

NOTICE

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2014 IL App (4th) 130416-U

NO. 4-13-0416

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

March 19, 2014

Carla Bender

4th District Appellate

Court, IL

In re: SHEILA N., a Person Found Subject)	Appeal from
to Involuntary Administration of)	Circuit Court of
Psychotropic Medication,)	Sangamon County
THE PEOPLE OF THE STATE OF ILLINOIS,)	No. 13MH243
Petitioner-Appellee,)	
v.)	Honorable
SHEILA N.,)	Steven H. Nardulli,
Respondent-Appellant.)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Justices Pope and Steigmann concurred in the judgment.

ORDER

¶ 1 *Held:* (1) The trial court did not violate the separate hearing requirement of section 2-107.1 of the Mental Health and Developmental Disabilities Code (Code) by taking judicial notice of testimony presented at a previous hearing; (2) the court did not err by questioning the State's witness; (3) the court's oral statement provided sufficient factual findings to satisfy section 3-816 of the Code; (4) the State proved by clear and convincing evidence the factors required under section 2-107.1 of the Code; and (5) the court erred by authorizing the drug Clonazepam because the record does not show the treating physician gave respondent written information on the drug, as required under section 2-102 of the Code.

¶ 2 Following an April 12, 2013, hearing, the trial court entered an order authorizing the administration of psychotropic medication to respondent, Sheila N. Respondent appeals, arguing that, although her claim is moot, it fits within two recognized exceptions to the mootness doctrine. On the merits, respondent argues (1) the court erred by taking judicial notice of evidence presented in respondent's previously held involuntary commitment hearing, (2) the trial court improperly questioned the State's witness, (3) the trial court's order contained insufficient

factual findings, (4) the evidence was insufficient to prove by clear and convincing evidence, the factors contained in section 2-107.1(a-5)(4) of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/2-107.1(a-5)(4) (West 2012)), and (5) the order's authorization of the drug Clonazepam should be voided because the treating physician did not provide respondent with written information on the drug.

¶ 3 We find the "capable of repetition yet avoiding review" exception to the mootness doctrine applies to respondent's claims. We hold (1) the trial court did not violate section 2-107.1 of the Code's separate hearing requirement by taking judicial notice of testimony presented at the involuntary commitment hearing (405 ILCS 5/2-107.1(a-5)(2) (West 2012)); (2) the court did not err by questioning the State's witness; (3) the court provided sufficient factual findings to satisfy section 3-816 of the Code (405 ILCS 5/3-816(a) (West 2012)); (4) the State proved by clear and convincing evidence the factors required under section 2-107.1 (405 ILCS 5/2-107.1(a-5)(4) (West 2012)); and (5) the court erred by authorizing Clonazepam because the record does not show the treating physician gave respondent written information on the drug, as required under section 2-102. 405 ILCS 5/2-102 (West 2012).

¶ 4 We affirm in part and vacate in part as to the authorization to administer the drug Clonazepam.

¶ 5 I. BACKGROUND

¶ 6 On April 5, 2013, Dr. Kasturi Kripakaran, respondent's treating psychiatrist at McFarland Mental Health Center (McFarland), filed a petition for the involuntary administration of psychotropic medication under section 2-107.1 of the Code. 405 ILCS 5/2-107.1(a-5) (West 2012) On April 12, 2013, the trial court first held a hearing on another petition filed in regard to

respondent's involuntary admission at McFarland. At the hearing on involuntary commitment, Dr. Kripakaran testified she believed respondent would suffer mental and emotional deterioration unless she was treated at McFarland. Evidence was presented indicating respondent had no food in her house, was dehydrated, and was taken to the emergency room. Respondent testified people were coming into her house and stealing from her and gave incoherent testimony about how she provided for her own daily needs. The court granted the petition for involuntary commitment. Later that day, the trial court held a hearing on the petition for the involuntary administration of psychotropic medication (hereafter referred to as the hearing) before the same trial judge. During the hearing, Dr. Kripakaran testified she diagnosed respondent with schizoaffective disorder. Respondent's symptoms included paranoia, "grandiose delusions, *** hyper-talkativeness, agitation, and aggression." During discussion of respondent's symptoms, the court stated: "I am going to take judicial notice of the hearing we just had [referring to the involuntary commitment hearing], the Doctor's testimony with regard to symptoms. We can move through that." Counsel for the State, Sheri Carey, then moved to questions related to the requested medications.

