Director did not file a petition for her involuntary commitment until May 8, 2013. This Court's decision in *Andrew B.* refutes respondent's claim, which is inconsistent with the plain meaning of Section 3-611. As the appellate court recognized, respondent's initial entry into the hospital was not an "admission under article VI" of the Code, and the commencement of her initial treatment on the medical floor was not an admission to a "mental health facility" within the meaning of Section 3-611. Accordingly, this Court should reject respondent's arguments to the contrary and affirm the judgment of the appellate court.

Section 3-611 provides:

> Within 24 hours, excluding Saturdays, Sundays and holidays, after the respondent's admission under this Article, the facility director of the facility shall file 2 copies of the petition, the first certificate, and proof of service of the petition and statement of rights upon the respondent with the court in the county in which the facility is located.

405 ILCS 5/3-611 (2116). This Court has explained that when "construing a statute, our primary objective is to ascertain and give effect to the legislature's intent, keeping in mind that the best and most reliable indicator of that intent is the statutory language itself, given its plain and ordinary meaning." *People v. Cherry*, 2016 IL 118728, ¶ 13. "Unless the language

of the statute is ambiguous, this court should not resort to further aids of statutory construction and must apply the language as written." *Id.* Finally, the "construction of a statute is a question of law, and [this Court's] review therefore is *de novo*." *Id.*

Respondent's argument misinterprets Section 3-611 in two ways. *First*, Section 3-611, read in the context of the Mental Health Code as a whole, refers to the filing of a petition for involuntary admission to a mental health facility under Article VI — i.e., a petition for involuntary admission submitted to the director of a mental health facility and supported by a certificate that the respondent needs emergency admission to the facility. Here, the record supports the conclusion that respondent received medical treatment and involuntary psychiatric treatment when she first came to Mt. Sinai Hospital, but did not receive involuntary treatment, and so was not subject to involuntary admission pursuant to Article VI, until less than 24 hours before that involuntary treatment began. *Second*, the general medical floor of Mt. Sinai Hospital, where respondent received initial medical treatment and a voluntary psychiatric care, is not a mental health facility as that term is used in Section 3-611.

1. Section 3-611's reference to an "admission under this Article" means an *involuntary* admission to a mental health facility pursuant to a petition for involuntary admission pursuant to Article VI of the Mental Health Code.

This Court has acknowledged that the term "admission" in Section 3-611 has not been defined, but indicated that the term is not limited to the individual's original physical entry into a hospital. See *In re Andrew B.*, 237 Ill. 2d 340, 350 (2010). And the possibility for confusion arises because the term "admission" has both a general connotation, in the

sense of being admitted to a hospital or mental health facility, and a more limited, technical meaning in Article VI, which refers to an *involuntary* admission to a mental health facility pursuant to a petition submitted to the facility director under Section 3-601. Read in the context of the rest of the Mental Health Code, therefore, Section 3-611's reference to an "admission under this Article" plainly means an *involuntary* admission to a mental health facility under Article VI of the Code, which did not occur when respondent first received voluntary medical care on the general medical floor of Mt. Sinai Hospital.

Chapter III of the Mental Health and Developmental Disabilities Code ("the Mental Health Code," or "Code") provides for four different types of commitment, which the Code refers to as "admission." These are "informal admissions" pursuant to Article III of the Code; "voluntary admissions" under Article IV; and two types of "involuntary admission" — "Emergency Admission by Certification," under Article VI, in which the admission precedes court approval, and "Admission by Court Order" under Article VII. Section 3-611's reference to "admission under this Article" plainly refers to an involuntary admission under Article VI.

The procedure for an involuntary admission under Article VI begins with a petition for that relief submitted to the director of a mental health facility, as provided in Section 3-601 (405 ILCS5/3-601). In most cases, that petition must be accompanied by a recently issued certificate signed by a physician or other qualified professional that satisfies the requirements of Section 3-602 (405 ILCS5/3-602). When those requirements are met, Section 3-600 provides that the respondent "may be admitted to a mental health facility pursuant to this Article" (405 ILCS5/3-600). That involuntary admission pursuant to such a

petition then starts a 24-hour clock for (1) the petition to be filed with the court pursuant to Section 3-611, and (2) the respondent to be examined by a psychiatrist pursuant to Section 3-610 (which similarly refers to "the respondent's admission under this Article").

