

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1742

BY: LARASON

AS INTRODUCED

AN ACT RELATING TO CHILDREN AND PUBLIC HEALTH AND SAFETY; REQUIRING CERTAIN AGENCIES TO JOINTLY ESTABLISH AN ANNUAL COMPREHENSIVE PLAN FOR CERTAIN MENTAL HEALTH SERVICES FOR CHILDREN; PROVIDING FOR CONTENTS OF THE PLAN; PROVIDING FOR MODIFICATION AND UPDATE; PROVIDING FOR DESIGNATION OF PERSONNEL TO PREPARE PLAN; PROVIDING FOR REVIEW BY OKLAHOMA COMMISSION ON CHILDREN AND YOUTH; PROVIDING FOR SUBMISSION OF PLAN TO LEGISLATURE; AMENDING SECTIONS 22, 23 AND 24 OF CHAPTER 227, O.S.L. 1989 (63 O.S. SUPP. 1990, SECTIONS 1-880.5, 1-880.6 AND 1-880.7), WHICH RELATE TO CERTIFICATES OF NEED FOR CERTAIN FACILITIES; ELIMINATING CERTAIN HOSPITALS AND FACILITIES FROM EXEMPTION FROM ACT; REQUIRING NOTIFICATION OF CERTAIN PLANNED CONVERSIONS; ADDING TO DEFINITION OF PSYCHIATRIC AND CHEMICAL DEPENDENCY SERVICE; PROHIBITING HEALTH CARE FACILITIES FROM OPENING NEW OR CONVERTING EXISTING BEDS FOR PSYCHIATRIC AND CHEMICAL DEPENDENCY SERVICES FOR MINORS; REQUIRING DEPARTMENT OF HEALTH TO REVIEW CERTAIN APPLICATIONS AFTER CERTAIN DATE; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 601.50 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department of Mental Health and Substance Abuse Services, the State Department of Health, the Department of Human Services and the State Department of Education shall jointly establish an annual plan for a comprehensive system of mental health services for children and youth. Said plan shall include but not be limited to:

1. Identification of three to five year goals and priorities;
2. Delineation of service responsibilities and coordination of delivery of services to the eligible population by the agencies subject to the provisions of the act;
3. Guidelines for assigning responsibilities to appropriate agencies and means whereby appropriate agency personnel are involved in the development of services;
4. Establishment of service regions, delineation of organizational structures or other means whereby coordination required by this act will be accomplished at the local and regional level;
5. Development of an appropriate array and mix of inpatient, outpatient, residential, home-based, evaluation and other mental health services for children and youth;
6. Procedures for monitoring and improving such service delivery on a continuing basis;
7. Methods for resolving disputes by mediation and other means;
8. A funding and implementation plan which shall provide for the utilization of all financial resources from federal, state,

local and private resources and the coordination of those resources to fund related services; and

9. Be annually updated and modified as necessary.

B. For the purpose of efficiency, cost effectiveness, and to avoid duplication of services, said plan shall:

1. Be based upon the existing system of services to children and youth;

2. Consider the recommendations of current information, reports and the contents of existing plans, including updated plans, in the area of mental health services to children and adolescents;

3. Include but not be limited to recommendations for implementation of the plan and the funding necessary for such implementation.

C. For the purpose of developing said comprehensive plan:

1. The Commissioner of the Department of Mental Health and Substance Abuse Services, the commissioner of the State Department of Health, the Director of the Department of Human Services and the State Superintendent of Schools shall, within existing personnel, each designate two employees of their respective agencies to prepare the plan and shall provide other staff support and assistance as necessary; and

2. The Commission on Children and Youth shall:

- a. appoint private sector providers of mental health and community based services to children and youth and local education entities; and
- b. provide meeting space and convene and facilitate such meetings as are necessary to complete the plan.

D. 1. On or before November 1 of each year, the comprehensive plan shall be submitted to the Oklahoma Commission on Children and Youth for review and comment. The review of the plan by the Commission shall include but not be limited to the conformance and compatibility of the comprehensive plan for mental health services

for children and adolescents with other services and plans for services to children and youth. As appropriate, the Commission on Children and Youth shall incorporate the findings and recommendations of the plan required by this act into the annual Commission report and State Plan for Services to Children and Youth.

2. On or before January 1 of each year, the comprehensive plan, along with the comments of the Commission on Children and Youth, shall be submitted to the Legislature.