¶ 7 Respondent interrupted Dr. Kripakaran many times at the beginning of her testimony. The court noted "[respondent] is becoming increasingly agitated" and requested respondent be removed from the hearing room. Respondent was escorted outside the hearing room. Respondent continued to make disturbances outside the courtroom, and the court asked she be escorted to her room.

¶ 8 The first medication Dr. Kripakaran requested was Olanzapine, or alternatively Risperidone and Mellaril. These medications reduce delusions, hallucinations, and agitation, but

potential side effects include "weight gain, change in metabolic profile, lipid profile, changes in [electrocardiogram (EKG)]," and potential "extrapyramidal symptoms." Next, Dr. Kripakaran chose Depakote, or alternatively Lithium, to help stabilize respondent's mood, agitation, and aggression. These drugs had similar side effects, including weight gain, changes in metabolic profile, and changes in blood counts. Dr. Kripakaran also requested Lorazepam, or alternatively Clonazepam, for agitation on either a daily or an as-needed basis. The main side effect of Lorazepam and Clonazepam was sedation. Last, Dr. Kripakaran requested Cogentin, or alternatively Benadryl, to help alleviate any extrapyramidal symptoms. Cogentin can cause sedation and also dull cognition. Based on Dr. Kripakaran's review of respondent's medical records, she had previously taken these medications but Dr. Kripakaran did not know if she had suffered any side effects.

¶ 9 Dr. Kripakaran testified she attempted to talk with respondent about the medications and the side effects, but "she was in no position to listen to what I [had] to say, but [respondent] did take all the information about the meds in her hands." The petition filed by Dr. Kripakaran includes the written information given to respondent on the risks and benefits of the proposed drugs and includes information on all requested drugs except Clonazepam. Dr. Kripakaran also believed the medication would benefit respondent so "she can think rationally and I think do really well in the community when she is on medication."

¶ 10 The State then shifted its questions to the issue of less restrictive services and the following exchange transpired:

"[STATE'S COUNSEL]: Have other less restrictive services been explored?"

[DR. KRIPAKARAN]: Not at this time because of—

THE COURT: They have been explored and they have been rejected?

[DR. KRIPAKARAN]: Yes."

Dr. Kripakaran elaborated, explaining respondent could not benefit from group or individual therapy in her current state because her symptoms prohibited her from participating. Dr. Kripakaran also asked the court to order testing to assure the safe and effective administration of the medication. The testing included respondent's "complete blood count, metabolic profile, lipid profile, thyroid function and EKG."

¶ 11 Respondent did not call any witnesses. The trial court then stated its findings as follows:

"[B]ased upon the evidence, based also upon my in-court observations of [respondent], I do find that she is an individual who suffers from serious mental illness. She exhibits deterioration of her abilities to function, and she engages in threatening and disruptive behavior. This illness has existed for a period of time, which has been marked by the continuing presence of these symptoms and repeated episodic occurrence of the symptoms. Benefits of the treatment outweigh the harm. She lacks the capacity to make a reasoned decision about the treatment. Other less restrictive alternatives services have been explored and found inappropriate. Testing is necessary for safe and effective

administration of the treatment. She has been notified of the benefits and side [effects] and alternatives to treatment..."

The court also entered a written judgment, in a form order, tracking the language of the legal conclusions required under section 2-107.1 of the Code. See 405 ILCS 5/2-107.1 (a-5)(4) (West 2012). On its form order, the court filled in the name of the respondent, the petitioner, the physician, and the facility administering treatment in the spaces provided on the order. This appeal followed.

