No. 119392

IN THE SUPREME COURT OF ILLINOIS

In re LINDA B., A person subject to an order for involuntary commitment **Linda B., Petitioner** People of the State of Illinois, Appellee v. Linda B., Appellant	Appeal from the Appellate Court First Judicial District No. 1-13-2134 Original appeal from the Circuit Court of Cook County No. 2013 CoMH 1381 Honorable David Skryd, Presiding Judge

BRIEF OF PETITIONER, LINDA B.

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The Code's definition of "mental-health facility" is broad.

People with mental illness receive psychiatric treatment on medical floors.

Secondary Authority

The Moore case is no longer instructive about what qualifies as a "mental-health facility."

NATURE OF THE CASE

This appeal involves an order for involuntary commitment based on a petition that was filed 17 days after Ms. Linda B. was admitted to a hospital for psychiatric and medical reasons, and "had to be on [a] medical floor" as she had multiple medical conditions. (R.9-10, 11, 15-16, 20, 44)[1] She received psychiatric treatment on that floor throughout her stay though she did not want treatment for any of her conditions. (R.12,15,20,35; C.4) Ms. B. moved to dismiss the petition in the trial court, as the Mental Health and Developmental Disabilities Code requires petitions for involuntary admission to be filed within 24 hours of a person's admission. 405 ILCS 5/3-611 (2012). (R.41) The trial court denied the motion to dismiss and found Ms. B. subject to involuntary commitment. (R.44, 57; C.15) The appellate court affirmed, relying on this Court's decision in *In re Andrew B.*, 237 Ill. 2d 340, 351 (2010). *In re Linda B.*, 2015 IL App (1st) 132134, ¶23. The appellate court concluded that Ms. B. was not actually admitted for purposes of triggering the protections of the Mental Health Code until a petition was presented to the facility director. *Id*. The appellate court held the petition to have been timely filed as it was filed within 24 hours of that presentation 17 days after Ms. B.'s admission. *Id*. The appellate court discussed, but did not decide, whether a medical floor of a hospital is a "mental-health facility" though Ms. B. and up to five other recipients (R.43) were receiving some combination of hospitalization, examination, diagnosis, evaluation, care, and/or pharmaceuticals – in other words, "treatment" as defined in the Mental

[1] "R" and "C" reference the one-volume report of proceedings and one-volume common law record, respectively, in this matter. "A-[#] " references the Appendix to this brief.

Health and Developmental Disabilities Code. 405 ILCS 5/1-128 (West 2016). *Id*. No issue is raised on the pleadings.

JURISDICTIONAL STATEMENT

This Court has jurisdiction pursuant to Supreme Court Rule 315, having allowed Ms. B.'s petition for leave to appeal on September 30, 2015.

ISSUES PRESENTED FOR REVIEW

1. - Whether the appellate court erred in failing to hold the petitioner to the Mental Health Code's bright-line petitioning deadlines.
2. - Whether the appellate court erred when it failed to find that the medical floor of Mount Sinai Hospital where Ms. B. was held for psychiatric and non-psychiatric treatment is a mental-health facility and that the Mental Health Code applied to her hospitalization.
3. - Whether the appellate court erred when it found that Ms. B. was "not admitted in a legal sense pursuant to article VI" of the Mental Health Code when she was hospitalized on April 22, 2013.
4. - Whether applying the Mental Health Code to medical floors would protect not just recipients' rights but would also provide clarity for hospitals and protect them from potential lawsuits.

STATUTES INVOLVED

405 ILCS 5/1-112 (West 2016) Hospitalization

§1-112. "Hospitalization" means the treatment of a person by a mental health facility as an inpatient.

405 ILCS 5/1-113 (West 2016) Licensed private hospital

§1-113. "Licensed private hospital" means 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.

405 ILCS 5/1-114 (2012) Mental health facility *(in pertinent part)*

§1-114. "Mental health facility" means any licensed private hospital, institution, or facility or section 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 5/1-128 (2012) Treatment

§1-128. "Treatment" means an effort to accomplish an improvement in the mental condition or related behavior of a recipient. Treatment includes, but is not limited to, hospitalization, partial hospitalization, outpatient services, examination, diagnosis, evaluation, care, training, psychotherapy, pharmaceuticals, and other services provided for recipients by mental health facilities.

405 ILCS 5/3-200 (2012) Admissions; transfers by Department of Corrections; release *(in pertinent part)*

§3-200. (a) A person may be admitted as an inpatient to a mental health facility for treatment of mental illness only as provided in this Chapter, except that a person may be transferred by the Department of Corrections pursuant to the Unified Code of Corrections.

405 ILCS 5/3-610 (2012) Examination by psychiatrist; release *(in pertinent part)*

§3-610. As soon as possible but not later than 24 hours, excluding Saturdays, Sundays and holidays, after admission of a respondent pursuant to this Article, the respondent shall be examined by a psychiatrist . . . . If the respondent is not examined or if the psychiatrist, physician, clinical psychologist, or qualified examiner does not execute a certificate pursuant to Section 3-602 [setting out requirements for a certificate], the respondent shall be released forthwith.

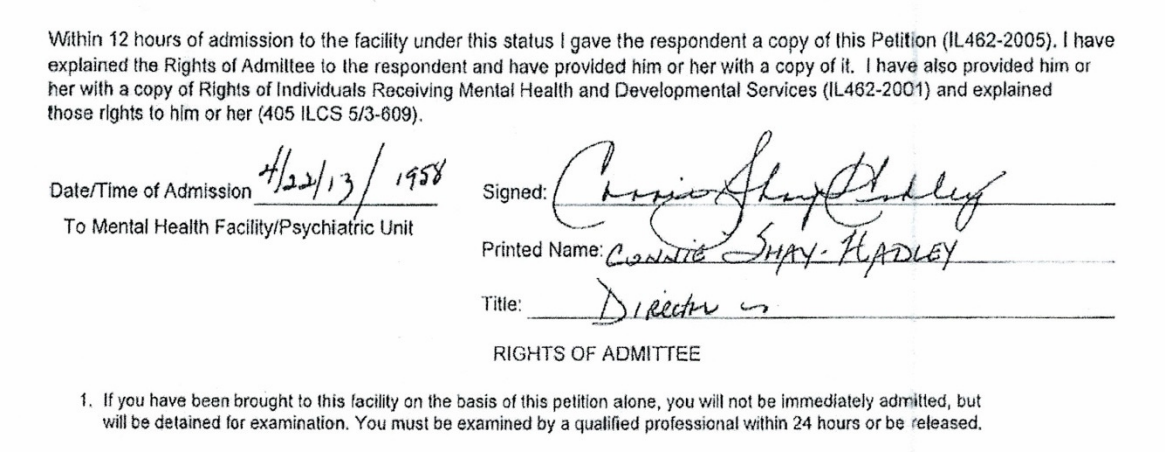
405 ILCS 5/3-611 (2012) Filing; hearing date; notice *(in pertinent part)*

§3-611. Within 24 hours, excluding Saturdays, Sundays and holidays, after the respondent's admission under this Article, the facility director 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.

STATEMENT OF FACTS

Linda B., then age 51, had anemia, tachycardia, hypertension, chronic obstructive pulmonary disorder, HIV, clostridium difficile[2], and schizophrenic disorder. (R.10, 11, 14, 25; C.30) She did not want treatment for these conditions. (R.12, 15, 20, 35; C.4) She was admitted to Mount Sinai Hospital on April 22, 2013, because she had become "intolerable and threatening." (R.9, 11, 16; C.6, 32, 33, 34) Ms. B. had reportedly stopped taking medications she had been prescribed during a January 2013 mental-health hospitalization in Mount Sinai, including her psychotropic medication, Depakote. (R.11, 15-16) Ms. B. continued to refuse treatment during her hospitalization that began April 22. (R.12,15,20,35; C.4)

On May 9, 2013, 17 days later, facility director Connie Shay-Hadley filed a petition for Ms. B's involuntary admission. (C.3-7) Ms. Shay-Hadley indicated on the petition that Ms. B. was admitted to a mental health facility on the day she entered the hospital – April 22. (C.24) Below is an image taken directly from the petition,



Within 12 hours of admission to the facility under this status I gave the respondent a copy of this Petition (IL462-2005). I have explained the Rights of Admittee to the respondent and have provided him or her with a copy of it. I have also provided him or her with a copy of Rights of Individuals Receiving Mental Health and Developmental Services (IL462-2001) and explained those rights to him or her (405 ILCS 5/3-609).

Date/Time of Admission 4/22/13 / 1958
To Mental Health Facility/Psychiatric Unit

Signed: Connie Shay-Hadley
Printed Name: CONNIE SHAY-HADLEY
Title: Director

RIGHTS OF ADMITTEE

1. If you have been brought to this facility on the basis of this petition alone, you will not be immediately admitted, but will be detained for examination. You must be examined by a qualified professional within 24 hours or be released.

[2] Clostridium difficile, also known as C. diff, "is a bacterium that can cause symptoms ranging from diarrhea to life-threatening inflammation of the colon." Mayo Clinic at http://uat.kcms.mayoclinic.org/diseases-conditions/c-difficile/basics/definition/con-20029664.

Ms. B. was held on a medical floor instead of the psychiatric unit owing to her comorbid medical conditions. (R.10) Ms. B. "had to be on [a] medical floor." (R.20) Ms. B.'s Mount Sinai records reflect that she had IVs, tubes, drains, and wound and fecal management from April 23 through April 27, 2013. (C.32) Ms. B. also had telemetry monitoring through April 25, 2013.[3] (C.33)

Trial testimony revealed that Ms. B. was treated as a psychiatric patient for the duration of her Mount Sinai hospitalization although she was held on a medical floor instead of Mount Sinai's psychiatric unit. (R.9) Ms. B. was restricted with constant one-to-one supervision and she was both "followed by a psychiatrist throughout her stay on the medical floor" and administered court-ordered psychotropic medication there.[4] (R.10, 12, 14, 30, 31; C.33-34) Ms. B.'s treating psychiatrist, Dr. Elizabeth Mirkin, testified that she sees four to five patients "every day" on medical floors at Mount Sinai Hospital. (R.43)

Based on the testimony that Mount Sinai staff treated Ms. B. as a psychiatric patient for the duration of her hospitalization and restricted Ms. B.'s liberty (R.9, 10, 14, 30, 31, 44), counsel for Ms. B. moved to dismiss the petition because it was filed 17 days after her admission, violating the Mental Health Code's 24-hour filing deadline. (R.41) Responding to the motion to dismiss, the State questioned Dr.

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[3] Telemetry monitoring monitors a patient's heart activity via electrodes attached to the patient; a device connected to the electrodes then sends information about the heart's activity to a monitoring station. Drugs.com at https://www.drugs.com/cg/telemetry-monitoring.html.

[4] Mount Sinai staff petitioned for, and was granted, authority to administer involuntary psychotropic medication to Ms. B. in Cook County No. 2013 CoMH 1388 (See Appendix to this brief at A-21) The primary medication authorized was Depakote Extended Release. This Court can take judicial notice of court records in other matters. *May Dept. Stores Co. V. Teamsters Union Local No. 743*, 64 Ill. 2d 153, 159 (1976).

Mirkin about the primary reason Ms. B. was initially hospitalized; Dr. Mirkin answered that Ms. B. was hospitalized "[f]or both" psychiatric and non-psychiatric reasons, "but she was on [a] medical floor…." (R.44) The trial court denied the motion and granted the involuntary-commitment petition. (R.44, 56-57; C.15) Ms. B. appealed. (C.50)

After dispensing with oral argument on its own motion (A-2), the appellate court affirmed the trial court. *In re Linda B.*, 2015 IL App (1st) 132134, ¶24. The appellate court found that Mount Sinai Hospital's involuntary-commitment petition indicated that Ms. B. "was admitted to the 'Mental Health Facility/Psychiatric Unit' on April 22, 2013, at 1958 hours." *Linda B.*, 2015 IL App (1st) 132134, ¶3. But the appellate Court then found that the Mental Health Code's 24-hour filing requirement was not "triggered" until her "admission" on May 9, 2013. *Linda B.*, 2015 IL App (1st) 132134, ¶23. The appellate Court concluded that Ms. B. was "admitted in a legal sense" on May 9 when petitioner Connie Shay-Hadley presented the involuntary-commitment petition to the facility director, also Connie Shay-Hadley. *Linda B.*, 2015 IL App (1st) 132134, ¶23.

> We thus conclude that the May 9, 2013, petition seeking respondent's emergency inpatient admission by certificate was timely as it was filed within 24 hours after it was presented to Connie Shay-Hadley, the mental[-]health facility director at Mount Sinai Hospital.

Linda B., 2015 IL App (1st) 132134, ¶23, *citing In re Andrew B.*, 237 Ill. 2d 340, 351 (2010).