In light of this statutory structure, Section 3-611's reference to "the respondent's admission under this Article" unambiguously refers to an *involuntary* admission pursuant to the procedures specified in Article VI, including the submission of a petition for that relief to the director of a mental health facility in conformity with Article VI.

The court's opinion *In re Andrew B.*, 237 Ill. 2d 340 (2010), speaks directly to this issue. The respondent in that case, just as respondent does here, maintained that "that a petition seeking involuntary admission must be filed within 24 hours of an individual's admission to a mental-health facility." 237 Ill. 2d at 348. In *Andrew B.*, the respondent voluntarily admitted himself to Singer Mental Health Center on March 26, 2007. *Id.* at 343. On May 7, the respondent expressed a desire to leave the facility, and a social worker filed a petition for the respondent's involuntary admission pursuant to the Mental Health Code. *Id.* at 343. The State voluntarily dismissed the petition, and the circuit court ordered the respondent discharged on June 12, but the respondent was not physically released. *Id.* Instead, the next day a social worker filed a petition for the respondent's emergency admission by certificate, but just as with the previous petition, this petition was voluntarily dismissed by the State, and the court again ordered the respondent discharged on June 19. *Id.* The respondent, however, again was not released, and on June 20, a social worker filed another petition for his emergency involuntary admission, and it was that June 20 filing that served as the basis for the appeal. *Id.* Before this Court, the respondent challenged "the

validity of a petition seeking his involuntary admission filed after the facility did not physically release him following multiple discharge orders." *Id.* at 347. This Court framed the respondent's argument as follows:

> "Relying on section 3-611 of the Code (405 ILCS 5/3-611 (West 2006)), [the] respondent contends that a petition seeking involuntary admission must be filed within 24 hours of an individual's admission to a mental-health facility. Respondent argues because he was not physically released, but instead was continuously detained, the subsequent petitions were untimely filed after 24 hours of his original admission[.]"

Id. at 348. After reviewing relevant portions of the Mental Health Code, this Court said that

> "section 3-611's 24-hour filing requirement is triggered by an individual's *admission under article VI, providing for emergency involuntary admission by certificate*. Respondent contends, for purposes of section 3-611, his admission commenced with his original physical entry into the mental-health facility on March 26, 2007. We note, however, that *respondent was not admitted pursuant to article VI when he first entered the facility*, making inapplicable the 24-hour filing requirement of section 3-611."

Id. at 349-50 (emphasis added). The Court noted that the term "admission" is not defined by the Mental Health Code, but it rejected the respondent's construction as "meaning only physical entry into a facility" as "inconsistent with the use of the term in other provisions of the Code." *Id.* Ultimately, the Court held that "section 3-611's reference to 'admission' is not always limited to the individual's original physical entry. When, as here, the individual is physically present in a mental-health facility and requires additional care and treatment following entry of a discharge order, *section 3-611's 24-hour filing period logically begins when a new petition is presented to the facility director, as opposed to the date of his original physical entry into the facility.*" *Id.* at 350-51 (emphasis added).

That holding is controlling here. Respondent's initial physical entry to Mount Sinai Hospital and receipt of *voluntary* treatment, including both general medical care and

psychiatric care, was not an "admission under this Article" within the meaning of Section 3-611 — i.e., an involuntary admission pursuant to a petition prepared in conformity with Section 3-601 and presented to the facility director.

The appellate court correctly adopted this analysis, holding:

> Assuming, *arguendo*, that respondent was in a mental health facility as defined by the Mental Health Code, we nonetheless observe that "section 3-611's 24-hour filing requirement is triggered by an individual's *admission* under article VI, providing for emergency involuntary admission by certificate." (Emphasis in original.) *In re Andrew B.*, 237 Ill.2d at 349. Respondent here was not *admitted in a legal sense pursuant to article VI* when she first entered the medical floor of Mount Sinai Hospital on April 22, 2013[.]

