

Popovits & Robinson

ATTORNEYS AT LAW

CLIENT ADVISORY

**Mental Health
Adopted Legislation
October 2009**

*Frankfort: 20635 Abbey Woods Court Frankfort, IL 60423 (708) 479-3230
Bloomington: 1003 Martin Luther King Drive, Bloomington, IL 61701 (309) 827-6026*

Reporting Abuse, Neglect and Deaths at Mental Health Developmental Disability Facilities

The Department of Human Services Act is amended to require that mental health and developmental disabilities service facilities report allegations of abuse or neglect and deaths to The Department as follows: If an employee witnesses, is told of, or has reason to believe an incident of mental abuse, physical abuse, sexual abuse, neglect, or financial exploitation has occurred, the employee, agency, or facility shall report the allegation by phone to the Office of the Inspector General hotline according to the agency's or facility's procedures, but in no event later than 4 hours after the initial discovery of the incident, allegation, or suspicion of any one or more of the following: mental abuse, physical abuse, sexual abuse, neglect, or financial exploitation. A required reporter shall, within 24 hours after initial discovery, report by phone to the Office of the Inspector General hotline each of the following:

- (i) Any death of an individual occurring within 14 calendar days after discharge or transfer of the individual from a residential program or facility.
- (ii) Any death of an individual occurring within 24 hours after deflection from a residential program or facility.
- (iii) Any other death of an individual occurring at an agency or facility or at any Department-funded site.

Effective August 13, 2009. *See Public Act 096-0407.*

Voluntary Admission to Mental Health Facility

The Illinois Mental Health and Developmental Disabilities Code is amended to provide that any person, including a person ruled a disabled person, may be voluntarily admitted to a mental health facility if the facility director determines and records in the person's medical records that the person is clinically

suitable for admission as a voluntary recipient and has the ability to agree to voluntary admission. The person must understand that he or she is being admitted to a mental health facility, may request discharge at any time, and that within 5 days of written request of discharge, the person must be discharged or commitment proceedings must be initiated.

This Act is further amended to state that a guardian of a person may not admit a ward to a mental health facility unless the ward requests to be admitted and the ward has the ability to consent to the admission.

Effective January 1, 2010. *See Public Act 96-0612.*

Sale of Mental Health and Developmental Disabilities Facilities

The Illinois Mental Health and Developmental Disabilities Administrative Act and the Illinois State Property Control Act are amended to require that each time a State mental health facility is closed and the real estate on which the facility is located is sold, the net proceeds of the sale of the real estate shall be deposited into the Community Mental Health Medicaid Trust Fund.

The Acts are also amended to require that each time a State developmental disabilities facility is closed and the real estate on which the facility is located is sold, the net proceeds of the sale of the real estate shall be deposited into the Community Developmental Disability Services Medicaid Trust Fund.

Effective August 25, 2009. *See Public Act 96-0660.*

Net Proceeds From Sale of Real Estate

The Illinois Community Services Act is amended to require the proper divisions of the Department of

Human Services to determine the net proceeds from the sale of real estate of a mental health facility or a developmental disabilities facility. The amendment sets forth the purposes for which the net proceeds may be used.

Effective August 25, 2009. *See Public Act 96-0660.*

Mental Health Graduate Education Scholarship

The Mental Health Graduate Education Scholarship Act is created to establish a program in the Department of Human Services to provide scholarships to graduate students in mental health fields who will practice in areas of the State which demonstrate a great need for mental health services.

Effective August 25, 2009. *See Public Act 96-0672.*

Mental Health Confidentiality Disclosures

The Mental Health and Developmental Disabilities Confidentiality Act is amended to permit a mental health facility patient's records and communications to be disclosed in testimony at health care worker registry hearings or preliminary proceedings related to allegations of physical or sexual abuse or egregious neglect of a mental health recipient. Any information disclosed may not be utilized for any other purpose nor be redisclosed except in connection with such action or preliminary proceedings.

Effective August 13, 2009. *See Public Act 096-0406.*

Employment for Persons with Disabilities

The Employment and Economic Opportunity for Persons with Disabilities Task Force Act is amended to create a task force to shall analyze programs and policies of the State to determine what changes, modifications, and innovations may be necessary to remove barriers to competitive employment and economic opportunity for persons with disabilities, including barriers such as transportation, housing, program accessibility, and benefit structure.

Effective August 13, 2009. *See Public Act 096-0368.*

Governmental Unit Tax

The Illinois Community Mental Health Act is amended to allow a governing body of a governmental unit that levies a tax that is less than 0.15% to, upon referendum approval, increase that rate to not more than 0.15% for the purpose of providing community mental health facilities and services, including facilities and services for persons with a developmental disability or substance use disorder.

Effective August 25, 2009. *See Public Act 96-0764.*

Exception to Social Worker Privileged Communications

The Clinical Social Work and Social Work Practice Act amends the Privileged Communications Exceptions of the Act so that a licensed clinical social worker or licensed social worker may disclose any information acquired from persons consulting the social worker in a professional capacity. In the course of formally reporting, conferring or consulting with administrative superiors, colleagues or consultants who share professional responsibility, including a professional responsibility to maintain confidentiality, in which instance all recipients of such information are similarly bound to regard the communication as privileged.

Effective July 23, 2009. *See Public Act 096-0071.*