The appellate Court denied Ms. B.'s petition for rehearing and her request that the appellate Court issue a certificate of importance to this Court. (A-9)

ARGUMENT

I. Summary of argument

The appellate court here rejected procedures the legislature set up to protect persons being detained for mental illness in favor of arbitrary procedures a hospital set for itself. A hospital may now detain mental-health recipients in areas other than a dedicated psychiatric unit for unspecified time periods. The appellate court's decision lets hospitals decide if and when a petition for involuntary commitment will be filed in such circumstance, eroding the Mental Health and Developmental Disabilities Code's protections for some of our State's most vulnerable citizens, and putting hospitals that do so at risk of false imprisonment claims for hospitalizing mental-health recipients under no legal authority.

II. The public-interest mootness exception applies.

Linda B.'s 90-day commitment order expired back in 2013, so "there is no dispute that the underlying case is moot." *In re Alfred H.H.*, 233 Ill. 2d 345, 350 (2009). Specific appeals of mental-health cases, however, "will usually fall within one of the established exceptions to the mootness doctrine." *Alfred H.H.*, 233 Ill. 2d at 355. The established exceptions are "public interest," "capable of repetition yet avoiding review," and "collateral consequences." *Id*. at 355-362. Reviewing courts must consider all of these "applicable exceptions in light of the relevant facts and legal claims raised in the appeal." *Id.*, 233 Ill. 2d at 364.

Pursuant to *Alfred H.H.*, this Court, like the appellate court, should apply the public-interest exception in order to decide this case on the merits. *In re Linda B.*,

2015 IL App (1st) 132134, ¶13. The public-interest exception to mootness applies when the question presented is of a public nature, there is a need for an authoritative determination for the future guidance of public officials, and there is a likelihood of future recurrence of the question. *Alfred H.H.*, 233 Ill. 2d at 355.

Here, Ms. B. asks this Court to consider whether the petition in this matter complied with the Mental Health and Developmental Disability Code's statutory timely-filing requirement. 405 ILCS 5/3-611 (West 2016). This Court has repeatedly held that procedures to be followed when ordering the involuntary treatment of mental-health patients are matters of considerable public concern. *In re James W.*, 2014 IL 114483, ¶21, *citing In re Mary Ann P.*, 202 Ill. 2d 393, 402 (2002); *In re Andrew B.*, 237 Ill. 2d 340, 347 (2010). Thus, for example, the timing of a jury trial pursuant to the Code's requirements was considered on appeal – despite expiration of the commitment order at issue – pursuant to the public-interest mootness exception. *James W.*, 2014 IL 114483, ¶21. Likewise, in the present case, a timing requirement is involved. In addition, an answer here will provide an authoritative determination to guide public officers in the performance of their duties in mental-health cases. *In re Lance H.*, 2014 IL 114889, ¶14. For example, an answer here will guide attorneys on both sides in civil mental-health proceedings when facing a petition that appears to have been filed late. *See* 405 ILCS 5/3-101(a) (West 2016) (the State's Attorney shall ensure that petitions are properly prepared); *see In re Jessica H.*, 2014 IL App (4th) 130399, ¶26, 35 (finding respondent's counsel ineffective for failure to "hold the State or the trial court to the Code's procedural requirements"). An answer here will also provide guidance to

hospitals throughout the State when psychiatric patients are detained in areas of hospitals that, in the past, may not have been used to detain psychiatric recipients.

Finally, this issue is likely to recur in the future. *Lance H.*, 2014 IL 114889, ¶14. The appellate court noted that this issue could recur with respect to Ms. Linda B., given her health history and prior mental-health adjudication.[5] *Linda B.*, 2015 IL App (1st) 132134, ¶13. This issue could also recur to other mental-health recipients who are detained in hospital emergency rooms – considering Illinois's closing of State-operated facilities in recent years (e.g. Tinley Park Mental Health Center, Tinley Park; Singer Mental Health Center, Rockford) – or like Ms. B., on hospital medical floors. *See, e.g.,* IL Dept. Public Health Director's letter of April 23, 2013, accessed at http://www.illinois.gov/sites/gac/HRA/Documents/IDPH%20letters%20MH%20Code%20and%20Emergency%20rooms.pdf (Mental Health Code applies to the emergency department of a hospital when a patient is diagnosed and treated there for mental illness); Heffernan, *Emergency room visits for mental health skyrocket in Chicago*, WBEZ 91.5, April 16, 2015, accessed at http://www.wbez.org/news/emergency-room-visits-mental-health-skyrocket-chicago-111890.

This Court should, therefore, apply the public-interest exception and decide this case on the merits.

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[5] The appellate court incorrectly noted in discussing the possibility of recurrence to Ms. B. that she had been found subject to involuntary admission before; however, she had been found subject to involuntary *medication* before. See page A-21 of the Appendix to this brief (and see footnote 4 of this brief). Regardless, the finding of "subject to involuntary medication" meant that Ms. B. had been once before been adjudicated as a person with a mental illness.

III. The *de novo s*tandard of review applies.

The matter here is one of statutory interpretation and compliance, subject to *de novo* review. *In re Lance H.*, 2014 IL 114889, ¶11.

IV. The appellate court erred in failing to hold the petitioner to the Mental Health Code's bright-line petitioning deadlines.

Hospitals must have some authority by which to admit a patient and provide her with treatment. Ordinarily the authority comes from the patient's own informed consent:

> Consent is required to maintain the right of personal inviolability: "No right is held more sacred, or is more carefully guarded by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law."

In re Estate of Longeway, 133 Ill. 2d 33, 44 (1989), *quoting Union Pacific Ry. Co. v. Botsford*, 141 U.S. 250, 251 (1891). Thus, in Illinois, "a patient normally must consent to medical treatment of any kind." *Longeway*, 133 Ill. 2d at 44. Before there can be consent, individuals must be given complete information necessary to make informed health-care decisions, and must be advised of the right to refuse treatment. 42 CFR 482.13(b)(2) (West 2016); 405 ILCS 5/2-102(a-5) (West 2016); 405 ILCS 5/2-107 (West 2016); *see also* Centers for Medicaid and Medicare Services State Operations Manual accessed at https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_a_hospitals.pdf (*citing* 42 CFR 482.13(b)(2)).

Informed consent about treatment is "not merely a signed document[,]" but

> a process that considers patient needs and preferences, compliance with law and regulation, and patient education. Utilizing the informed consent process helps the patient to participate fully in decisions about his or her care, treatment, and services.

Joint Commission, *2015 Hospital Accreditation Standards*, RI-9. "Lacking consent, a physician cannot force medical care upon a patient, even in life-threatening situations." *Longeway*, 133 Ill. 2d at 45 (citation omitted). Thus, a person with capacity would have a right to refuse treatment – and even to leave a hospital – absent her informed consent for treatment or for the admission itself. *Id.*

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. Section 3-200 of the Mental Health Code provides that "[a] person may be admitted as an inpatient to a mental[-]health facility for treatment of mental illness only as provided in this Chapter [Chapter III, Admission, Transfer and Discharge Procedures for the Mentally Ill]…." 405 ILCS 5/3-200 (West 2016). The Code also provides that "[n]o recipient of services shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Illinois, or the Constitution of the United States solely on account of the receipt of such services." 405 ILCS 5/2-100(a) (West 2016). The legislature thus ensured that only the State has the authority to deprive a person with mental illness of her liberty interest through following the Code's admission procedures.

Under the Code, a person with capacity may consent to admission on a voluntary basis. 405 ILCS 5/3-400 (West 2016). Generally this is done via the recipient's signature on a voluntary application form. 405 ILCS 5/3-401 (West

2016); *Cf.* 405 ILCS 5/3-300 (West 2016) (recipients may also request to be admitted on an "informal basis" without signing a written voluntary application). If a person does not consent or lacks capacity to consent to admission, Article VI of the Mental Health Code provides for the filing of a petition for *involuntary* admission. 405 ILCS 5/3-601(a) (West 2016). This petition may be prepared and filed by the facility director of the facility. *Id*.

The Article VI procedures, when properly followed, eliminate the risk of false-imprisonment claims against hospitals, because a valid involuntary-commitment petition filed with a trial court authorizes a hospital to detain a mental-health recipient against her will. *See Arthur v. Lutheran General Hospital*, 295 Ill. App. 3d 818, 826 (1st Dist. 1998) (detaining a person under legal authority is not false imprisonment) (citation omitted). The procedures likewise protect mental-health recipients because the recipient is then entitled to receive a statement of rights within 12 hours of admission, which includes contact information for, and assistance with contacting (if requested), the Illinois Guardianship and Advocacy Commission, the agency established by the legislature for the protection of rights of persons with disabilities in Illinois. 405 ILCS 5/3-609 (West 2016), referencing 405 ILCS 5/3-206 (West 2016); 20 ILCS 3955/1 *et seq.* (West 2016).

These procedures also set in motion due process protections for the recipient, now the "respondent" to the involuntary mental-health petition, including a hearing date on whether commitment is necessary, right to an independent examination, and right to counsel. *See In re Barbara H.*, 183 Ill. 2d 482, 496 (1998) (right to counsel is a central feature of mental-health respondents' due process

protections); 405 ILCS 5/3-804 (West 2016) (right to an independent examination); *In re Joseph M.* 398 Ill. App. 3d 1086, 1090 (5th Dist. 2010) (right to a hearing where the State must present clear and convincing evidence to support an involuntary mental-health order).

Section 3-611 of the Mental Health Code provides a 24-hour deadline for filing a petition and first certificate for involuntary admission:

> 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 (West 2016). Section 3-610 likewise provides a pertinent deadline: if the respondent is not examined within 24 hours after admission, or if the examiner does not execute a "certificate" in support of the petition, then "the respondent shall be released forthwith." 405 ILCS 5/3-610 (West 2016).

Detaining people with mental illness against their will has long been viewed as implicating substantial liberty interests. *In re Lance H.*, 2014 IL 114889, ¶20, *quoting In re Robinson*, 151 Ill. 2d 126, 130 (1992). These interests are balanced against the goals of involuntary detention of persons with mental illness: that is, providing care to those who, because of their mental illness, are unable to care for themselves and protecting society from persons who, because of their mental illness, are at risk of inflicting harm. *Robinson*, 151 Ill. 2d at 130-131. In preserving this balance, the deadlines in the Code have been viewed as "bright lines created by the legislature to avoid deciding these cases on an *ad hoc* basis and to prevent abuse

of the procedures involved." *In re Luttrell*, 261 Ill. App. 3d 221, 229 (1994). A trial court's decision based on a petition filed beyond the 24-hour time limit will be reversed. *In re Stone*, 249 Ill. App. 3d 861, 864-865 (2nd Dist. 1993). Because of the substantial liberty interests involved when a person with mental illness is detained against her will, courts should not have "to make a string of unsupported speculations in order to reach the ultimate assumption the proper procedures were followed." *Luttrell*, 261 Ill. App. 3d at 229.

Here, as the appellate Court recognized, Ms. Linda B. was admitted as a psychiatric patient "on April 22, 2013, at 1958 hours." *In re Linda B.*, 2015 IL App (1st) 132134, ¶3, referring to the date and time indicated on the face of the petition executed by facility director Connie Shay-Hadley. (C.6) The State's dispositional report also reflects April 22 as Ms. B.'s admission date. (C.32, 33, 34) The hospital admitted Ms. B., according to Psychiatrist Elizabeth Mirkin, because she had stopped taking psychotropic medication (Depakote) and had become angry, agitated, "intolerable and threatening" due to her schizophrenic disorder. (R.9-11, 15-16) But with her non-psychiatric issues that Ms. B. was then neglecting (R.15), she "had to be on [a] medical floor" rather than the hospital's dedicated psychiatric unit. (R.20) Once there, she refused treatment for psychiatric and non-psychiatric conditions alike. (R.12, 15, 20, 35; C.4) She was prevented from leaving by one-to-one sitters[6],

[6] Or one-to-one observation; the two references are used interchangeably throughout the record. (R.10, 14, 16, 30, 31; C.33-34) One-to-one supervision is one form of psychiatric treatment to prevent elopement and other adverse events. *See generally* Manna, *Effectiveness of formal observation in inpatient psychiatry in preventing adverse outcomes: the state of the science*, J. Psychiatric and Mental Health Nursing, April 2010, 268-273.

received regular psychiatric examinations, and was ordered to have involuntary psychotropic medication. (R.10, 12, 14, 16, 30, 31; C.33-34)

Nonetheless, the hospital facility director – who, as noted above – acknowledged Ms. B.'s admission for mental-health purposes on April 22, 2013 (C.6), did not file a petition for her patient's involuntary admission until May 9, 2013, 17 days after Ms. B. was not free to leave the facility. (C.3) The record further shows Ms. B. was not in the hospital voluntarily; this is undisputed. The record contains no evidence of Ms. B. consenting to voluntary admission, or that someone else consented to her admission for non-psychiatric reasons. (R.1-59; C.1-56) Indeed, Ms. B. has no guardian and is considered her own decision-maker. (R.37)

Thus, within 24 hours of Ms. B.'s admission on April 22, 2013, the hospital was obligated to follow the Code's procedures to protect Ms. B. and to ensure it had authority to detain her. Specifically, someone needed to complete and file a petition for involuntary admission and examine Ms. B. for purposes of the first certificate in support of the petition. 405 ILCS 5/3-611 (West 2016). Depending on whether a psychiatrist conducted the first examination after Ms. B.'s admission, a psychiatrist or other qualified examiner had to examine Ms. B. and complete a second certificate in support of the petition. 405 ILCS 5/3-611 (West 2016). Here, none of these things happened until May 9, 2013. (C.3-7, 8, 9) Thus the petition was late, the documents supporting the petition were late (the first and second certificates), and the trial court should have granted the motion to dismiss. *Stone*, 249 Ill. App. 3d at 864-865; *In re Ellis*, 284 Ill. App. 3d 691, 693-694 (3rd Dist. 1996). The appellate court erred in failing to hold the petitioner here to the Mental Health Code's bright-line

petitioning procedures, allowing the hospital to dispense with Linda B.'s right to the Code's protections upon being hospitalized.