In re Linda B., 2015 IL App (1st) 132134, ¶ 23 (emphasis added).

The appellate court is correct that even if all of Mt. Sinai could be considered a "mental health facility" within section 1-114's definition of that term, respondent's receipt of medical and mental-health treatment there would not trigger section 3-611's 24-hour deadline to file the petition (or section 3-611's similar 24-hour deadline for the respondent to be examined by a psychiatrist) unless that treatment were considered an "admission pursuant to Article VI" — i.e., an *involuntary* admission pursuant to a petition submitted to the director of a mental health facility pursuant to section 3-601.

Just arriving at a mental health facility is not an admission under Article VI. Obviously, *voluntary* admission under Article IV does not trigger the 24-hour deadline to file a petition for *involuntary* admission under Article VI, which may be necessitated by circumstances that occur many days, or weeks, after a person starts receiving voluntary treatment. Also, involuntary *detention* at a mental health facility may not be an involuntary *admission* under Article VI. Sections 3-603 through 3-607 relate to involuntary "detention"

or "custody" of a person for purposes of transporting him to a mental health facility and examining him to determine whether he is subject to involuntary admission. And section 3-603 specifically provides that, when an initial certificate under section 3-602 cannot be obtained after diligent effort, "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." 405 ILCS 5/3–603 (2014) (emphasis added). That detention, while involuntary, is not the same as an "admission" under Article VI.

In an attempt to overcome the judgment against her, respondent claims, as a factual matter, that she was "hospitalized at Mount Sinai against her will," and that "there is no evidence that [her] legal status of admission was voluntary." (Resp. Br. at 34). Thus, respondent has interjected a new line of argument into the discussion. Respondent argues, "Hospitals must have some authority by which to admit a patient and provide her with treatment." (Resp. Br. at 10). Respondent continues, "If a person with mental illness arrives at a hospital, the Mental Health Code provides specific procedures for admission that protect mental-health recipients and hospitals alike." (Resp. Br. at 12). Relying upon *In re Estate of Longway*, 133 Ill. 2d 33 (1989), respondent urges this Court to focus on the question of whether respondent could provide informed consent to her treatment. (Resp. Br. at 11). However, even if the absence of affirmative "consent" to treatment could be equated with "involuntary" treatment, that argument is not supported by any evidence in the record, and it is inconsistent with Dr. Mirkin's testimony that the involuntary-admission petition for respondent was prepared only after she refused to continue the treatment she had been receiving.

It is well settled that the absence of evidence in the record would be construed against the appellant. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984) (explaining that any doubts that might arise from the incompleteness of the record will be resolved against the appellant). It must be noted that the only person who testified at the hearing on the petition for involuntary commitment was Dr. Mirkin, who was qualified as an expert in the field of psychiatry and who testified that she first made contact with respondent on May 25, 2013. (R. 8-10) If respondent wanted to challenge the propriety of her medical treatment, there was no bar against calling one of the treating physicians who tended to respondent in the period from April 22, 2013, until the time she was transferred to the psychiatric floor. However, respondent chose not to focus the circuit court's attention on that, and now relies upon this undeveloped theory to support her position on appeal.

Furthermore, there is ample evidence to support the position that respondent consented to her treatment prior to the filing of the petition for involuntary treatment. For example, Dr. Mirkin explained that it is only when a patient needs inpatient mental health care, or is non-compliant with treatment, that a petition for involuntary treatment is filed. (R. 43) Notably, a petition for involuntary treatment was not filed until May 9, 2013, which raises the implication that respondent consented to care and was compliant with treatment before that date.

Additionally, there is no question that respondent was aware that she could refuse to consent to treatment, as evidenced by the fact that it was necessary to obtain a court order in order to medicate respondent in case number 2013 CoMH 1388. (R. 12) This makes clear that at some point during her treatment, respondent refused to take the medication provided

to her and that the Hospital sought the authority to provide that medication through a court order.