¶ 12

II. ANALYSIS

¶ 13

A. Mootness

¶ 14 We first note respondent's claims are moot. The involuntary medication order was a 90-day order entered on April 12, 2013, which expired by its own terms on July 10, 2013. Respondent is no longer subject to this order. See *In re Alfred H.H.*, 233 Ill. 2d 345, 351, 910 N.E.2d 74, 77-78 (2009) (noting that an expired 90-day commitment order, whether valid or not, could not authorize any adverse action against the respondent). As the supreme court noted in *Alfred H.H.*, "[a]s a general rule, courts in Illinois do not decide moot questions, render advisory opinions, or consider issues where the result will not be affected regardless of how those issues are decided." *Alfred H.H.*, 233 Ill. 2d at 351, 910 N.E.2d at 78.

¶ 15

Courts will review otherwise moot cases when a recognized exception to the mootness doctrine applies. Respondent claims the "capable of repetition yet evading review" exception and the public-interest exception apply. The State concedes that the "public interest" exception applies to respondent's claims regarding the court's use of judicial notice. Because we find the "capable of repetition yet evading review" exception applies to respondent's claims, we

decline to accept the State's concession and do not address the application of the public interest exception to the mootness doctrine.

¶ 16 The "capable of repetition yet evading review" exception to the mootness doctrine applies when (1) the challenged action is of a duration too short to be fully litigated prior to its cessation and (2) there is a reasonable expectation that "the same complaining party would be subjected to the same action again." (Internal quotation marks omitted) *Alfred H.H.*, 233 Ill. 2d at 358, 910 N.E.2d at 82.

¶ 17 This case satisfies both requirements. First, the 90-day order in this case is too short to allow appellate review to take place prior to the expiration of the order. Second, considering the nature of respondent's diagnosis and history, it is likely respondent will face the same action again. Moreover, it is substantially likely the resolution of respondent's claims will be applicable to a similar issue in a later matter. See *Alfred H. H.*, 233 Ill. 2d at 356, 910 N.E.2d at 81 (noting there must be a substantial likelihood that the issue presented and the resolution thereof would have some bearing on a similar issue presented in a later case). The determination of whether (1) the court complied with statutory requirements regarding final orders; (2) it was appropriate for the court to use judicial notice; and (3) it was appropriate for the court to ask questions of the State's witness in the context of a petition seeking permission for the involuntary administration of psychotropic medication are all questions, if resolved, that would have bearing on similar issues presented in a later case. Therefore, review is appropriate.

¶ 18 B. Respondent's Claims

¶ 19 1. *Trial Judge's Use of Judicial Notice*

¶ 20 Respondent claims the trial court violated section 2-107.1 of the Code's separate

hearing requirement by taking judicial notice of evidence presented at the involuntary admission hearing during the involuntary administration of medication hearing. The State asserts this issue has been forfeited as respondent did not object at the hearing and failed to file a posthearing motion raising the issue.

¶ 21 This court has held "[i]t is incumbent upon the party opposing the taking of judicial notice to make such an objection." *In re A.T.*, 197 Ill. App. 3d 821, 834, 555 N.E.2d 402, 411 (1990). Respondent forfeited any objection to the court's use of judicial notice by failing to object to the use of judicial notice at the hearing. See *In re James H.*, 405 Ill. App. 3d 897, 904, 943 N.E.2d 743, 750 (2010). However, otherwise forfeited issues may be reviewed pursuant to the plain-error doctrine. *In re Joseph P.*, 406 Ill. App. 3d 341, 347, 943 N.E.2d 715, 721 (2010). "Courts may address an otherwise forfeited issue under the plain-error exception to the forfeiture rule when the evidence is closely balanced or when an error is so fundamental a defendant may have been deprived of a fair hearing." *Id.* Thus, we must determine whether any error occurred. See *People v. Thompson*, 238 Ill. 2d 598, 613, 939 N.E.2d 403, 413 (2010) (indicating the first step of plain-error review is determining whether any error occurred).