The appellate court also erred by adding a presentation-to-the-facility-director element to Section 3-611 in justifying the late filing here. *Linda B.*, 2015 IL App (1st) 132134, ¶23.

> We thus conclude that the May 9, 2013, petition seeking respondent's emergency inpatient admission by certificate was timely as it was filed within 24 hours after it was presented to Connie Shay-Hadley, the mental[-]health facility director at Mount Sinai Hospital.

Linda B., 2015 IL App (1st) 132134, ¶23, *citing In re Andrew B.*, 237 Ill. 2d 340, 351 (2010). But Section 3-611 contains no such requirement. 405 ILCS 5/3-611 (West 2016).

Andrew B. maintains and affirms the Code's 24-hour filing deadline. *Andrew B.*, 237 Ill. 2d at 350-351, 353. *Andrew B.* further provides that when a petition is dismissed and a respondent is thus considered discharged, the petitioner has 24 hours from the dismissal and discharge to file a new petition. *Andrew B.*, 237 Ill. 2d at 350-351. This Court's language about presentation to a facility director was incidental to the holding, and is not applicable beyond the *Andrew B.* facts. *Id.* at 343, 350-351, 353, 354. Linda B. never faced an *Andrew B.* scenario, as the commitment petition filed 17 days after her admission was the first (and only) one filed. There was no *Andrew B.* scenario here warranting presentation of a *new* commitment petition to the facility director within 24 hours of dismissal of an earlier petition. (Further discussion of *Andrew B.* and the legal status of admission is included in Part VI of this brief.) Here, the presentation of the petition to facility director Connie

Shay-Hadley, by facility director Connie Shay-Hadley (C.5, 6), was at an arbitrary date and time, and found effective by the appellate court for no reason other than that was the date the hospital chose to file it. *Linda B.*, 2015 IL App (1st) 132134, ¶23.

The appellate court erred in permitting an arbitrary filing date as it did here, as the legislature, not hospital staff, sets forth requirements for the protection of persons like Ms. Linda B.

V. The appellate Court erred when it failed to find that the medical floor of Mount Sinai Hospital where Linda B. was held for psychiatric and non-psychiatric treatment is a mental-health facility and that the Mental Health Code applied to her hospitalization.

Mount Sinai Hospital is a licensed general hospital that regularly provides treatment to people with mental illnesses on its medical floors (R.43), and is therefore a mental-health facility. The appellate court, however, did not determine whether the medical floor where Ms. Linda B. was held qualifies as a mental-health facility though this issue is central to whether the Code applies to her hospitalization. *Linda B.*, 2015 IL App (1st) 132134, ¶23. This Court should thus answer it, and in doing so provide guidance about the procedures governing mental-health treatment in Illinois.

The Code's definition of "mental-health facility" is broad.

The Mental Health Code, in two sections, broadly defines a mental-health facility as a private facility, or a section thereof, or a facility operated by the State or its political subdivisions, that 1) is licensed by the Department of Public Health

(Department) and 2) that provides treatment for persons with mental illness. 405 ILCS 5/1-114; 1-113 (West 2016).

Specifically, 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 (West 2016) [italics added].

Section 1-113 defines "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*. 405 ILCS 5/1-113 (West 2016) [italics added].

The Code also broadly defines treatment as "an effort to accomplish an improvement in the mental condition or related behavior of a recipient. Treatment includes, but is not limited to, hospitalization, partial hospitalization, outpatient services, examination, diagnosis, evaluation, care, training, psychotherapy, pharmaceuticals, and other services provided for recipients by mental[-]health facilities." 405 ILCS 5/1-128 (West 2016).

The cardinal rule of statutory construction is to ascertain and give effect to the legislature's intent. *Allstate Ins. Co. v. Menard's, Inc.*, 202 Ill. 2d 586, 590 (2002). The plain language of the statute is the best indicator of the legislature's intent. *Id.* at 591.

According to the plain language of the Code, if an entire general hospital is licensed by the Department, and if it treats people with mental illnesses, then it qualifies as a mental-health facility whether or not is has a dedicated psychiatric unit. While section 1-114 provides that "a section" of a facility may be a mental-health facility, it also provides that any "licensed private hospital" that provides treatment to persons with mental illness is also a mental-health facility. 405 ILCS 5/1-114 (West 2016).

Further, the plain language does not require that a mental-health facility have a primary purpose of treating individuals with mental illnesses; indeed, the appellate court explicitly rejected such a narrow construction because it departs from the plain language of section 1-114. *In re Guardianship of Muellner v. Blessing Hosp.*, 335 Ill.App.3d 1079, 1084 (4th Dist. 2002). Thus, the definition of an inpatient mental-health facility is not limited to only psychiatric units within general hospitals or free-standing psychiatric hospitals. Instead, the definition covers licensed facilities that as part of their operations treat people with mental illnesses. *See Muellner*, 335 Ill.App.3d at 1084.

People with mental illness receive psychiatric treatment on medical floors.

Hospitals with and without psychiatric units provide mental-health treatment on medical floors. Tami L. Mark, Ph.D., et al, 61 Psychiatric Times 562, 566 (2010) *available at* http://ps.psychiatryonline.org/doi/pdf/10.1176/ps.2010.61.6.562. When people are admitted to hospitals' medical units for mental-health treatment, it is sometimes said they are placed in "scatter beds," as opposed to psychiatric beds on distinct psychiatric units. *Id.* at 562. One recent study that

looked at hospital discharge data from 12 states found that nearly 7% of people admitted to general hospitals for mental-health care are discharged from these dual-purpose scatter beds. *Id.*

People admitted to scatter beds are more likely to be older and to have comorbid non-psychiatric conditions. *Id.* at 563. Indeed, 68% of people with mental illnesses have comorbid medical conditions. Benjamin G. Druss MD, MPH & Elizabeth Reisinger Walker, MAT, MPH, *Mental disorders and medical comorbidity,* Robert Woods Johnson Foundation, February 2011, *available at* http://www.rwjf.org/content/dam/farm/legacy-parents/mental-disorders-and-medical-comorbidity. These comorbid conditions are often so serious that they impact the life expectancy of people with mental illness, which is up to 30 years shorter than for people without mental illnesses. Marc de Hert et al, *Physical illness in patients with severe mental disorders (I. Prevalence, impact of medications and disparities in health care)*, World Psychiatry, February 2011, at 52, *available at* http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3048500/. People with mental illness are more likely than those without psychiatric disorders to have comorbid conditions like diabetes, hypertension, heart disease, asthma, gastrointestinal disorders, skin infections, malignancies, and acute respiratory disorders. Fred Ovsiew & David Lovinger, *General Medical Evaluation and Management of the Psychiatric Inpatient*, in Principles of Inpatient Psychiatry, 71, 72 (2009). The reasons for the health disparities include the "toxicity of psychiatric medicines," social and financial obstacles to obtaining medical care, and "medical care of inadequate quality." *Id*. at 72-73.

Many serious comorbid medical conditions that require special equipment cannot be adequately and safely treated on dedicated psychiatric units. Nursing staff on such units generally do not insert intravenous lines or administer other similarly invasive non-psychiatric procedures. Bonnie Darves, *The rewards and challenges of treating psychiatric patients, in* Today's Hospitalist, June 2012, *at* http://www.todayshospitalist.com/index.php?b=articles_read&cnt=1486. Intravenous lines and any kind of monitors, for example, are typically not available on psychiatric units because they pose safety risks for falls and suicide attempts. *Id.*

Besides comorbidities, suicide attempts also lead people to be admitted to medical floors. About 5% of admissions to non-psychiatric intensive care units (ICU) and about 10% of admissions to general medical units are for suicide attempts. Bonnie Darves, *Should hospitalists be caring for these patients? in* Today's Hospitalist, April 2008 *at* http://www.todayshospitalist.com/index.php?b=articles_read&cnt=548.

Thus, it is to be expected that recipients may be diverted to medical floors for dual psychiatric and non-psychiatric treatment when necessitated by the nature and severity of their non-psychiatric conditions, as psychiatric units are generally not prepared to manage serious non-psychiatric conditions. Darves, *The rewards and challenges, supra.*

The Moore case is no longer instructive about what qualifies as a "mental-health facility."

Nearly 20 years ago the appellate court found that only a psychiatric unit, or a section within a hospital "devoted" to treatment of people with mental illness, qualifies as a mental-health facility. *In re Moore*, 301 Ill. App. 3d 759, 766 (4th Dist.

1998). The court held that an emergency room of a general hospital is not a mental-health facility when construing section 3-610, governing the period within which a psychiatrist must examine a respondent for involuntary admission. *Moore*, 301 Ill. App. 3d at 765-766.

That case, however, is no longer instructive as the current reality is that people no longer receive inpatient mental-health treatment only in psychiatric units. Besides receiving psychiatric treatment in scatter beds, persons with mental illness in Illinois, are treated in a variety of settings, including emergency rooms and even jails. Shannon Heffernan, *Emergency room visits for mental health skyrocket in Chicago*, WBEZ 91.5, April 16, 2015, *at* https://www.wbez.org/shows/wbez-news/emergency-room-visits-for-mental-health-skyrocket-in-chicago/b59a93f9-f6dc-447d-b9d4-37378fcd8b8d; Steve Schmadeke, *Psychologist to oversee Cook Jail: New boss handled large population of mentally ill inmates*, Chicago Tribune, May 20, 2015 (noting that one fourth of the jail's 8,000 detainees are persons with mental illness).

When deciding that a mental-health facility is only the psychiatric unit, the appellate court in *Moore* did not consider whether emergency rooms regularly provide treatment, as defined in section 1-128, to persons with mental illnesses. Instead, the court relied in part on the testimony of a psychiatrist who said that only the hospital's psychiatric unit was licensed as a mental-health facility. *Moore*, 301 Ill. App. 3d at 766. The plain language of the Code, however, does not limit its definition of a mental-health facility to a section of a hospital devoted to treating mental illness. Instead, it provides that "all hospitals, institutions, clinics, evaluation

facilities, and mental[-]health centers which provide treatment for people with mental illnesses" are mental-health facilities. 405 ILCS 5/1-114 (West 2016). Thus the Code does not require the facility to be devoted to mental-health treatment, or have such treatment as its primary purpose. *Muellner*, 335 Ill. App. 3d at 1084. Nor is a physician necessarily qualified to give an opinion about the legal definition of a mental-health facility. *See Sullivan v. Edward Hosp*., 209 Ill. 2d 100, 122-123 (2004) (holding that because a physician is not a licensed nurse, he is not qualified to testify about the standard of care for nurses).

Moreover, since the *Moore* decision, there is broad recognition that emergency departments regularly provide mental-health treatment. Illinois Hospital Assoc., *Best Practices for the Treatment of Patients with Mental and Substance Abuse Illnesses in the Emergency Department*, Oct. 2007, *at* http://www.aha.org/content/00-10/2007oct-ihabehavreport.pdf. Notably, the Department of Public Health, the hospital licensing body, explicitly determined in 2013 that the Mental Health Code applies in emergency departments. See page A-20 of the Appendix to this brief. IL Dept. Public Health Director's letter of April 23, 2013, at http://www.illinois.gov/sites/gac/HRA/Documents/IDPH%20letters%20MH%20Code%20and%20Emergency%20rooms.pdf. After studying the Code, and discussing the matter with counsel for the hospital and for the Illinois Department of Human Services, the Department of Public Health determined that the Mental Health Code applies to the emergency department of a hospital at the point in time when a patient is diagnosed and treated there for mental illness. *Id.*

The trend is that for many individuals with mental illness, emergency rooms have become safety-nets for mental-health treatment in Illinois and throughout the country due in part to the decreasing number of hospitals that provide acute psychiatric services, the decreasing number of psychiatric beds within hospitals, and insufficient community services. Illinois Hospital Assoc., *supra* at 1. In just 2 years, from 2002 to 2004, Illinois hospitals saw a nearly 48% increase in behavioral-health visits to emergency departments. *Id*. at 1. Similarly, 37% more people were discharged from Chicago's emergency departments from 2009 to 2013. Heffernen, *supra*.

When construing a statute, courts should consider the "real-world activity" that the statute is intended to regulate. *People v. Hanna*, 207 Ill. 2d. 486, 502 (2003) *quoting Krzalic v. Republic Title Co.,* 314 F.3d 875, 879-880 (7th Cir. 2002). This Court has long held that it "'*will always* have regard to existing circumstances [and] contemporaneous conditions.'" *Id.* [italics in original] *quoting Smith v. County of Logan*, 284 Ill. 163, 165 (1918). Given that people with mental illness regularly receive treatment in emergency rooms and on medical floors, this Court should not be limited by *Moore*'s narrow construction of "mental-health facility." *Moore*, 301 Ill. App. 3d at 766.