Most tellingly, there is nothing in the record to support the notion that respondent refused to consent to any treatment; respondent did not testify to that fact (or to anything else) at the hearing on the petition for involuntary commitment, and there is nothing in this record which indicates that respondent sought to file a claim of false imprisonment stemming from her treatment. Thus, the record cannot support the claim that there "was no change in [respondent's] legal status on May 9, 2013 to warrant involuntary-commitment petition and certificates not being filed until that day." (Resp. Br. at 36).

Respondent also attempts to cast doubt upon the nature of her initial entry at Mount Sinai by highlighting that the petition submitted by Director Shay-Hadley and a dispositional report refer to her admission date as April 22, 2013. (Resp. Br. at 15). But respondent has failed to provide any authority for the proposition that either of those documents constitutes a binding declaration of the date of *involuntary* admission under Article VI of the Mental Health Code. Indeed, the most common understanding of the date of "admission" in those documents refers to her arrival at Mount Sinai. It is undisputed that respondent entered the medical floor on April 22, 2013, and the documents before this Court just confirm that fact.

2. Section 3-611's reference to a "mental health facility" does not include the medical floor of a hospital where a patient receives general medical care and *voluntary* psychiatric treatment.

The appellate court also properly ruled that the medical floor of Mount Sinai Hospital where respondent received general medical care and voluntary psychiatric care was not a

"mental health facility" in the sense that the term is used in Section 3-611, and that, for this reason as well, respondent's initial treatment on that floor was not the basis to find an admission to a mental health facility under Section 3-611.

Section 1-114 defines a "mental health facility" as "any licensed private hospital, institution, or facility or section thereof, and any facility, or section thereof, operated by the State or a political subdivision thereof for the treatment of persons with mental illness and includes all hospitals, institutions, clinics, evaluation facilities, and mental health centers which provide treatment for such persons." 405 ILCS 5/1-114 (2014). Section 3-610, in relevant portion, provides that "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 examined by a psychiatrist." 405 ILCS 5/3-610 (2014). Finally, Section 3-611 provides that "[w]ithin 24 hours, excluding Saturdays, Sundays and holidays, *after the respondent's admission under this Article*, the facility director of the facility shall file 2 copies of the petition, the first certificate, and proof of service of the petition and statement of rights upon the respondent with the court in the county in which the facility is located." 405 ILCS 5/3-611 (2014) (emphasis added).

Reading these statutes in conjunction with one another, the explicit reference to "admission under this Article" in section 3-611 indicates that the legislature intended the provision to only apply once the respondent is admitted to a "mental health facility" as defined in section 1-114 and not simply provided psychiatric care in conjunction with medical treatment.

Similarly, *In re Moore*, the Fourth District held that for purposes of section 3-610, a patient is not "admi[tted] under this Article" until she is admitted to the psychiatric unit of the hospital. 301 Ill. App. 3d at 765-66. In *Moore*, the respondent was admitted to a hospital emergency room at 7:56 a.m., was then moved to that hospital's psychiatric unit at 11:45 a.m. that same day, and was not examined by a psychiatrist until 9 a.m. on the following day. *Id.* at 765. On appeal, the respondent alleged that he was admitted to a mental health facility at the time of his initial entry, and the subsequent evaluation the next day was untimely. *Id.* The *Moore* court rejected the respondent's argument and explained that "there may be sections within a hospital devoted to treatment of mentally ill patients. Those sections or units, and not the entire hospital, are mental health facilities for purposes of the involuntary admission provisions of the Code." *Id.* at 765-66. Thus, the 24-hour period did not begin to run at the time of the respondent's initial entry to the hospital's emergency room, but instead, began only when the respondent was moved to the hospital's psychiatric unit. *Id.* at 766. See also *In re Joseph P.*, 406 Ill. App. 3d 341, 349 (4th Dist. 2010) ("The time element of section 3-610 only becomes significant after a respondent is admitted to a mental-health facility, either freestanding or a unit in a general hospital, not when he is taken to an emergency room of a general hospital."). Under the doctrine of *in pari materia*, two legislative acts that address the same subject are considered with reference to one another, so that they may be given harmonious effect. *Citizens Opposing Pollution v. ExxonMobil Coal U.S.A.*, 2012 IL 11286, ¶ 24. "The doctrine is consistent with our acknowledgement that one of the fundamental principles of statutory construction is to view all of the provisions of a statute as a whole." *Id.* As such, section 3-611 should be read in conjunction with section 3-610,