¶ 22 As the question of whether taking judicial notice violates the Code is a question of law, *de novo* review applies. See *In re James S.*, 388 Ill. App. 3d 1102, 1106, 904 N.E.2d 1072, 1076 (2009) (applying *de novo* review for a question of law related to the statutory requirements of the Code).

¶ 23 Under section 2-107.1 of the Code, the hearing for involuntary commitment and the hearing for involuntary administration of medication "shall be separate*** but may be heard immediately preceding or following such a judicial proceeding and may be heard by the same

trier of fact or law." 405 ILCS 5/2-107.1 (a-5)(2) (West 2012). Here, the court held the hearing on the State's petition for involuntary commitment and the hearing on the petition for involuntary administration of medication on the same day and before the same trier of fact, the trial judge. Dr. Kripakaran testified at both hearings. This procedure is explicitly allowed under section 2-107.1. 405 ILCS 5/2-107.1 (a-5)(2) (West 2012).

¶ 24 At the hearing, the trial court noted it was taking judicial notice of "the Doctor's testimony with regard to symptoms." The court's use of judicial notice was tailored to an issue covered in detail at the previous involuntary commitment hearing. While we are sympathetic to respondent's argument that the commitment hearing's outcome should not determine the outcome of this case, nothing in the record indicates the previous hearing was outcome-determinative. Rather, the court judicially noticed what it had just heard in the previous hearing on respondent's current symptoms. Thus, the court's use of judicial notice did not condense both hearings into one combined hearing in violation of section 2-107.1 of the Code. In addition, the trial court's use of judicial notice was within the court's discretion. This court has noted that, "a court may take judicial notice of matters of record in its own proceedings." *A.T.*, 197 Ill. App. 3d at 834, 555 N.E.2d at 411. It can be appropriate to take judicial notice of other proceedings "where the same parties are involved and the allegations from those proceedings have been proved." *In re Marriage of DeBow*, 236 Ill. App. 3d 1038, 1040, 602 N.E.2d 984, 985 (1992). As the court had just heard the doctor's testimony about respondent's current symptoms and narrowed the judicial notice to that issue, no error occurred and it was within the court's discretion to take judicial notice of that testimony. Having determined no error occurred, further plain-error analysis is not required.

¶ 25

2. Trial Judge's Questioning of State's Witness

¶ 26 Respondent also argues the trial judge improperly "directed testimony" by asking, "less restrictive alternatives have been explored and they have been rejected?" Although respondent brings this objection for the first time on review, in *In re Maher*, 314 Ill. App. 3d 1088, 1097, 734 N.E.2d 95, 102 (2000), this court held "[a]pplication of the forfeiture rule is less rigid where the basis of the objection is the trial court's own conduct." This court also noted "where the trial court departs from its role and becomes an advocate for the State's position," as respondent alleges here, "no objection by opposing counsel is necessary to preserve the issue for review." *Id.*

¶ 27 The appropriateness of questions posed by a trial judge "must be determined by the circumstances of each case and rests largely within the discretion of the trial court." *People v. Gallo*, 260 Ill. App. 3d 1032, 1039, 632 N.E.2d 99, 104 (1994). Moreover, reviewing courts "presume that the trial judge knows and follows the law unless the record demonstrates otherwise." *People v. Blair*, 215 Ill. 2d 427, 449, 831 N.E.2d 604, 618 (2005). The court does not have unlimited discretion to ask questions. *Maher*, 314 Ill. App. 3d at 1097, 734 N.E.2d at 102. Although "[a] trial court may, in its discretion, question witnesses to elicit the truth or clarify material issues[,] *** the trial court must not depart from its function as a judge and may not assume the role of an advocate for the State." *Id.*

¶ 28 The trial court does not depart from its judicial function " 'merely because [the judge's] questions solicit evidence material to the State's case.' " *People v. Smith*, 299 Ill. App. 3d 1056, 1062, 702 N.E.2d 218, 222 (1998) (citing *People v. Sutton*, 260 Ill. App. 3d 949, 959-60, 631 N.E.2d 1326, 1334 (1994)). Where the judge is also the trier of fact, as the judge was here,