SECTION 2. AMENDATORY Section 22, Chapter 227, O.S.L. 1989 (63 O.S. Supp. 1990, Section 1-880.5), is amended to read as follows:

Section 1-880.5 No psychiatric or chemical dependency facility or unit shall be developed or offered unless a certificate of need therefor has been issued ~~as provided in this act, except as provided by subsection B of Section 23 of this act.~~ No governmental entity shall approve any grant of funds, issue any debentures or issue or renew any license for the operation of a facility, nor shall any third-party purchasers, licensed or operated by this state, issue reimbursement for services provided to its insurers or clients, unless the certificate of need as provided in this act has been obtained.

SECTION 3. AMENDATORY Section 23, Chapter 227, O.S.L. 1989, as amended by Section 2, Chapter 345, O.S.L. 1989 (63 O.S. Supp. 1990, Section 1-880.6), is amended to read as follows:

Section 1-880.6 A. Every entity desiring to establish a new psychiatric or chemical dependency service or to acquire, lease or expand an existing service whether through construction or conversion of facilities, shall make application to the State Department of Health for a certificate of need in such form and accompanied by such information, including a complete list of stockholders, partners, and owners, and any other information, as the Board shall prescribe.

~~B. The provisions of the Psychiatric and Chemical Dependency Facility Certificate of Need Act shall not apply to:~~

~~1. Any hospital as defined in Section 1-710 of Title 63 of the Oklahoma Statutes, of one hundred twenty (120) beds or less, licensed by the State Department of Health on or before April 1, 1989; provided, however, a hospital having one hundred twenty (120) beds or less, may, upon request, if no other applications are pending or are filed within sixty (60) days from and after the date of application made under this subsection for a certificate of need within the same regulatory service area, be administratively granted an increase in beds not to exceed twenty-four (24) beds. The administrative procedure provided by this paragraph shall be in lieu of the certificate of need process whether the increase is by acquisition, conversion, construction, expansion or lease; or~~

~~2. Except with regard to a Medicare or Medicaid contract pursuant to the federal Social Security Act, any hospital, facility or hospital unit covered by a contract:~~

~~a. with one of the following governmental entities:~~

~~(1) this state,~~

~~(2) the federal government, or~~

~~(3) a Native American nation duly recognized by the federal government; and~~

~~b. which specifically identifies the beds and their uses.~~

~~C. The Except as provided by Section 4 of this act, the Commissioner of Health is authorized to grant a certificate of need if the entity applying for the certificate has filed a notice on a form prescribed by the State Department of Health which shall include, but not be limited to:~~

~~1. The name and location of the entity;~~

~~2. The name and address of each person having an ownership interest in the entity;~~

3. The nature of the acquisition, expansion, addition or conversion, whether by sale, lease or other arrangement;

4. The parties to the sale, lease or other arrangement;

5. The size of the acquisition, expansion, addition or conversion;

6. The approximate cost of the acquisition, expansion, addition or conversion; and

7. The projected date of completion.

~~D.~~ C. The Commissioner of Health shall be notified, on a form prescribed by the State Department of Health, of the following:

1. Any planned decrease in the number of beds of a hospital, facility or hospital unit; ~~and~~

2. Any planned change in the designation for a continuum of care in psychiatric or chemical dependency treatment; and

3. Any planned conversion of:

a. existing hospital beds for use for psychiatric or chemical dependency services, and

c. existing chemical dependency service beds to psychiatric service beds.

~~E. A hospital, facility or hospital unit shall not be required to obtain a certificate of need for the changes specified in subsection D of this section; provided, there is no increase in the number of beds.~~

~~F.~~ ~~1.~~ D. Psychiatric and chemical dependency service shall include ~~any~~ any:

1. Any capital investment or lease of Five Hundred Thousand Dollars (\$500,000.00) or more, including predevelopment activities such as arrangements and commitments for financing, architectural designs, plans, working drawings, specifications and site acquisition; provided, that this dollar limit shall not apply to a change in bed capacity; ;

2. ~~Psychiatric and chemical dependency service shall include acquisition~~ Acquisition of a facility by purchase, lease, donation or through transfer of stock or corporate merger. If the Department finds that a proposed acquisition is consistent with the criteria and standards for review of such projects, then the Department shall issue a certificate of need. If the Department finds that the proposed acquisition is not consistent with the criteria, the project will be referred to the Commissioner of Health for final determination. The Department's determination to approve the proposed acquisition or to refer it to the Commissioner shall be made no later than fifteen (15) days following the day the application is determined to be complete and review ready, or the proposed acquisition shall be automatically approved. Proposed acquisitions shall be reviewed against standards adopted by the Department which relate only to the acquirer's capability to operate a facility; and

3. Inpatient psychiatric and chemical dependency services for persons under eighteen (18) years of age offered or provided by a hospital or other health care facility, including but not limited to any conversion of existing beds, any increase in bed capacity and any new beds for the purpose of offering or providing said services, regardless of any capital or other costs of the project. Any application to establish or operate inpatient psychiatric or drug or alcohol treatment services for persons under eighteen (18) years of age shall include the establishment, operation and maintenance of a community-based service program or a day treatment program, as those terms are defined by Section 1101 of Title 10 of the Oklahoma Statutes, as an integral part of the total project.