making it clear that respondent's argument that the initial entry to Mount Sinai Hospital's medical floor constituted an admission pursuant to section 3-611 is not well-founded.[2]

The appellate court, in rejecting the very same argument, explained:

> "respondent's construction of the term 'admission' as meaning only physical entry into a facility is inconsistent with the use of the term in other provisions of the Mental Health Code, which allow a patient physically inside a mental health facility to be subjected to another 'admission' when circumstances warrant further treatment or care."

2015 IL App (1st) 132134, ¶ 19. The appellate court determined that a more reasonable construction of these provisions is that the Mental Health Code utilizes the term "admission" in a legal sense to describe the individual's legal status, and that section 3-611's reference to "admission" is not always limited to the individual's original physical entry into a mental health facility. *Id.* at ¶ 19. Contrary to respondent's argument (Resp. Br. at 16), this construction is consistent with the wider body of law and with the appellate court's statement that respondent "was not admitted in a legal sense pursuant to article VI when she first entered the medical floor of Mount Sinai Hospital on April 22, 2013; Dr. Mirkin testified that respondent was admitted to the medical floor because she was experiencing tachycardia and found to be severely anemic." *Id.* at ¶ 22. The appellate court in this case applied *Andrew B.*

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[2] In an attempt to buttress her petition, the appendix to respondent's brief includes two letters from the Illinois Department of Public Health wherein the director opined that a hospital emergency room "is held to Mental Health and Developmental Disabilities Code (405 ILCS 5) (2014) at the point in time that the Emergency Department Health Care professional has diagnosed and treats the patient for a mental illness." Notably absent from this letter is any reference to the relevant statutory provisions in question here or the situation that provoked the letter. Even if this Court were to give some weight to respondent's letter, it can be harmonized with the People's position, because section 5/1-114 implicitly suggests that an emergency room could be considered a mental health facility as a "section" of a private hospital when used "for the treatment of persons with mental illness". That does not alter the calculus here, where Dr. Mirkin's testimony made clear that respondent was admitted for medical care, and in addition to that care, received psychiatric care.

and reached the same determination; that is, that respondent was not "admitted" to a "mental-health facility" at the time of her initial entry into Mount Sinai Hospital. Respondent's argument to the contrary should be rejected.

Respondent nonetheless argues, as a factual matter, that "Mount Sinai Hospital is a licensed general hospital that regularly provides treatment to people with mental illness on its medical floors (R.43), and is therefore a mental-health facility." (Resp. Br. at 18). Again, respondent asks this Court to define a term in the Mental Health Code in a fashion that is incompatible with other provisions of the Code. The plain language of the Code does not require this Court to find that a medical floor, where respondent received psychiatric care in addition to her medical care, constitutes a mental health facility. Because that construction would be incorrect, the People submit that this Court should reject respondent's argument and affirm the appellate court's ruling.

405 ILCS 5/1-113 (2014) defines a Licensed Private Hospital" as "any privately owned home, hospital, or institution, or any section thereof which is licensed by the Department of Public Health and which provides treatment for persons with mental illness," and 405 ILCS 5/1-114 (2014) defines a Mental Health Facility as "any licensed private hospital, institution, or facility or section thereof, and any facility, or section thereof, operated by the State or a political subdivision thereof for the treatment of persons with mental illness and includes all hospitals, institutions, clinics, evaluation facilities, and mental health centers which provide treatment for such persons."