"the danger of prejudice stemming from a judge's questioning of a witness is decreased sharply." *Id.* at 1063, 702 N.E.2d at 222. Consequently, where no jury is present "prejudice is shown when the tenor of the court's questioning indicates the court has prejudged the outcome before hearing all of the evidence." *Id.*

¶ 29 Respondent claims the trial court's question about less restrictive alternatives "so tainted the hearing and the court's ruling that the court's decision should now be reversed." We disagree. While the court's question may have been leading and helpful to the State's case, it does not show the judge had prejudged the outcome of this case. Before testifying, Dr. Kripakaran asserted in her petition for involuntary administration of medication that she had explored and rejected less restrictive treatment options. In this broader context, we view the court's question as an attempt to seek clarification on a response it found ambiguous. Moreover, Dr. Kripakaran later explained in greater detail why she had rejected therapy as a treatment option, clarifying she had, in fact, considered the option.

¶ 30 We do not perceive the court's question indicated the trial judge had prematurely decided this issue. Therefore, the question was within the court's broad discretion as the trier of fact.

¶ 31 *3. The Final Order's Findings of Fact*

¶ 32 Respondent argues the trial court's order and findings of fact violated section 3-816 of the Code. See 405 ILCS 5/3-816 (West 2012). Respondent's claim presents a question of law, which we review *de novo*. *James S.*, 388 Ill. App. 3d at 1106, 904 N.E.2d at 1076.

¶ 33 Under section 3-816 of the Code, "[e]very final order entered by the court under this Act shall be in writing and shall be accompanied by a statement on the record of the court's

findings of fact and conclusions of law." 405 ILCS 5/3-816 (West 2012). As orders involving the involuntary administration of medication affect significant liberty interests, " 'strict compliance with the Code's procedural safeguards is required.' " *James S.*, 388 Ill. App. 3d at 1107, 904 N.E.2d at 1076 (quoting *In re Jones*, 318 Ill. App. 3d 1023, 1025-26, 743 N.E.2d 1090, 1093 (2001)). Further, "[t]he legislature's use of the word 'shall' 'dictates the necessary components of an order authorizing the involuntary administration of psychotropic medications.' " *James S.*, 388 Ill. App. 3d at 1107, 904 N.E.2d at 1076 (quoting *In re Williams*, 305 Ill. App. 3d 506, 510, 712 N.E.2d 350, 353 (1999)). The Code's language requiring the court's record to contain factual findings and legal conclusions is mandatory rather than discretionary. *In re Rita P.*, 2013 IL App (1st) 112837, ¶ 20, 986 N.E.2d 177, *appeal pending* (May 2013) (No. 115798).

¶ 34 In this case, the trial court included sufficient findings of fact in the oral record to meet the requirements of section 3-816 of the Code. The court indicated it found respondent to be an individual who suffers from a serious mental illness, distinguishing, based on the specific evidence in respondent's case, which of the two alternatives under section 107.1(4)(A) of the Code applied to respondent's case. The court went on to indicate this finding was based on the duration and occurrence of respondent's symptoms, the court's observations of the respondent, respondent's threatening and disruptive behavior, and respondent's inability to make a reasoned decision regarding the proposed treatment. Moreover, the court found the benefits of the proposed treatment outweighed the harm.

¶ 35 In recent cases where courts have invalidated involuntary medication orders for lack of factual findings on the record, the courts either made no factual findings or simply

provided broad legal conclusions. See *James S.*, 388 Ill. App. 3d at 1107, 904 N.E.2d at 1077 (Fifth District, holding court's statement "it found by clear and convincing evidence" respondent was a person subject to involuntary administration of psychotropic medication provided insufficient factual findings); see also *Rita P.*, 2013 IL App (1st) 112837, ¶ 17, 986 N.E.2d 177 (holding court's statement that testimony was overwhelmingly in favor of the State and a boilerplate written order were insufficient); see also *In re Latoya C.*, 2013 IL App (1st) 121477, ¶¶ 12, 13, 994 N.E.2d 994, (relying on *Rita P.* and *James S.* and holding the court's statement a doctor's testimony was extremely credible and a boilerplate written order were insufficient), *appeal pending* (Jan. 2014) (No. 116555).