A narrow construction of "mental-health facility" would defeat the purpose of the Code and lead to absurd results.

Looking at Article VI, Emergency Admission by Certification, as a whole, further shows that the definition of a mental-health facility encompasses more than distinct sections of a hospital exclusively dedicated to mental-health treatment. A

statute should be construed as a whole, and words and phrases of a statue should not be construed in isolation but should be construed in light of other relevant provisions of the statute. *In re Detention of Lieberman*, 201 Ill. 2d 300, 308 (2002) [citations omitted]. A court may properly consider not only the statute's language, but also the reason and necessity for the law, the evils sought to be remedied, and the purpose to be achieved. *Id.* [citations omitted]. Courts presume that in enacting legislation, the General Assembly did not intend absurdity, inconvenience or injustice. *Id.* [citations omitted]. "Statutes must be construed in the most beneficial way which their language will permit so as to prevent hardship or injustice, and to oppose prejudice to public interests." *Id. quoting Mulligan v. Joliet Regional Port Dist.*, 123 Ill. 2d 303, 313 (1988).

Because Article VI anticipates a psychiatric emergency, it is to be expected that recipients will be admitted upon evaluation by clinicians in an emergency room. Indeed, in psychiatric emergencies, people are generally brought to or advised to go to emergency departments. Ill. Dept. of Human Services *Emergency Mental Health Services*, *at* http://www.dhs.state.il.us/page.aspx?item=29735. Further, Article VI foresees that police officers may bring recipients to hospitals. Specifically, section 3-606 provides that a peace officer "may take a person into custody and transport him to *a mental health facility* when the peace officer has reasonable grounds to believe that the person is subject to involuntary admission on an inpatient basis and in need of immediate hospitalization." 405 ILCS 5/3-606 (West 2016) [italics added]. That section requires the peace officer to complete a petition for involuntary admission or for the petition to include the officer's name, badge number, and employer. *Id*.

The appellate court has interpreted this section, and has applied it to hospital emergency departments without question though, according to its language, that section applies specifically to "mental[-]health facilit[ies]." 405 ILCS 5/3-606 (West 2016). In one case, police brought the respondent to an emergency room, but did not complete the petition, as 3-606 then required, and thus the respondent filed a motion to dismiss. *In re Demir*, 322 Ill. App. 3d 989, 990-992 (4th Dist. 2001). The trial court denied the motion, and committed the respondent. *Id*. The appellate court reversed the commitment order, finding the trial court committed reversible error by denying respondent's motion to dismiss. *Id*. at 994. Similarly, in another case, police brought the respondent to an emergency room, but the petition did not include the officers' names or badge numbers. *In re Joseph P.*, 406 Ill. App. 3d 341, 348 (4th Dist. 2010) *overruled on other grounds by In re Rita P.*, 2014 IL 115798, ¶ 33-34. The appellate court reversed the commitment order for this reason along with several other errors. *Id*. at 351.

These two cases show that the Code's definition of mental-health facility is intentionally broad to encompass all areas where recipients may receive urgent care for their mental illnesses. The legislature intended that requiring peace officers to include their names ensured that the officers' had reasonable grounds based on personal observation to believe the respondent met criteria for involuntary admission. *Report*, Governor's Commission for Revision of the Mental Health Code of Illinois, 53 (1976); *see People v. Bledsoe*, 268 Ill. App. 3d 869, 872 (1st Dist. 1994) (noting that courts commonly rely on this Report as a primary source of legislative history of mental-health legislation). But the legislature also wanted to give peace

officers authority to bring recipients directly to facilities rather than going through the criminal justice system first, as was common at the time that the Code was substantially revised. *Report* at 53*.* Then, police in Chicago either took recipients to jail or to one of two state-operated mental-health facilities. *Id*. But the state facilities were overcrowded, and there was difficulty obtaining admission in the evening hours. *Id.* at 52- 53. So, in 1973 the Department of Mental Health provided grants to establish "community reception programs" to operate 24 hours a day in four private hospitals. Peace officers were able to bring the most seriously ill people directly to these programs. *Id.* Accordingly, the Governor's Commission commented that "treatment for mental illness is no longer confined to a traditional hospital setting and the term 'mental health facility' is thought to be a more comprehensive and descriptive designation'" than the Code's previous term "hospital," particularly since the passage in 1963 of the federal Community Mental Health Centers Act. *Id.* at 12-13. "Mental[-]health facility" is "comprehensively defined to be broader than 'hospital' … and to include all facilities —state, private, and community— which provide mental[-]health services." *Id.* at 2.

To construe "mental-health facility" narrowly would undermine the purpose of the Code's provisions for emergency admission —accountability and appropriate and urgent treatment. Further, a narrow construction would lead to absurd results, contrary to a tenet of statutory construction. *Lieberman*, 201 Ill. 2d. at 308. If the Code required peace officers' identities only when they brought people directly to distinct psychiatric units or to stand-alone psychiatric hospitals, but not to emergency rooms or other receiving facilities, then respondents would have

different rights at different times dictated by the status of their non-psychiatric health. Individuals without comorbid medical conditions who could be admitted directly to psychiatric units would be afforded the Code's protections of notice, right to counsel, and their day in court, whereas recipients *with* serious comorbid conditions would not.

Linda B. was hospitalized in a mental-health facility.

In Ms. Linda B.'s case, it is undisputed that the purpose of her hospitalization at Mount Sinai was for both psychiatric and medical treatment. (R.43) Such was the testimony of the State's expert witness. (R.43) She was admitted with symptoms of her mental illness after she became "intolerable and threatening" when she stopped taking her psychiatric medication. (R.15-16) But she also had multiple medical conditions, and "had to be on [the] medical floor." (R.14, 20) The record shows that Ms. Linda B. had "C. Diff," or a clostridium-difficile infection, which requires isolation in a private room and contact precautions for visitors and medical staff. (C.30); Ovsiew, *supra*, at 90. She had an intravenous line, a heart monitor, a tube and drain, a fecal management device, and required wound care – non-psychiatric interventions that cannot typically be administered on psychiatric units. (C.32-33); Darves, *Rewards and challenges, supra*.

It is also undisputed that Ms. Linda B. received mental-health treatment on the medical floor during her entire stay. She received regular psychiatric examinations and involuntary psychotropic medication, and her mobility was restricted by one-to-one sitters. (R.10, 12, 14, 16, 31; C.33-34).

According to Ms. Linda B.'s psychiatrist, Linda B. is not the only person to receive mental-health treatment on the medical floors of Mount Sinai. Instead, people regularly receive mental-health treatment on those floors. The psychiatrist testified that "every day [she sees] four or five patients on [the] medical floors." (R.43) Thus, according to the *Muellner* court's construction of sections 1-114 and 1-113, Mount Sinai's medical floor qualifies as a mental-health facility. *Muellner*, 335 Ill.App.3d at 1084.

Given the psychiatrist's testimony, and that most people with mental illnesses have comorbid non-psychiatric conditions, and that some of them receive mental-health care in scatter beds in general hospitals, this Court should 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. Moreover, this Court should reverse the appellate court's holding, and find that Ms. Linda B. was indeed held in a mental–health facility and should have been afforded her rights under the Mental Health Code upon her admission on April 22, 2013.

To so hold would reflect the current trend that mental-health treatment is no longer relegated to so-called mental institutions of old, and persons with mental illness are no longer segregated exclusively in locked psychiatric units, especially as psychiatric units are not equipped to address recipients' severe non-psychiatric treatment needs and as the availability of distinct psychiatric beds is decreasing.

Illinois hospitals are already relying on the Mental Health Code to detain recipients where their treatment needs dictate, including on medical floors. Although there is not a published opinion, the facts of an unpublished order so

show. *In Laurine R.*, 2013 IL App (4th) 120236-U. In *Laurine R.*, the appellate court does not address application of the Code to medical-floor admission, but this Court may take judicial notice of the facts in that case. *May Dept. Stores Co. v. Teamsters Union Local No. 743*, 64 Ill. 2d 153, 159 (1976). There, a crisis-team manager had the respondent taken to an emergency room because of the symptoms of her mental illness, including threatening behavior, irritability, rapid nonsensical speech, and psychosis. *Laurine R.*, 2013 IL App (4th) 120236-U, ¶ 5-6. The crisis manager filled out a petition that was filed in the court, even though the respondent initially had to be admitted to a medical unit before being transferred to the psychiatric unit because she had "out-of-control-blood pressure." *Id.* at ¶ 6-7.

This Court may also take judicial notice of petitions filed by hospitals in Cook County that do not have a psychiatric unit. *May Dept. Stores Co.*, 64 Ill. 2d at 159; *Rural Electric Convenience Cooperative Co. v. Illinois Commerce Comm.*, 118 Ill. App. 3d 647, 651, (4th Dist. 1993). A search of petitions filed during a 22-month period, from September 2014 to June 2016, shows that 94 involuntary-admission petitions were filed by hospitals without a mental-health unit. This is over 4 petitions a month. Many of these petitions were initiated due to a recipient's suicide attempt. See the list of 94 Cook County cases by hospital at A-23 of the Appendix to this brief.

In sum, the Code is sufficiently flexible and broad to accommodate the changing landscape of mental-health treatment. In 1976 the Governor's Commission for the Revision of the Mental Health Code "attempted to reflect and anticipate present and future judicial trends." *Report*, supra, at 2. To construe the Code as applying only to distinct psychiatric units would result in disparate treatment of

individuals with mental illnesses based on the location of their treatment. As some doctors have put it when discussing concurrent medical and psychiatric care, "[w]e maintain that patients and their needs transcend geography…" John Querques, M.D. & Theodore A. Stern, M.D., *Intensive Care Unit Patients*, *in* Handbook of General Hospital Psychiatry 405 (Theodore A. Stern, M.D. et al., 2010). If this Court affirms the appellate court's decision in *In re Linda B.*, people could be held in scatter beds on medical floors or in emergency rooms without their consent and without the legal protections the Code guarantees.

VI. The appellate court erred when it found that Ms. B. was "not admitted in a legal sense pursuant to article VI" of the Mental Health Code when she was hospitalized on April 22, 2013.

Linda B. agrees that the Mental Health Code uses the term "admission" to reflect a recipient's "legal status." *In re Linda B.*, 2015 IL App (1st) 132134, ¶19; *see also* 405 ILCS 5/1-100 through 405 ILCS 5/1-129 (West 2016) (the Code's chapter on definitions contains no definition of "admission"). An inpatient recipient's legal status under the Code, however, envisions the recipient's presence – or "hospitalization" – within a mental-health facility. *In re Andrew B.*, 237 Ill. 2d 340, 350-351 (2010); *see also* 405 ILCS 5/1-112 (West 2016) ("hospitalization" is defined as inpatient treatment).

Although the appellate court relied on this Court's *Andrew B.* decision to hold that Linda B's petition was timely filed, *Andrew B.* is inapposite here. *Andrew B.* involved successive filing of involuntary-commitment petitions to legally hold a recipient against his will, and whether there had to be a physical discharge and new

physical "admission" to justify a newly filed petition after the dismissal of a preceding one. *Andrew B.*, 237 Ill. 2d at 343, 355-56. In *Andrew B.*, this Court recognized that a new "admission" – that is, a new legal status – began for Mr. Andrew B. once he had been discharged by the trial court but remained physically present in the mental-health facility. *Andrew B.*, 237 Ill. 2d at 350-351. In other words, his first admission ended because of the court order for his discharge; however, this Court held that a new admission began when hospital staff filed a new petition for involuntary admission as Mr. Andrew B. was alleged to still meet involuntary-commitment criteria. *Id.*[7] Importantly, however, Mr. Andrew B. was always physically present at Singer Mental Health Center and was never held against his will without a petition for involuntary commitment on file with the circuit court until the point where he was ordered committed. *Andrew B.*, 237 Ill. 2d at 343.

By contrast, Ms. Linda B. was admitted to Mount Sinai Hospital on April 22, 2013, after she stopped taking her psychotropic medication (Depakote) and became "intolerable and threatening." (R.15-16) She was present in the hospital as an inpatient, and, according to the petitioner/facility director, Connie Shay-Hadley, admitted to the mental-health facility on that date. (C.6) She was continuously confined as of April 22, 2013. (R.10, 14, 16, 30, 31; C.33-34) And she was continuously refusing treatment of any kind. (R.12,15,20,35; C.4)

[7] Mr. Andrew B. was actually twice ordered discharged by the trial court and twice had new petitions for involuntary admission filed without his having left the mental-health facility. *Andrew B.*, 237 Ill. 2d at 343.

It is undisputed that Ms. B. was hospitalized at Mount Sinai against her will; there is no evidence that Ms. B.'s legal status of admission was voluntary – either as an informal admittee under the Mental Health Code, which would have required her request to be admitted, or as a voluntary admittee, which would have required her consent to and completion of a voluntary application. (R.1-59; C.1-57) 405 ILCS 5/3-300 (West 2016); 405 ILCS 5/3-400 (West 2016).