The People agree that Mount Sinai can be considered both a "licensed private hospital" and a "mental health facility" within the meaning of the Code, but in this case,

neither of those definitions would apply because Dr. Mirkin's testimony was clear that respondent was admitted to the emergency room at Mount Sinai Hospital but then placed on a medical floor for weeks to address her underlying health concerns. (R. 9-10) These provisions of the Mental Health Code have been interpreted previously. For example, the Fourth District has stated that the "language of the foregoing statutory provisions recognizes that there may be sections within a hospital devoted to treatment of mentally ill patients. Those sections or units, and not the entire hospital, are mental health facilities for purposes of the involuntary admission provisions of the Code." *In re Moore*, 301 Ill. App. 3d 759, 766 (4th Dist. 1998). *Moore* is instructive here. In *Moore*, the respondent claimed that "he was admitted for purposes of section 3-610 of the Code when he was admitted to the emergency room of St. Mary's at 7:56 a.m. on June 10, 1997. Thus, according to Moore, [Dr.] Kavuri's examination of him at 9 a.m. on June 11, 1997, was not within the required 24-hour period and he should have been released." 301 Ill. App. 3d at 765. Just as the People do here, the State argued that respondent "Moore was admitted under the Code when he stepped onto the seventh-floor psychiatric unit at 11:45 a.m. on June 10, 1997; thus, [Dr.] Kavuri's examination took place within 24 hours of Moore's admission." *Id.* at 765. After reviewing sections 3-610 and 3-611 of the code, the *Moore* court indicated that it was persuaded by the State's argument and held:

> "The language of the foregoing statutory provisions recognizes that there may be sections within a hospital devoted to treatment of mentally ill patients. Those sections or units, and not the entire hospital, are mental health facilities for purposes of the involuntary admission provisions of the Code. Indeed, [Dr.] Kavuri testified that St. Mary's seventh-floor psychiatric unit is the only section of the hospital licensed as a mental health facility.
>
> We therefore conclude that Moore was examined by [Dr.] Kavuri within 24

> hours of his admission to a mental health facility under section 3-610 of the Code."

Id. at 766.

The appellate court in this case relied upon *Moore* to reject the very same argument made by respondent here. Instead, the appellate court determined that "Respondent here was not admitted in a legal sense pursuant to article VI when she first entered the medical floor of Mount Sinai Hospital on April 22, 2013" and that "[b]ecause respondent was not admitted under article VI of the Mental Health Code (405 ILCS 5/3-600 et seq. (West 2010)) on April 22, 2013, the 24-hour filing requirement of section 3-611 is inapplicable." *In re Linda B.*, 2015 IL App (1st) 132134, ¶ 23.

Respondent has provided this Court with no authority which would stand for the notion that once a patient receives any psychiatric treatment, the location where such treatment was received must be defined as a "mental health facility." Similarly, there is no support for the position that merely because the emergency room at Mount Sinai has provided mental health services in the past, it must be found to be a "mental health facility" here.

Respondent recognizes that her argument is undermined by *Moore*, but insists that this Court should disregard that case because "the current reality is that people no longer receive inpatient mental-health treatment only in psychiatric units." (Resp. Br. at 23). At the outset, respondent's argument assumes an unsound premise. In this case, respondent was not admitted to receive inpatient mental-health treatment. Instead, Dr. Mirkin made clear that respondent received medical care at the time of her entry, and that any psychiatric treatment was in conjunction with that treatment. According to the doctor, on those occasions where

patients require psychiatric admission or treatment against their will, petitions for involuntary commitment are filed. (R. 43) And, in this case, there is no dispute that such a petition was filed within 24 hours of respondent's transfer from a medical floor to a psychiatric floor at Mount Sinai Hospital, just as was done in *Andrew B.* In fact, the record implies that respondent consented to the treatment up to that point, and there is nothing which shows otherwise. As such, the assumption that respondent was admitted to Mount Sinai Hospital's medical floor for inpatient mental-health treatment is unsound and cannot be used as a basis to challenge the *Moore* decision.