¶ 36 This case is also distinguishable from the Illinois Supreme Court's holding in *In re Madison H.*, 215 Ill. 2d 364, 378, 830 N.E.2d 498, 507 (2005). In *Madison H.* the court found section 2-27(1) of the Juvenile Court Act of 1987, which required the court to put the factual basis for its finding in writing, is satisfied when the trial court makes, on the record, an explicit oral statement advising the parties of the reasons for the court's decision. *Madison H.*, was remanded to allow the trial court to enter specific findings in compliance with statutory requirements. *Id.*; see also 705 ILCS 405/2-27(1) (West 2002). Unlike in *Madison H.*, the trial court in this case sufficiently indicated in its oral statement the factual basis for its findings. *Madison H.* turned on the trial court's failure to provide respondent an adequate explanation of the reasons for its decision. The basis for the court's decision in this matter is contained in the court's oral pronouncement and the statement is sufficient to satisfy the requirements of section 3-816 of the Code.

¶ 37

4. Sufficiency of the Evidence

¶ 38

In cases involving the involuntary administration of psychotropic medication, courts reviewing the sufficiency of the evidence "will not overturn the trial court's ruling unless it is against the manifest weight of the evidence." *In re Louis S.*, 361 Ill. App. 3d 774, 779, 838 N.E.2d 226, 231 (2005). Under section 2-107.1, the State must show by clear and convincing evidence:

"(A) That the recipient has a serious mental illness or developmental disability.

(B) That because of said mental illness or developmental disability, the recipient currently exhibits any one of the following:
(i) deterioration of his or her ability to function, ***(ii) suffering, or (iii) threatening behavior.

(C) That the illness or disability has existed for a period marked by the continuing presence of the symptoms ***.

(D) That the benefits of the treatment outweigh the harm.

(E) That the recipient lacks the capacity to make a reasoned decision about the treatment.

(F) That other less restrictive services have been explored and found inappropriate.

(G) If the petition seeks authorization for testing and other procedures, that such testing and procedures are essential for the safe and effective administration of the treatment." 405 ILCS 5/2-

107.1(a-5)(4) (West 2012).

¶ 39 Respondent claims (1) the record does not show respondent lacked the capacity to decide her treatment; (2) the record does not show deterioration in respondent's condition or that she lacked the ability to function or exhibited threatening behavior; and (3) nothing in the record justified extending the order for 90 days, as the doctor did not specifically request 90 days. We disagree.

¶ 40 a. Capacity To Decide Treatment

¶ 41 Respondent erroneously asserts nothing in the record suggests respondent lacked the capacity to decide treatment. Capacity to decide is the patient's ability to rationally choose to accept or refuse treatment based on conveyed information about the risks, benefits, and alternative treatments. *In re Israel*, 278 Ill. App. 3d 24, 36, 664 N.E.2d 1032, 1039 (1996). Dr. Kripakaran testified that respondent's mental illness prevented her from believing she needed treatment, preventing her from rationally choosing an appropriate treatment. Respondent was also unable to communicate with Dr. Kripakaran about treatment options, further showing respondent's mental state prevented her from rationally considering the risks and benefits of treatment. Consequently, the trial court's finding respondent lacked the capacity to decide treatment was not against the manifest weight of the evidence.

¶ 42 b. Deterioration of Ability To Function
and Threatening Behavior

¶ 43 Respondent also claims no evidence was presented on the deterioration of respondent's ability to function or that she exhibited threatening behavior. In making this argument, respondent rejects evidence presented at the preceding involuntary commitment hearing included through the court's use of judicial notice by misleadingly characterizing it as

evidence from "an unknown" hearing. We reject this argument, as it distorts the record.