It is also undisputed that no one else consented to Ms. B.'s admission to the hospital for non-psychiatric reasons. Ms. B. has no guardian and is considered her own decision-maker. (R.37) Moreover, Dr. Mirkin testified that "[f]or medical conditions, there's no need for consent. Consent [is] needed only for psychotropic medications." (R.35) Thus there was no evidence that anyone consented to either Ms. B.'s admission to or treatment at Mount Sinai for *non*-psychiatric reasons. In fact, the petition for involuntary admission here alleged, in part, that Ms. B. was subject to involuntary commitment for inability to care for her basic physical needs, one of which petitioner Shay-Hadley identified as "refusing treatment for both medical [that is, non-psychiatric] and psychiatric illness." (C.4, 22) *See In re Deborah S.*, 2015 IL App (1st) 123596, ¶31 (finding it necessary for a court to determine whether a respondent can obtain her own food, shelter, and medical care where a commitment petition alleges neglect of "basic physical needs").

The only way, then, for Mount Sinai to have hospitalized Ms. B. against her will would have been to have followed the Code's procedures for involuntary admission starting on the date Mount Sinai recognized as her "admission." 405 ILCS 5/3-600 *et seq.* (West 2016). Put in different terms, Ms. B.'s legal status as a person

with mental illness, being hospitalized without her consent, began on April 22, 2013, at 1958 hours, according to both Mount Sinai's petition and required dispositional report filed by the State. (C.6, 32, 33, 34) Yet the appellate court found that Ms. B. "was not admitted in a legal sense pursuant to article VI [emergency admission by certification] when she first entered the medical floor of Mount Sinai Hospital on April 22, 2013." *Linda B.*, 2015 IL App (1st) 132134, ¶23. The appellate court ignored the time period between April 22 and May 9 and did not address or explain Mount Sinai's authority for hospitalizing Ms. B. "for both" psychiatric and non-psychiatric treatment during this time. (R.44)

By not following the Mental Health Code's procedures for involuntary admission starting on April 22, 2013, Mount Sinai had no authority to detain Ms. B. and there was no change in her legal status to support filing a petition on the arbitrary day of May 9. In contrast, Mr. Andrew B.'s legal status was always defined during his hospitalization: he was first a voluntary admittee, then a petition was filed based on his request for discharge, then when that petition was dismissed, an emergency-admission-by-certificate petition was filed, and so on. *Andrew B.*, 237 Ill. 2d at 343.

The hospital, furthermore, did not follow its own practices. Dr. Elizabeth Mirkin told the trial court what happens when psychiatric patients are hospitalized with comorbid medical conditions in beds on a medical floor of Mount Sinai:

> We do not petition [for involuntary mental-health purposes] unless we think the patient needs to go to court because the patient is noncompliant with treatment.

(R.43) But Ms. B. was, as Dr. Mirkin commented, "noncompliant with treatment" on April 22, 2013, and thereafter. (R.12,15,20,35; C.4) Yet facility director Shay-Hadley did not petition for Ms. B.'s involuntary admission until May 9, 2013, and the first and second certificates were not completed until that date either, in violation of the Code's Article VI admission procedures. (C.3-9) 405 ILCS 5/3-602 (West 2016); 405 ILCS 5/3-610 (West 2016); 405 ILCS 5/3-611 (West 2016). There was no change in Ms. B.'s legal status on May 9, 2013 to warrant the involuntary-commitment petition and certificates not being filed until that day. Instead, when hospital staff examined, evaluated, diagnosed, and hospitalized Ms. B. as a person with mental illness on April 22, 2013 (R.9-10, 44; C.6, 32, 33, 34), that is when the 24-hour period for filing a petition and certificates began. 405 ILCS 5/3-604 (West 2016); 405 ILCS 5/3-610 (West 2016); 405 ILCS 5/3-611 (West 2016); *see Andrew B.*, 237 Ill. 2d at 354 (the Mental Health Code's protections must be heeded to avoid depriving a person of her liberty contrary to the Code's fundamental purposes).

The appellate court thus erred in holding that Ms. B.'s legal status as an admitted involuntary mental-health recipient began on May 9, 2013, based on the arbitrary timing of when the involuntary-admission petition – prepared by facility director Connie Shay-Hadley – was presented to facility director Connie Shay-Hadley. *Linda B.*, 2015 IL App (1st) 132134, ¶23. Nor does this Court's *Andrew B.* opinion support the appellate Court's reasoning. This Court was "troubled" in *Andrew B.* "by the potential that mental-health facilities could file repetitive petitions, resulting in the indefinite confinement of an individual without a court's examination of the matter." *Andrew B.*, 237 Ill. 2d at 354. Here, it is even more

troubling that a mental-health recipient may be detained somewhere in a hospital without an attorney, without a court date, and without any authority, until the hospital staff files a petition at an arbitrary time of their choosing.

VII. Applying the Mental Health Code to medical floors would protect not just recipients' rights but would also provide clarity for hospitals and protect them from potential lawsuits.

When people with mental illnesses are detained for treatment in mental-health facilities without their consent and the facility lacks authority for the detention, it may be liable for false imprisonment. *Sassali v. DeFauw*, 297 Ill. App. 3d 50, 54 (2nd Dist. 1998). The appellate court answered a certified question finding that a recipient could plead a false imprisonment action for the period of time that the facility was late in filing a petition for her involuntary admission. *Sassali*, 297 Ill. App. 3d at 54. In another case, the appellate court reversed a grant of summary judgment to a hospital, finding that a recipient's false imprisonment claim warranted further proceedings when he was sent to a hospital based on a physician's stale certificate executed outside of the period set forth in the Code. *Arthur v. Lutheran General Hosp.*, Inc., 295 Ill. App. 3d 818, 821, 827 (1st Dist. 1998).

Conversely, when detention is pursuant to a legal process, the hospital or physician will be protected from liability. *Doe v. Channon*, 335 Ill. App. 3d 709 (1st Dist. 2002). When a psychiatrist examined a recipient detained for mental-health treatment within the 24-hour period specified in section 3-610 of the Code, the appellate court found the detention was lawful and affirmed the trial court's grant of summary judgment to the psychiatrist. *Id.* at 714.

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. This would strike the desired balance between an individual's fundamental liberty interest and society's interest in protecting the public and individuals with mental illnesses. *See In re Stephenson*, 67 Ill. 2d 544, 554 (1977) (finding the Code reflects a concern for this balance and a serious attempt to provide it). At the same time, the Code's provisions would guide hospitals and protect them from complaints about false imprisonment. Construing the Code to reflect current conditions, then, would benefit all parties and promote public interests.

CONCLUSION

For the foregoing reasons, Petitioner Linda B. respectfully requests that this Court reverse the appellate court's and the trial court's decisions in this matter. Because Ms. B.'s involuntary-commitment period concluded in 2013, a remand is not necessary. *See In re Barbara H.*, 183 Ill. 2d 482, 498 (1998) (finding that because the proceedings had concluded, a remand was not in order and any further involuntary mental-health order would require the initiation of new proceedings).

Respectfully submitted,
LEGAL ADVOCACY SERVICE

By: /s/Laurel Spahn, One of Linda B.'s Attorneys

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 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 38 pages.

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APPENDIX

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No. 1-13-2134

IN THE APPELLATE COURT, STATE OF ILLINOIS
FIRST JUDICIAL DISTRICT

In re LINDA B., a Person Found Subject to Involuntary Admission	)	Appeal from the Circuit Court of Cook County.
(The People of the State of Illinois, Petitioner-Appellee,	)	No. 2013 COMH 1381
v.	)	The Honorable David Skryd, Judge Presiding.
Linda B., Respondent-Appellant).	)	

ORDER

Having examined the record and after reviewing the briefs, this court being of the opinion that oral argument is not necessary;

IT IS HEREBY ORDERED that pursuant to Supreme Court Rule 352(a) as amended, this case is taken for consideration without oral argument.

ORDER ENTERED

FEB 10 2015

APPELLATE COURT, FIRST DISTRICT

Justice

Justice

Justice

Illinois Official Reports

Appellate Court

***In re Linda B.*, 2015 IL App (1st) 132134**

Appellate Court Caption	*In re* LINDA B., a Person Found Subject to Involuntary Admission (The People of the State of Illinois, Petitioner-Appellee, v. Linda B., Respondent-Appellant).
District & No.	First District, Third Division Docket No. 1-13-2134
Filed Rehearing denied	February 18, 2015 April 29, 2015
Held *(Note: This syllabus constitutes no part of the opinion of the court but has been prepared by the Reporter of Decisions for the convenience of the reader.)*	Although respondent's appeal from the order for her involuntary admission to a mental health facility for treatment was moot due to the fact that the 90-day period of hospitalization had expired, the public-interest exception to the mootness doctrine applied, and respondent's contention that the admission order should be reversed because it was untimely filed was rejected by the appellate court and the trial court's order finding respondent to be a person subject to involuntary admission was affirmed, notwithstanding respondent's contention that the petition was untimely filed in violation of section 3-611 of the Mental Health Code, since the court rejected respondent's claims that she was in a "mental health facility" as defined by the Mental Health Code and that she was treated as a psychiatric patient, even though she was on a medical floor of the hospital.
Decision Under Review	Appeal from the Circuit Court of Cook County, No. 2013-COMH-1381; the Hon. David Skryd, Judge, presiding.
Judgment	Affirmed.

Counsel on Appeal

Legal Advocacy Service, of Hines (Laurel Spahn, of counsel), for appellant.

Anita M. Alvarez, State's Attorney, of Chicago (Alan J. Spellberg, Assistant State's Attorney, of counsel), for the People.

Panel

PRESIDING JUSTICE PUCINSKI delivered the judgment of the court, with opinion.
Justices Lavin and Mason concurred in the judgment and opinion.

OPINION

¶ 1 Respondent Linda B. appeals from an order of the circuit court of Cook County finding her to be a person subject to involuntary admission on an inpatient basis. Respondent contends 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 (Mental Health Code) (405 ILCS 5/3-611 (West 2012)). Respondent acknowledges that the issue is moot, but contends this appeal falls within the public-interest and capable-of-repetition-yet-avoiding-review exceptions to the mootness doctrine.

¶ 2 BACKGROUND

¶ 3 The undisputed facts in the record before us show that on May 9, 2013, Connie Shay-Hadley, the mental health facility director at Mount Sinai Hospital, filed a petition alleging that respondent was a person subject to involuntary admission to a treatment facility. The petition sought emergency inpatient admission by certificate (405 ILCS 5/3-600 (West 2010)) and indicated that respondent was admitted to the "Mental Health Facility/Psychiatric Unit" on April 22, 2013, at 1958 hours. The supporting certificates submitted by Dr. Medela Gartel, who examined respondent on May 9, 2013, at 11 a.m., and Colleen Kurtz, the licensed clinical social worker who examined respondent on May 9, 2013, at 12 p.m., opined that respondent was mentally ill, unable to care for herself, and refusing both medical and psychiatric treatment.

¶ 4 Meanwhile, on May 14, 2013, the circuit court granted the petition of Dr. Gartel for the involuntary administration of psychotropic medication to respondent for a period of 90 days.

¶ 5 Subsequently, at the June 11, 2013, hearing on the involuntary admission petition, Dr. Elizabeth Mirkin, a board-certified psychiatrist, testified that respondent was admitted to the "medical floor" of Mount Sinai Hospital on April 22, 2013, because she was experiencing tachycardia, or a rapid heartbeat, and found to be severely anemic. Dr. Mirkin explained that respondent was monitored by a psychiatrist and a sitter, who provided one-to-one supervision, throughout her stay on the medical floor in light of her prior admission to the psychiatric unit of Mount Sinai Hospital in January and her failure to take her medications.

Dr. Mirkin stated that respondent was much calmer on June 10, 2013, when she last saw her, than on May 25, 2013, when she first saw respondent during her consultation rounds on the medical floor. Dr. Mirkin added that respondent had been diagnosed with schizophrenia more than 10 years ago and that she was admitted to the "psychiatric unit" of Mount Sinai Hospital earlier in January. Dr. Mirkin testified that she believed with a reasonable degree of psychiatric certainty that respondent, due to her mental illness, was unable to provide for her physical needs so as to require treatment on an inpatient basis. Dr. Mirkin explained that respondent was delusional, easily upset, and aggressive, and she had a history of noncompliance in taking medications, particularly whenever she was discharged from the hospital. Dr. Mirkin believed that respondent would benefit from inpatient treatment at Park Shore Nursing Home because she must take medications on a regular basis.

¶ 6 On cross-examination, Dr. Mirkin testified that respondent required constant supervision by a sitter because she wandered the hall and went to the pediatric unit to see babies. On redirect examination, Dr. Mirkin testified that respondent has been taking better care of herself because of her hospitalization and recent compliance in taking her medications.