Putting that flaw aside, respondent's argument essentially asks this Court to ignore *Moore*. All of the scientific information provided by respondent highlighting that mental health care has evolved since *Moore* was decided does not establish that *Moore* was incorrect, or that the appellate court's application of that decision was inappropriate. (Resp. Br. at 22-25). Even giving effect to respondent's request that this Court consider the "real world" impact of a statute's interpretation does not compel a different outcome. (Resp. Br. at 24). Respondent submits that "people with mental illness regularly receive treatment in emergency rooms and on medical floors," but the record illustrates that Dr. Mirkin, and Mount Sinai Hospital, have in place a system which allows them to differentiate between those patients who consent to care and those who require more intensive care or a more restrictive environment. (Resp. Br. at 25) Dr. Mirkin indicated that although patients on medical floors sometimes receive mental health care in conjunction with medical treatment, hospital policy is not to file a petition for involuntary treatment unless patients need psychiatric admission or are non-compliant with treatment. (R. 43-44) Notably, respondent

levied no challenge to that testimony at the hearing, and does not illustrate why it is unsound here. Instead, respondent asks this Court to embrace, for the first time, a broader definition of the term "mental-health facility." (Resp. Br. at 25). There is no need to do so, in light of the plain language of the now-challenged sections, and the consistent manner in which they have been applied before.

Lastly, respondent claims that she was "hospitalized in a mental-health facility." (Resp. Br. at 29). Essential to this conclusion is the fact that respondent "received mental-health treatment on the medical floor during her entire stay." (Resp. Br. at 29). Respondent then asks this Court to "hold that a medical floor of a general hospital may be a mental-health facility under the Code and that the Code's protections apply." (Resp. Br. at 30). In effect, respondent's argument overstates the impact of providing mental health care to patients while they are receiving inpatient medical treatment on a medical floor. The argument posed by respondent does nothing to clarify the terms at issue, and as such, should be rejected. Below, the court explained that

> "the plain language of the statutory definitions of 'mental health facility' and 'licensed private hospital' recognizes that there may be sections within a licensed private hospital dedicated to treatment of mentally ill patients. *In re Moore*, 301 Ill. App. 3d 759, 766. 'Those sections or units, and not the entire hospital, are mental health facilities for purposes of the involuntary admission provisions of the [Mental Health] Code.' *In re Moore*, 301 Ill. App. 3d at 766. This is consistent with Dr. Mirkin's explanation that respondent was monitored by a psychiatrist and a sitter throughout her stay on the medical floor, considering her prior admission to the 'psychiatric unit' of Mount Sinai Hospital in January of the same year and her failure to take her medications."

In re Linda B., 2015 IL App (1st) 132134, ¶ 23. The appellate court's conclusion is correct because it recognizes that to define an entire hospital as a "mental health facility" would be to expand the definition beyond its intended meaning. Here, respondent did receive some

mental health care, but did so on a medical floor while she was being treated for serious health conditions. Thus, respondent's admission and treatment was not into a "mental health facility" but was instead into Mount Sinai Hospital, where she received treatment in various forms. In this case, there is no need to redefine what constitutes a "mental health facility" to include the medical floor in this case, because the primary purpose of respondent's treatment was to address her deteriorating physical condition. Once her physical health had been stabilized, respondent was moved to a psychiatric floor, and the petition for involuntary treatment was filed within 24 hours. Respondent's argument to the contrary would require this Court to redefine the term "mental health facility" in such a way to make it virtually all-encompassing of any location where even the slightest amount of psychiatric care is given. Respondent has failed to provide this Court with a compelling argument for that proposition and this Court should therefore reject respondent's argument and affirm the appellate court's ruling.

Lastly, respondent offers a policy argument that asks this Court to recognize that because "mental-health treatment occurs in a variety of settings, recognizing these settings as mental-health facilities subject to the Code's provisions would give facilities authority under the code to provide treatment." (Resp. Br. at 38). This argument is expressly predicated upon the acceptance of the respondent's previous attempts to recharacterize the medical floor where she received treatment from April 22, 2013, until May 8, 2013, as a "mental-health facility" under the Mental Health Act. However, the premise upon which respondent's arguments rely are unsound. Respondent relies upon *Sassali v. DeFauw*, 297 Ill. App. 3d 50 (2^{d} Dist. 1998), and *Doe v. Channon*, 335 Ill. App. 3d 709 (1st Dist. 2002), to illustrate her

position that liability might flow from an instance where a medical facility lacks authority to treat a patient. However, there has never been a showing that Mount Sinai Hospital lacked authority to treat respondent, or that responded refused to consent to her care at any time prior to the filing of the now-challenged petition. Thus, respondent's cases shed little light on the question presented. A closer review of both of respondent's cases show why they are inapplicable here.