¶ 44 Respondent and counsel were present at the commitment hearing and a transcript of the hearing is included in our record on review. As we noted, this use of judicial notice did not violate section 2-107.1 and was within the court's discretion. At the previous hearing, Dr. Kripakaran testified respondent did not have food in her home and was dehydrated when she was admitted into the emergency room. These facts indicated her condition was deteriorating, as she was not getting enough water, and permitted the trier of fact to draw the inference she was also not eating. Dr. Kripakaran also testified she believed respondent could be dangerous based on threatening behavior respondent exhibited toward staff at McFarland. In addition, Dr. Kripakaran's testimony regarding the medication being suggested for respondent indicated the medication being proposed would eliminate respondent's delusions, stabilize her mood, help with aggression, assist respondent in thinking rationally, and allow her to do well in the community. A reasonable inference to be drawn from this testimony is that respondent had deteriorated to the point she was unable to achieve those outcomes without medication. Thus, the court's finding respondent's condition was deteriorating and that she was a threat to herself and others was not against the manifest weight of the evidence.

¶ 45 c. Time Frame of the Order

¶ 46 In a two-sentence argument, respondent incorrectly asserts the trial court lacked sufficient evidence to extend its order for 90 days because "Dr. Kripakaran never requested a 90-day order." While respondent's claim might be true, nothing in section 2-107.1 requires the State to make a separate showing that 90 days are necessary for treatment. See 405 ILCS 5/2-107.1(a-5)(4)(A) through (G) (West 2012) (listing the factors the court must find to issue an order for

involuntary administration of psychotropic medication). Rather, the statute allows the court to issue an order authorizing involuntary administration of psychotropic medication for up to 90 days. 405 ILCS 5/2-107.1(a-5)(5) (West 2012). Thus, as the court found the factors listed in section 2-107.1 by clear and convincing evidence, it did not need a separate showing justifying extending the order for 90 days. Therefore, the court did not err by extending the order for 90 days.

¶ 47 *5. Information Presented on Clonazepam*

¶ 48 Under section 2-102(a-5) of the Code, a treating physician administering psychotropic medication must "advise the recipient, in writing, of the side effects, risks, and benefits of the treatment, as well as alternatives to the proposed treatment, to the extent such advice is consistent with the recipient's ability to understand the information communicated." 405 ILCS 5/2-102(a-5) (West 2012). A patient's "right to written notification is not subject to a harmless-error analysis" as "[s]trict compliance with the procedural safeguards is required because of the liberty interests involved." *Louis S.*, 361 Ill. App. 3d at 780, 838 N.E.2d at 232-33.

¶ 49 A patient does not waive the right to "written advisories required by the Code" by refusing to discuss their treatment plan with the physician. *Id.* at 780, 838 N.E.2d at 233. In such cases, this court has found written information is even more important because it gives the patient the ability to look at the information on his or her own time. *Id.* at 780-81, 838 N.E.2d at 233. "If a patient is not informed of the risks and benefits of the proposed medication, the trial court's order for the involuntary administration of that medication must be reversed." *Id.* at 781, 838 N.E.2d at 233.

¶ 50 Dr. Kripakaran attempted to talk to respondent about the proposed drugs but respondent was not able to listen. Our review of the record indicates respondent was given information on the benefits and side effects of all drugs authorized by the order except Clonazepam. The final order authorized Clonazepam as an alternative medication. The State's argument that information presented on Clonazepam at trial was sufficient is unconvincing because it ignores the patient's statutory right to written information on all the drugs authorized in the involuntary administration order. 405 ILCS 5/2-102(a-5) (West 2012). Respondent's lack of written information on Clonazepam, however, does not invalidate the entire order, as respondent seems to suggest. See *Louis S.*, at 781, 838 N.E.2d at 233.

¶ 51 Although this issue is moot and will not affect the outcome as to respondent, we vacate the order to the extent it authorized Clonazepam.

¶ 52 III. CONCLUSION

¶ 53 For the forgoing reasons, we vacate the authorization of Clonazepam as an alternative medication. We otherwise affirm.

¶ 54 Affirmed in part and vacated in part.