¶ 7 After the State rested, respondent's counsel moved to dismiss the petition for involuntary admission "based upon the petition having been filed well beyond the 24 hours after [respondent's] admission." Counsel argued that the petition was untimely filed where respondent was admitted to the medical floor of Mount Sinai Hospital on April 22, 2013, but was being treated psychiatrically. Over counsel's objection, the circuit court granted the State's request to reopen its case to present the testimony of Dr. Mirkin, who responded that she and her medical team do not submit petitions for patients admitted to the medical floor "unless we think the patient needs to go to court because the patient is noncompliant with treatment." The circuit court denied respondent's motion to dismiss the petition for involuntary admission, and following a brief recess, respondent rested without testifying.

¶ 8 After closing arguments, the circuit court granted the petition for involuntary admission of respondent and entered a written order, finding respondent subject to involuntary admission on an inpatient basis because she is a person with mental illness and who, because of that mental illness, is unable to provide for her basic physical needs and refusing both medical and psychiatric treatment. The written order also provided that respondent be treated at Park Shore Nursing Home, based on Dr. Mirkin's recommendation, for a period of hospitalization not to exceed 90 days.

¶ 9 ANALYSIS

¶ 10 In this court, respondent contends that the circuit court's involuntary admission order should be reversed because the petition was untimely filed. Respondent further contends that although the circuit court's involuntary admission order has expired and the matter is undisputedly moot, this appeal falls within two recognized exceptions to the mootness doctrine.

¶ 11 Because the 90-day period of hospitalization that respondent appeals from has expired, we must consider the threshold issue of whether the mootness doctrine precludes our review of the merits of her appeal. *In re Andrew B.*, 386 Ill. App. 3d 337, 339 (2008). "A case on appeal 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, 542 (2002).

Because the existence of an actual controversy is essential to the exercise of appellate jurisdiction, reviewing courts will generally not decide questions that are abstract, hypothetical, or moot. *In re James W.*, 2014 IL 114483, ¶ 18. However, our supreme court has recognized the following exceptions to the mootness doctrine: (1) the public interest exception; (2) the capable-of-repetition-yet-avoiding-review exception; and (3) the collateral consequences exception. *In re Laura H.*, 404 Ill. App. 3d 286, 289 (2010). Whether an appeal should be dismissed as moot presents a question of law, which we review *de novo*. *In re James W.*, 2014 IL 114483, ¶ 18.

¶ 12 The public interest exception permits review of an otherwise moot appeal when: (1) the issue is of a public nature; (2) an authoritative determination is required for the future guidance of public officers; and (3) there is a likelihood of future recurrences. *In re Andrew B.*, 237 Ill. 2d 340, 347 (2010). The exception must be construed narrowly and established by a clear showing of each aforementioned criterion. *In re Andrew B.*, 237 Ill. 2d at 347.

¶ 13 Here, respondent challenges the validity of a petition seeking her involuntary admission filed more than 24 hours after her admission to the medical floor of Mount Sinai Hospital on April 22, 2013, based on her contention that she was being treated psychiatrically. This 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. *In re Lance H.*, 2014 IL 114899, ¶ 14. Additionally, an authoritative determination of this issue will contribute to the efficient operation of our judicial system. *In re Robin C.*, 395 Ill. App. 3d 958, 963 (2009); see also *In re Lance H.*, 2014 IL 114899, ¶ 14 (a determination of the issue "would aid the courts and future litigants in administering the Mental Health Code"). Moreover, 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. *In re Lance H.*, 2014 IL 114899, ¶ 14. Under these circumstances, we conclude that the public interest exception to the mootness doctrine applies to this case, and we thus need not address the capable-of-repetition exception. *In re Laura H.*, 404 Ill. App. 3d at 290.

¶ 14 On the merits, respondent contends that we should reverse the involuntary admission order because the petition was untimely filed in violation of section 3-611 of the Mental Health Code (405 ILCS 5/3-611 (West 2012)).

¶ 15 A brief outline of the applicable statutory framework is necessary for an understanding of the procedural framework giving rise to this appeal. *In re Andrew B.*, 237 Ill. 2d at 348. Section 3-600 of the Mental Health Code authorizes involuntary admission of an individual 18 years of age or more, in need of immediate hospitalization. 405 ILCS 5/3-600 (West 2006); see also *In re Andrew B.*, 237 Ill. 2d at 348. Under such circumstances, "a petition may be filed with a mental-health facility." *In re Andrew B.*, 237 Ill. 2d at 348 (citing 405 ILCS 5/3-601(a) (West 2006)).

¶ 16 Generally, the petition must include a detailed explanation of why the individual is subject to involuntary admission and, specifically, signs and symptoms of a mental illness and any other behavior supporting the allegation. *In re Andrew B.*, 237 Ill. 2d at 348-49 (citing 405 ILCS 5/3-601(b)(1) (West 2006)). The petition must also be supported by a certificate of a physician or qualified examiner, stating that the individual is subject to involuntary admission and requires immediate hospitalization. *In re Andrew B.*, 237 Ill. 2d at 349 (citing 405 ILCS 5/3-602 (West 2006)). Further, the certifying professional's statement

must be based on a physical examination of the individual within 72 hours of admission. *In re Andrew B.*, 237 Ill. 2d at 349 (citing 405 ILCS 5/3-602 (West 2006)).

¶ 17 As relevant here, section 3-611 of the Mental Health Code requires that the *mental health facility director* file in the trial court the petition and two supporting certificates within 24 hours following the individual's *admission to the facility*. *In re Andrew B.*, 237 Ill. 2d at 349 (citing 405 ILCS 5/3-611 (West 2006)). A final order for involuntary admission is limited to 90 days, absent a determination by the trial court that the individual is subject to continued involuntary admission. *In re Andrew B.*, 237 Ill. 2d at 349 (citing 405 ILCS 5/3-813 (West 2006)).

¶ 18 Section 3-611 provides in pertinent part:

> "§ 3-611. *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." (Emphases added.) 405 ILCS 5/3-611 (West 2012).

The 24-hour filing requirement of section 3-611 "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.

¶ 19 Respondent argues, for purposes of section 3-611, that the underlying admission petition was late and, thus, defective because "the petition was not filed within 24 hours of [her] admission on April 22." However, 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. *In re Andrew B.*, 237 Ill. 2d at 350 (citing 405 ILCS 5/3-813, 3-801 (West 2006)). A reasonable construction of these other provisions is that the Mental Health Code utilizes the term " 'admission' in a legal sense to describe the individual's legal status," and, accordingly, "section 3-611's reference to 'admission' is not always limited to the individual's original physical entry" into a mental health facility. *In re Andrew B.*, 237 Ill. 2d at 350.

¶ 20 Respondent maintains that she was in a "mental health facility" as defined by the Mental Health Code because she received mental health treatment "beginning April 22 and continuing throughout her hospital stay," and in her reply brief, she submits that she was "treated as a psychiatric patient, but on a medical floor."

¶ 21 The Mental Health Code defines "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 (West 2012).

¶ 22 Correspondingly, the Mental Health Code defines "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." 405 ILCS 5/1-113 (West 2012).

¶ 23 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; 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. *In re Moore*, 301 Ill. App. 3d 759, 766 (1998). "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. Because 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 Andrew B.*, 237 Ill. 2d at 349-50. We thus conclude that the May 9, 2013, petition seeking respondent's emergency inpatient admission by certificate was timely as it was filed within 24 hours after it was presented to Connie Shay-Hadley, the mental health facility director at Mount Sinai Hospital. *In re Andrew B.*, 237 Ill. 2d at 351.

¶ 24 Accordingly, we affirm the order of the circuit court of Cook County finding respondent to be a person subject to involuntary admission on an inpatient basis.

¶ 25 Affirmed.

No. 1-13-2134

IN THE APPELLATE COURT, STATE OF ILLINOIS
FIRST JUDICIAL DISTRICT

In re LINDA B., a Person Found Subject to Involuntary Admission (The People of the State of Illinois, Petitioner-Appellee, v. Linda B., Respondent-Appellant).	Appeal from the Circuit Court of Cook County. No. 2013 COMH 1381 The Honorable David Skryd, Judge Presiding.

ORDER

This matter coming to be heard on respondent-appellant's petition for rehearing and, alternatively, for the issuance of a certificate of importance to the Illinois Supreme Court, and the court being fully advised in the premises;

IT IS HEREBY ORDERED, that the petition for rehearing is DENIED.

IT IS FURTHER ORDERED, that the request for the issuance of a certificate of importance to the Illinois Supreme Court is DENIED.

ORDER ENTERED

APR 29 2015

APPELLATE COURT, FIRST DISTRICT

Justice

Justice

Justice

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
NTY DEPARTMENT, COUNTY DIV ON

VERIFIED BY
BC INITIALS

IN THE MATTER OF

Linda B ____ } 2013 COMH 001381

Respondent

ORDER

This matter coming on to be heard on the Petition of Connie Shay hadley seeking involuntary admission of the Respondent under provisions of the Mental Health and Developmental Disabilities Code of Illinois and the Court being fully advised

IT IS ORDERED:

- ☐ On the Motion of the Petitioner, the matter is Voluntarily Dismissed _____; **(8006)**
- ☐ On the Motion of the Respondent, the matter is dismissed on the basis that _____; **(8002)**

AFTER HEARING, THE COURT'S FINDINGS AND CONCLUSIONS BEING OF RECORD, THE COURT FINDS:

☒ **A.** That the Respondent is subject to involuntary admission on an inpatient basis because, in accordance with Section 1-119 of the Mental Health and Disabilities Code, he or she is a person with mental illness and who because of that mental illness is: **(4017)**

- ☐ 1. Reasonably expected, unless treated on an inpatient basis, to engage in conduct placing such person or another in physical harm or in reasonable expectation of being physically harmed.
- ☒ 2. Unable to provide for his or her basic physical needs so as to guard himself or herself from serious harm without the assistance of family or others unless treated on an inpatient basis.
- ☒ 3. A person with mental illness who (i) refuses treatment or is not adhering to prescribed treatment; (ii) because of the nature of his or her illness, is unable to understand his or her need for treatment; and (iii) if not treated on an inpatient basis, is reasonably expected, based on his or her behavioral history, to suffer mental or emotional deterioration and is reasonably expected, after such deterioration, to meet the criteria of paragraph (1) or (2) above.

☐ **B.** That the Respondent is subject to involuntary admission on an outpatient basis because the Respondent is a person with mental illness who: *(Check all that apply.)*

- ☐ 1. Would meet the criteria for admission on an inpatient basis as specified in Section 1-119 of the Mental Health and Disabilities Code in the absence of treatment on an outpatient basis and for whom treatment on an outpatient basis can only be reasonably ensured by a court order mandating such treatment; or
- ☐ 2. If such mental illness is left untreated, is reasonably expected to result in an increase in the symptoms caused by the illness to the point that the person would meet the criteria for commitment under Section 1-119 of the Mental Health and Disabilities Code, and whose mental illness has, on more than one occasion in the past, caused that person to refuse needed and appropriate mental health services in the community.

☐ **C.** Respondent is not a person subject to involuntary admission and is discharged.

IT IS FURTHER ORDERED: That the Respondent

- ☐ be hospitalized at the Department of Human Services mental health or developmental center, which is the least restrictive environment currently appropriate and available.
- ☐ be hospitalized at _____, a licensed private hospital.
- ☐ be hospitalized with the Veterans Administration.
- ☐ undergo a program of alternative treatment as prescribed in the attached Addendum.
- ☒ be treated at Park Shore Nursing Home, a private or community health facility.
- ☐ be placed in the care and custody of _____; and the custodian shall have the authority granted in the addendum to this Order and no other. **(4640)**

DOROTHY BROWN CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

C00015

☐ Other, *please specify:* _____ (Attach Addendum, if Additional space required)

☒ The Clerk of the Court shall forward a copy of this Order to the Department of State Police, Firearm Owner's Identification Department. **(4016)**

☒ The Facility Director shall file a treatment plan with this Court as required by 405 ILCS 5/3-814 within 30 days of the date of this Order.

☒ The period of hospitalization shall not exceed 90 days.

☐ The Petitioner who initiated this matter pursuant to 405 ILCS 5/3-701 is present and has received oral and written notice of their rights under 405 ILCS 5/3-902 to receive notice of the Facility Director's decision to discharge the Respondent.

☐ The Petitioner who initiated this matter pursuant to 405 ILCS 5/3-701 is not present and the Clerk of the Court is directed to mail notice to the Petitioner of their rights under 405 ILCS 5/3-902 to receive notice of the Facility Director's decision to discharge the Respondent.

☒ This matter is continued to 7/15/2013 (Date) at 11:00 (Time) Daley Center (Court Location) for a report on the Respondent's status. **(6900)**

Petitioner's Address for purpose of Notice: _____

Respondent's Gender: F Race: B/K Date of Birth: 1/15/62

(The mailing and identifying information to be inserted by the Assistant State's Attorney)

☒ Appeal Rights Given

I.D. _____

Name: _____

Atty for: _____

Address: _____

_____

Phone: _____

ENTER:

1906

Judge **Judge's No.**

Gender: F Race: Black Date of Birth: 1/15/62

(To be inserted by Assistant State's Attorney)

Associate Judge David A. Skryd

JUN 17 2013

Circuit Court-1906

No. 1-13- 2134

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

In the Matter of **Linda B.,** Alleged to be a Person Subject to the Involuntary Admission Respondent-Appellant	Appeal from the Circuit Court of Cook County No. 2013 CoMH 1381 Honorable David A. Skryd, Presiding Judge

ORDER

This matter, coming to be heard on Linda B.'s Motion for leave to file late notice of appeal; the Court having been fully advised; and due notice having been given;

IT IS ORDERED:

1. Linda B.'s Motion for leave to file late notice of appeal is GRANTED / [redacted].

(if granted)

2. The Appellate Clerk, pursuant to Supreme Court Rule 303(d), is directed to transmit the notice of appeal to the trial court for filing.