In *Sassali*, the question before the appellate court was "whether an initially authorized detention under the Mental Health Code can become a false imprisonment when there is a failure to comply with the filing requirement for the commitment procedure." 297 Ill. App. 3d at 51. The Second District resolved that question by stating that a "lawful detention pursuant to the provisions of the Mental Health Code cannot be the basis of a false imprisonment claim." *Id.* at 52. The court noted, however, that "[t]he fact that the original detention may be lawful does not mean that the subsequent detention is." *Id.*

Doe v. Channon, also cited by respondent, distinguished *Sassali*. Plaintiff Doe appealed from a motion for summary judgment in favor of defendant Channon, a doctor who, according to plaintiff, violated "section 3-610 of the Mental Health and Developmental Disabilities Code (Code) by failing to release plaintiff from the psychiatric unit 'forthwith' after determining that plaintiff was not subject to involuntary admission." 335 Ill. App. 3d at 711. The *Doe* court was not persuaded by the plaintiff's argument and concluded that the doctor did not violate any provision of the Code because the doctor's examination of the respondent, albeit after the 24-hour period, was still proper. 335 Ill. App. 3d at 714.

Neither of the cases cited by respondent provides guidance here. First, the question

of false imprisonment simply does not present itself under these facts. Moreover, *Andrew B.* has already established that "section 3-611's reference to 'admission' is not always limited to the individual's original physical entry" and respondent's argument is contrary to this well-settled principle. 237 Ill. 2d at 350. The appellate court's determination that respondent "was not admitted in a legal sense pursuant to article VI when she first entered the medical floor of Mount Sinai Hospital on April 22, 2013" is the correct application of the statutes and should be affirmed. *In re Linda B.*, 2015 IL App (1st) 132134, ¶ 23.

* * *

In conclusion, this Court should determine that the instant issue is moot. Respondent has conceded as much, and the record reflects that the public interest exception is inapplicable because the issue presented is not a "broad public issue" and because the law regarding this question is not "conflicting or in disarray." Even if this Court does determine that the instant case is not moot, the appellate court's judgment should be affirmed because this Court's decision in *In re Andrew B.* illustrates that respondent's entry and treatment on a medical floor at Mount Sinai Hospital did not constitute an involuntary admission under Article VI of the Mental Health Code. Because respondent was not admitted, within the meaning of Section 3-611, when she first received medical treatment, Mount Sinai did not have to file a petition for involuntary treatment. Furthermore, there is nothing in the record which supports respondent's position that she failed to consent to care, and the fact that Dr. Mirkin testified that Mount Sinai Hospital has a policy which indicates under what circumstances a petition for involuntary treatment is filed demonstrates that mental health providers are not uncertain about the issue and respondent's request for a bright-line rule

regarding admission is unnecessary. Finally, respondent's argument that this Court expand the term "mental health facility" to cover the medical floor where respondent received mental health treatment in conjunction with her medical treatment has no support and is contrary to the plain language of Section 1-114 of the Code. For all of these reasons, the People ask this Court to either dismiss respondent's appeal as moot, or in the alternative, affirm the judgment of the appellate court.

CONCLUSION

The People of the State of Illinois respectfully request that this Honorable Court dismiss the appeal as moot, or in the alternative, affirm the judgment of the appellate court.

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341 (a) and (b). The length of this brief, excluding the pages containing the Rule 341 (d) cover, the Rule 341 (h)(1) statement of points and authorities, the Rule 341 (c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under (Rule 342(a), is 35 pages.

By: 

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