ENTERED:

ORDER ENTERED
JUL 17 2013
APPELLATE COURT, FIRST DISTRICT

Justice

Justice

Justice

C00053

1352134

APPEAL TO THE FIRST DISTRICT APPELLATE COURT
FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

In the Matter of **LINDA B.** Alleged to be a person subject to involuntary admission Respondent-Appellant	Appeal from the Circuit Court of Cook County, Illinois No. 2013 CoMH 1381 Honorable David A. Skryd, Presiding Judge

LATE NOTICE OF APPEAL

LINDA B., by her court-appointed attorney, Legal Advocacy Service of the Illinois Guardianship and Advocacy Commission, pursuant to Supreme Court Rule 303 files this Notice of Appeal.

An appeal is taken from the order of Judge David Skryd, dated June 11, 2013, finding Ms. B. to be a person subject to involuntary admission to a mental-health facility pursuant to the Mental Health Code. Ms. B. seeks reversal of the involuntary admission order.

Respectfully submitted,
LEGAL ADVOCACY SERVICE, A division of the
Illinois Guardianship & Advocacy Commission

By: Laurel Spahn
One of Linda B.'s attorneys

Laurel Spahn, Staff Attorney
LEGAL ADVOCACY SERVICE
Illinois Guardianship and Advocacy Commission
P.O. Box 7009
Hines, Illinois 60141-7009
708/338-7500
No. 50685

C000050

SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721

September 30, 2015

Ms. Laurel May Whitehouse Spahn
Illinois Guardianship and Advocacy Commission
West Suburban Office
P.O. Box 7009
Hines, IL 60141

No. 119392 - In re Linda B., etc. (People State of Illinois, respondent, v. Linda B., petitioner). Leave to appeal, Appellate Court, First District.

The Supreme Court today ALLOWED the petition for leave to appeal in the above entitled cause.

We call your attention to Supreme Court Rule 315(h) concerning certain notices which must be filed.

PETITION FOR INVOLUNTARY/JUDICIAL ADMISSION

2013 COMH 1381

STATE OF ILLINOIS

CIRCUIT COURT FOR THE _____ JUDICIAL CIRCUIT

Cook COUNTY

FILED
MAY 0 – 2013
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL

IN THE MATTER OF

Docket No. _____

Linda B

(name of respondent)

Who is asserted to be a person subject to Involuntary In-patient admission to a facility and for whom
(judicial/involuntary)

this petition is being initiated by reason of: (Select one or more, if applicable)

☒ Emergency inpatient admission by certificate; (405 ILCS 5/3-600). The Respondent is currently detained in a mental health facility or hospital; name of facility where detained: Mt Sinai Hospital

☐ Inpatient admission by court order; (405 ILCS 5/3-700).

☐ Voluntary admittee submitted written notice of desire to be discharged and two Certificates are attached to/submitted with this petition; (405 ILCS 5/3-403).

☐ Voluntary admittee failed to reaffirm a desire to continue treatment and two Certificates are attached to/submitted with this petition; (405 ILCS 5/3-404).

☐ Person continues to be subject to involuntary admission on an inpatient basis; (405 ILCS 5/3-813).

☐ Emergency admission of the developmentally disabled; (405 ILCS 5/4-400).

☐ Judicial admission of the developmentally disabled; (405 ILCS 5/4-500).

☐ Developmentally disabled person or an interested person on behalf of a person submitted written objection to admission; (405 ILCS 5/4-306).

☐ Administrative person; (or person who executed application) failed to authorize continued residence; (405 ILCS 5/4-310).

☐ Person continues to meet standard for judicial admission; (405 ILCS 5/4-611).

I assert that Linda B _____ is: (check all that apply)

☒ a person with mental illness who: because of his or her illness is reasonably expected, unless treated on an inpatient basis, to engage in conduct placing such person or another in physical harm or in reasonable expectation of being physically harmed;

☒ a person with mental illness who: because of his or her illness is unable to provide for his or her basic physical needs so as to guard himself or herself from serious harm without the assistance of family or others, unless treated on an inpatient basis;

☒ a person with mental illness who: refuses treatment or is not adhering adequately to prescribed treatment; because of the nature of his or her illness is unable to understand his or her need for treatment; and if not treated on an inpatient basis, is reasonably expected based on his or her behavioral history, to suffer mental or emotional deterioration and is reasonably expected, after such deterioration, to meet the criteria of either paragraph one or paragraph two above.

☐ an individual who: is developmentally disabled and unless treated on an in-patient basis is reasonably expected to inflict serious physical harm upon himself or herself or others in the near future, and/or

☒ in need of immediate hospitalization for the prevention of such harm.

I base the foregoing assertion on the following (State in detail the signs and symptoms of mental illness displayed by the Respondent. Include prior diagnosis, treatment and hospitalizations. Describe any threats, behavior or pattern of behavior which support your complaint. Include personal observations that lead to your belief the Respondent is subject to involuntary admission): If additional space needed please attach a separate page or pages.

Pt is 51 y.o. female who presents with disorganized speech, paranoid delusions, and no insight into illness or behavior. Pt has become physically aggressive and violent towards staff. Pt is refusing treatment for both medical and psychiatric illness. Pt has disrobed in the hallway in front of staff and patients and defecates in the hallway. Pt is unable to care for herself and requires further treatment.

Below is a list of all witnesses by whom the facts asserted may be proven (include addresses and phone numbers):

Dr. Media Gartel; Juerita White, LSW; Sean Burke, RN
1500 S. California Ave
Chicago, IL 60608
P. 773.542.2000, 773.257.6980

Listed below are the names and addresses of the spouse, parent, guardian, or substitute decision maker, if any, and close relative or, if none, a friend of the respondent whom I have reason to believe may know or have any of the other names and addresses. If names and addresses are not listed below, I made a diligent inquiry to identify and locate these individuals and the following describes the specific steps taken by me in making this inquiry (additional pages may be attached as necessary):

Linda Brown, Daughter
312.450.9477

○ I do ◉ I do not have a legal interest in this matter.

○ I do ◉ I do not have a financial interest in this matter.

○ I am ◉ I am not involved in litigation with the respondent.

☐ Although I have indicated that I have a legal or financial interest in this matter or that I am involved in litigation with the respondent, I believe it would not be practicable or possible for someone else to be the petitioner for the following reasons:

No certificate was attached with this petition because no physician, qualified examiner or clinical psychologist was immediately available or it was impossible after diligent effort to obtain a certificate. However: I believe, as a result of my personal observation, that the respondent is subject to Involuntary inpatient admission. A diligent effort was made to obtain a certificate; but no physician, qualified examiner or clinical psychologist could be found who has examined or could examine the respondent; and

☐ a diligent effort has been made to convince the respondent to appear voluntarily for examination by a physician, qualified examiner or clinical psychologist, or I reasonably believe that effort would impose a risk of harm to the respondent or others.

☐ One Certificate of Examination is attached.

☒ Two Certificates of Examination are attached.

Did a peace officer detain respondent, take him/her into custody, and/or transport him/her to the mental health facility?

☒ No ☐ Yes; If yes, the peace officer **MAY** complete the petition or if the petition IS NOT COMPLETED by the peace officer transporting the person, the following information MUST be entered:

Transporting Officer's Name: _____ Badge Number: _____

Employer: _____

The petitioner can request to be notified if the facility director approves the recipients's request for voluntary or informal admission prior to adjudication. The petitioner may also request to be notified of the recipient's discharge under section 3-902 (d) of the Mental Health and Developmental Disabilities Code. Failure to indicate a choice will be treated as a decision NOT to be notified.

☐ if the individual requests and is approved for voluntary or informal admission prior to adjudication, I wish to be notified using the contact information supplied below. (Hospital staff use form IL462-2203 for notification purposes).

☐ if the individual is committed or discharged by court, I wish to be notified using the contact information supplied below. (Hospital staff use form IL462-2208M for notification purposes).

☒ I do not wish to be notified in either of the two situations described above.

The petitioner has made a good faith attempt to determine whether the recipient has executed a power of attorney for health care under the Powers of Attorney for Health Care Law or a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act and to obtain copies of these instruments if they exist.
I have read and understood this petition and affirm that the statements made by me are true to the best of my knowledge.
I further understand that knowingly making a false statement on this Petition is a Class A Misdemeanor.

Date: May 8, 2013

Signed: _____

Time: 4:00PM

Printed Name: Connie Shay-Hadley

Address: 1500 S California Ave
Chicago, IL 60608

Relationship to Respondent:

NONE

Telephone Number: 773.257.6684

Within 12 hours of admission to the facility under this status I gave the respondent a copy of this Petition (IL462-2005). I have explained the Rights of Admittee to the respondent and have provided him or her with a copy of it. I have also provided him or her with a copy of Rights of Individuals receiving Mental Health and Developmental services (IL462-2001) and explained those rights to him or her (405 ILCS 5/3-609).

Date/Time of Admission 4/22/13 / 1958

To Mental Health Facility/Psychiatric Unit

Signed: [signature]

Printed Name: CONNIE SHAY-HADLEY

Title: Director

RIGHTS OF ADMITTEE

1. If you have been brought to this facility on the basis of this petition alone, you will not be immediately admitted, but will be detained for examination. You must be examined by a qualified professional within 24 hours or be released.

2. When you are first examined by a physician, clinical psychologist, qualified examiner, or psychiatrist, you do not have to talk to the examiner. Anything you say may be related by the examiner in court on the issue of whether you are subject to involuntary or judicial admission.

3. At the time that you have been certified you will be admitted to the facility and a copy of the petition and certificate will be filed with the court. A copy of the petition shall also be given to you.

4A. If you are alleged to be subject to involuntary admission (mentally ill) you must also be examined within 24 hours excluding Saturdays, Sundays, and holidays by a psychiatrist (different from the first examiner) or be released. If you are alleged to be subject to involuntary admission the court will set the matter for a hearing.

4B. If you are alleged to be subject to judicial admission (developmentally disabled) the court will set a hearing upon receipt of the diagnostic evaluation which is required to be completed within 7 days.

5A. If you are alleged to be subject to involuntary admission (mentally ill) and if the facility director approves, you may be admitted to the facility as a voluntary admittee upon your request any time prior to the court hearing.

The court may require proof that voluntary admission is in your best interest and in the public interest.

5B. If you are alleged to be subject to judicial admission (developmentally disabled) and if the facility director approves, you may decide that you prefer to admit yourself to the facility rather than have the court decide whether you ought to be admitted. You may make the request for administrative admission at any time prior to the hearing. The court may require proof that administrative admission is in your best interest and the public interest.

6. You have the right to request a jury.

7. You have the right to request an examination by an independent physician, psychiatrist, clinical psychologist, or qualified examiner of your choice. If you are unable to obtain an examination, the court may appoint an examiner for you upon your request.

8. You have the right to be represented by an attorney. If you do not have funds or are unable to obtain an attorney, the court will appoint an attorney for you.

9. You have the right to be present at your court hearing.

10. As a general rule, you do not lose any of your legal rights, benefits, or privileges simply because you have been admitted to a mental health facility (see your copy of the "Rights of Individuals"). However, you should know that persons admitted to mental health facilities will be disqualified from obtaining Firearm Owner's Identification Cards, or may lose such cards obtained prior to admission.

11. Information about the health care services you receive at a mental health or developmental disabilities facility is protected by privacy regulations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (P.O. 104-191) at 45 CFR 160 and 164. Your personally identifiable health information will only be used and/or released in accordance with HIPAA and the Illinois Mental Health and Development Disabilities Confidentiality Act [740 ILCS 110].

A Guardianship and Advocacy Commission is a state agency consisting of three divisions: Legal Advocacy Services, Human Rights Authority and the Office of the Guardian. The Commission is located at the following addresses:

East Central Regional Office
2125 S. First Street
Champaign, IL 61820
Phone: (217) 278-5577
Fax: (217) 278-5588

Peoria Regional Office
401 N. Main Street, Suite 620
Peoria, IL 61602
Phone: (309) 671-3030
Fax: (309) 671-3060

Rockford Regional Office
4302 N. Main Street, Suite 108
Rockford, IL 61103
Phone: (815) 987-7657
Fax: (815) 987-7227

Egyptian Regional Office
47 Cottage Drive
Anna, Illinois 62906-1669
Phone: (618) 833-4897
Fax: (618) 833-5219

West Suburban Regional Office
Madden Mental Health Center
1200 S. First Street, P.O. Box 7009
Hines, IL 60141
Phone: (708) 338-7500
Fax: (708) 338-7505

Metro East Regional Office
Holly Bldg., 4500 College
Suite 100
Alton, IL 62002
Phone: (618) 474-5503
Fax: (618) 474-5517

North Suburban Regional Office
9511 Harrison Avenue
Des Plaines, Illinois 60016
Phone: (847) 294-4264
Fax: (847) 294-4263

Chicago Regional Office
160 N. La Salle Street
Suite S500
Chicago, IL 60601
Phone: (312) 793-5900
Fax: (312) 793-4311

Springfield Regional Office
521 Stratton Building
401 S. Spring Street
Springfield, IL 62706
Phone: (217) 785-1540
Fax: (217) 524-0088

Equip for Equality, Inc. is an independent, not-for-profit organization that administers the federal protection and advocacy system to people with disabilities in Illinois. Equip for Equality, Inc., provides self-advocacy assistance, legal services, education, public policy advocacy, and abuse investigations. The offices are located at:

Main/Chicago Office
20 N. Michigan, Ste 300
Chicago, Illinois 60602
(800) 537-2632 or
(312) 341-0022
TTY: (800) 610-2779
Fax: (312) 341-0295

Central Illinois
1 West Old Capitol Plaza, Suite 816
Springfield, IL 62701O Box 276
(217) 544-0464
(800) 758-0464
TTY: (800) 610-2779
Fax: (217) 523-0720

Northwestern Illinois
1515 Fifth Avenue, Suite 420
Moline, IL 61265
(309) 786-6868
(800) 758-6869
TTY: (800) 610-2779
Fax: (309) 797-8710

Southern Illinois
300 E. Main Street, Suite 18
Carbondale, IL 62901
(618) 457-7930
(800) 758-0559
TTY: (800) 610-2779
Fax: (618) 457-7985

Website: www.equipforequality.org

I certify that I provided respondent with a copy of this form.

☒ English ○ Spanish ○ Other Specify language: _____ on _____

Time: _____

Signature: Constance Shay-Hadley

Title: Director

Printed Name: Constance Shay-Hadley

Illinois Department of
PUBLIC HEALTH

Pat Quinn, Governor
LaMar Hasbrouck, MD, MPH, Director

525-535 West Jefferson Street • Springfield, Illinois 62761-0001 • www.idph.state.il.us

April 24, 2013

Mr. Kurt Johnson, CEO/President
Ingalls Memorial Hospital
One Ingalls Drive
Harvey, IL 60426

RE: Human Rights Authority Care #12-040-9003

Dear Mr. Johnson:

The Illinois Department of Public Health received a letter from the Guardianship & Advocacy Commission referencing an investigation conducted by the South Suburban Regional Human Rights Authority at Ingalls Memorial Hospital in Harvey, Illinois. After reviewing the correspondence from the Guardianship & Advocacy and from the General Counsel for Ingalls Memorial Hospital, studying the Mental Health and Developmental Disabilities Code (405 ILCS 5) and having a discussion with an attorney at the Illinois Department of Human Services , the Department has determined that a Hospital Emergency Department is held to the Mental Health and Developmental Disabilities Code at the point in time that the Emergency Department Health Care Professional has diagnosed and start treatment of the patient for a mental illness.

The Department is requesting that Ingalls Memorial Hospital implement the necessary changes to their policy and procedures to ensure future compliance with the management of mentally ill patients as per the Mental Health and Developmental Disabilities Code (405 ILCS 5).

If you have any questions regarding this, please contact William A. Bell of my staff at 217-782-0345, or TTY (for the hearing impaired only) 800-547-0466.

Sincerely,

LaMar Hasbrouck, MD, MPH
Director

WAB/rsc

C: Dr. Mary Milano, Director
Illinois Guardianship and Advocacy Commission
Toni Colòn, Deputy Director, Office of Health Care Regulation

ORDER FOR ADMINISTRATION OF AUTHORIZED INVOLUNTARY TREATMENT Ref. Sec. 2-107.1 v.2

STATE OF ILLINOIS
CIRCUIT COURT FOR THE FIRST JUDICIAL CIRCUIT
COOK COUNTY

IN THE MATTER OF:	)	**DOCKET NUMBER**
	)	
Linda B	)	**2013 COMH 001388**

This matter coming to be heard on the petition of Medela Gartel and the court having found that:

1. The recipient has a serious mental illness /developmental disability; and
2. The recipient has refused to submit to treatment by Psychotropic Medication; and
3. The recipient exhibits deterioration of his/her ability to function, suffering or threatening or disruptive behavior; and
4. The illness or disability has existed for a period marked by the continuing presence of such symptoms set forth in item number 3 above or the repeated episodic occurrences of these symptoms; and
5. The benefits of the treatment will outweigh the harm; and
6. The recipient lacks the capacity to make a reasoned decision about the treatment; and
7. Other less restrictive services were explored and found inappropriate.
8. Testing and/or other procedures are essential for the safe and effective administration of the treatment.
9. A good faith attempt was made to determine whether the recipient has executed a Power of Attorney for Health Care Law or a Declaration for Mental Health treatment.

☒ **IT IS HEREBY ORDERED THAT THE PETITION IS GRANTED.**

Linda B shall receive Psychotropic Medication to be administered by Medela Gartel who is a member of the clinical staff at ~~UNIVERSITY OF~~ Mount Sinai whose license allows them to administer Psychotropic Medication pursuant to Illinois law.

Respondent shall also receive any and all tests or other procedures that are essential See addendum

The medication to be administered is See addendum

Dosage: See addendum.

Additionally, the following medications may be administered: See addendum

Dosage: See addendum.

The above named staff is authorized to administer Psychotropic Medication to the above named recipient for a period not to exceed 90 days.

☒ **APPEAL RIGHTS GIVEN**

☐ **IT IS HEREBY ORDERED THAT THE PETITION IS DENIED.**

DATED: ENTER 1903

ENTERED
MAY 14 2013
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

Judge (Judge Bar No.)

ADDENDUM
In the Matter of Linda E
13 Comh 1388

Dr. Medela Gartel and the clinical staff at Mt. Sinai Hospital are authorized to administer the following:

The primary medication and dosage range is:

Depakote Extended Release	1000-3000 mg PO daily or twice daily (not to exceed 1000 mg per day)

Alternatively, the following medications and dosage ranges may be administered

Zyprexa	5-15 mg PO/IM twice daily (not to exceed 20 mg per day)
Latuda	40-80 mg PO daily
Risperdal	1-3 mg PO twice daily (not to exceed 6 mg per day)
Invega	117mg IM, 1 week later 156 mg, then 117-256 monthly

long-acting

Specific testing and procedures necessary to be administered are:

EKG
CBC
CMP
BLOOD SUGAR
HEMAGLOBIN A1C
Depakote Level

Petitions for involuntary admission filed since Sept. 2014 for recipients at Chicago-area hospitals *without* mental-health units

Date filed	*Cook Co. case no.*
La Grange Memorial Hospital	
1. 8/5/15	2015 CoMH 2528
2. 8/20/15	2015 CoMH 2692
3. 4/26/16	2016 CoMH 1368
4. 5/17/16	2016 CoMH 1620
Loyola University Medical Center	
5. 12/5/14	2014 CoMH 3842
6. 12/10/14	2014 CoMH 4041
7. 12/15/14	2014 CoMH 3936
8. 1/2/15	2015 CoMH 0001
9. 1/25/15	2015 CoMH 0275
10. 3/26/15	2015 CoMH 0951
11. 3/27/15	2015 CoMH 0977
12. 3/31/15	2015 CoMH 1004
13. 4/8/15	2015 CoMH 1114
14. 4/9/15	2015 CoMH 1117
15. 4/28/15	2015 CoMH 1341
16. 6/9/15	2015 CoMH 1837
17. 7/10/15	2015 CoMH 2242
18. 8/18/15	2015 CoMH 2674
19. 10/29/15	2015 CoMH 3534
20. 1/27/16	2016 CoMH 0282
21. 1/28/16	2016 CoMH 0301
Resurrection Medical Center	
22. 9/24/14	2014 CoMH 3059
23. 10/23/14	2014 CoMH 3384
24. 12/3/14	2014 CoMH 3814
25. 1/30/15	2015 CoMH 0340
26. 2/3/15	2015 CoMH 0383
27. 6/19/15	2015 CoMH 1982
28. 8/10/15	2015 CoMH 2575
29. 8/14/15	2015 CoMH 2624
30. 8/31/15	2015 CoMH 2795
31. 9/8/15	2015 CoMH 2896
32. 9/21/15	2015 CoMH 3070
33. 10/9/15	2015 CoMH 3304
34. 12/9/15	2015 CoMH 3985
35. 12/15/15	2015 CoMH 4052
36. 12/17/15	2015 CoMH 4094
37. 1/21/16	2016 CoMH 0210
38. 2/16/16	2016 CoMH 0510
39. 2/23/16	2016 CoMH 0609

Continued, next column

40. 4/13/16	2016 CoMH 1210
41. 5/16/16	2016 CoMH 1613
42. 6/3/16	2016 CoMH 1835
43. 6/10/16	2016 CoMH 1923
St. Francis Hospital	
44. 9/15/15	2015 CoMH 3009
St. James Hospital, Chicago Heights	
45. 10/22/14	2014 CoMH 3362
46. 12/8/14	2014 CoMH 3861
47. 12/18/14	2014 CoMH 3998
48. 1/20/15	2015 CoMH 0211
49. 2/9/15	2015 CoMH 0446
50. 8/11/15	2015 CoMH 2587
51. 8/20/15	2015 CoMH 2705
52. 9/15/15	2015 CoMH 2994
53. 11/10/15	2015 CoMH 3686
54. 1/28/16	2016 CoMH 0273
55. 4/5/16	2016 CoMH 1107
56. 4/25/16	2016 CoMH 1350
57. 5/27/16	2016 CoMH 1737
58. 5/31/16	2016 CoMH 1788
St. James Hospital, Olympia Fields	
59. 10/8/14	2014 CoMH 3229
60. 10/9/14	2014 CoMH 3236
61. 10/14/14	2014 CoMH 3267
62. 11/24/14	2014 CoMH 3731
63. 12/1/14	2014 CoMH 3796
64. 12/1/14	2014 CoMH 3797
65. 12/22/14	2014 CoMH 4019
66. 12/22/14	2014 CoMH 4040
67. 1/22/15	2015 CoMH 0236
68. 4/20/15	2015 CoMH 1244
69. 5/27/15	2015 CoMH 1684
70. 6/17/15	2015 CoMH 1959
71. 9/22/15	2015 CoMH 3075
72. 10/8/15	2015 CoMH 3291
73. 10/28/15	2015 CoMH 3520
74. 11/4/15	2015 CoMH 3612
75. 11/9/15	2015 CoMH 3668
76. 11/23/15	2015 CoMH 3819
77. 11/30/15	2015 CoMH 3856
78. 11/30/15	2015 CoMH 3857

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79. 12/1/15 2015 CoMH 3892
80. 12/11/15 2015 CoMH 4006
81. 1/7/16 2016 CoMH 0047
82. 2/4/16 2016 CoMH 0382
83. 2/4/16 2016 CoMH 0390
84. 3/1/16 2016 CoMH 0701
85. 3/16/16 2016 CoMH 0870
86. 4/7/16 2016 CoMH 1135
87. 4/19/16 2016 CoMH 1267
88. 4/25/16 2016 CoMH 1351
89. 4/25/16 2016 CoMH 1352
90. 5/3/16 2016 CoMH 1458
91. 5/27/16 2016 CoMH 1750
92. 6/2/16 2016 CoMH 1822
93. 6/15/16 2016 CoMH 1976
94. 6/24/16 2016 CoMH 2076

Index to record on appeal

Common Law Record

No. 119392

IN THE SUPREME COURT OF ILLINOIS

In re LINDA B., A person subject to an order for involuntary commitment **Linda B., Petitioner** People of the State of Illinois, Appellee v. Linda B., Appellant	Appeal from the Appellate Court, First Judicial District No. 1-14-2134 Original appeal from the Circuit Court of Cook County No. 2014 CoMH 1381 Honorable David Skryd, Presiding Judge

NOTICE OF FILING

To: - Clerk of the Supreme Court of Illinois
Via electronic filing

Alan Spellberg, Supervisor
e.serve.CriminalAppeals@cookcountyil.gov

Nadine Wichern, Director, Attorney General Appeals Division
NWichern@atg.state.il.us

Please take notice that on June 29, 2016, I electronically filed Linda B.'s Appellant's Brief with the Clerk of the Supreme Court of Illinois.

LEGAL ADVOCACY SERVICE

By: /s/Laurel Spahn

Proof of Service

I, Laurel Spahn, an attorney, certify that I caused this Notice and a copy of the brief to be served to Ms. Wichern and to Mr. Spellberg via email, on June 29, 2016.

/s/Laurel Spahn

Ann Krasuski/Laurel Spahn
LEGAL ADVOCACY SERVICE
Illinois Guardianship & Advocacy Commission
P.O. Box 7009, Hines, IL 60141-7009
708/338-7746
Laurel.Spahn@illinois.gov