~~G.~~ E. Promptly upon receipt of any such application, the Department shall examine and transmit the application to reviewers it may select to determine whether the application is complete. Once the Department has determined that the application is complete, it

shall notify affected parties and other reviewing bodies and cause a thorough investigation to be made of the need for and appropriateness of such expanded psychiatric or chemical dependency service. The investigation made pursuant to an application for a certificate of need shall include the following:

1. The adequacy of psychiatric and chemical dependency services in relation to an optimal target ratio of psychiatric or chemical dependency beds to the population;

2. The availability of services which may serve as alternatives or substitutes;

3. The adequacy of financial resources for the new or expanded services and for the continued operation thereof;

4. The availability of sufficient manpower to properly staff and operate the proposed new or expanded service; and

5. Any other matter which the Department deems appropriate.

~~H. F.~~ Each application for a certificate of need applied for pursuant to the provisions of this section except for those applications filed by state agencies shall be accompanied by an application fee in an amount established by the Department.

SECTION 4. AMENDATORY Section 24, Chapter 227, O.S.L. 1989 (63 O.S. Supp. 1990, Section 1-880.7), is amended to read as follows:

Section 1-880.7 A. Except as provided in subsection B of this section ~~or Section 27 of this act~~, no certificate of need shall be issued by the State Department of Health unless, after investigation, the Department makes the following findings:

1. The action proposed in the application for such certificate of need is necessary and desirable in order to provide the services required in the locality to be served;

2. The proposed action can be economically accomplished and maintained; and

3. The proposed action will contribute to the orderly development of services in the locality.

B. 1. An application for a certificate of need shall not be required for a capital expenditure to eliminate or prevent imminent safety hazards as defined by federal, state or local fire, building or life safety codes or regulations, or to comply with state licensure standards, or to comply with accreditation standards, compliance with which is required to receive reimbursements under Title XVIII of the Social Security Act or payments under a state plan for medical assistance approved under Title XIX of such act.

2. Approval under this subsection shall cover only the capital expenditure to eliminate or prevent the hazards or to comply with standards described herein.

C. Any application seeking a certificate of need for the construction of a psychiatric or chemical dependency facility in replacement of an existing facility shall be reviewed by the Department and, except as provided by Section 4 of this act, shall be granted a certificate of need if the application meets the following criteria:

1. The replacement facility involves no increase in licensed beds; and

2. A plan for the use of the facility to be replaced is provided which assures that its use will be discontinued upon licensure of the replacement facility.

D. When the Department completes its investigation and makes a determination to issue or deny a certificate of need, it shall provide written findings to the applicant, other reviewers and to other persons upon their request. The certificate of need shall establish the maximum capital expenditure for the project. The Department shall adopt rules and regulations concerning the time in which a decision must be made by the Department on an application.

E. Any person may request a reconsideration of a Department determination for good cause shown, the grounds for which shall be established by the Department by rule. A request for reconsideration shall be filed within thirty (30) days of the Department determination. The hearing thereupon shall be conducted within thirty (30) days following the receipt of request. Written findings shall be issued within forty-five (45) days of such hearing.

F. Conduct a study to determine the number and location of all inpatient and residential psychiatric services and chemical dependency services within the state that are offered or provided for persons under eighteen (18) years of age and maintain a current listing, updated monthly, of the facilities offering said services, the number of beds at each facility, and the occupancy rate at each facility.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-880.7a of Title 63, unless there is created a duplication in numbering, reads as follows:

A. After the effective date of this act and until July 1, 1995, no health care facility shall open new beds or convert existing beds for the purpose of offering or providing inpatient psychiatric or chemical dependency services for persons under eighteen (18) years of age. No applications for a certificate of need for inpatient services for psychiatric or chemical dependency services for persons under eighteen (18) years of age shall be filed with the State Department of Health and the Department shall not accept any such applications prior to July 1, 1995.

B. After July 1, 1995, the Department shall review applications for a certificate of need for inpatient psychiatric or chemical dependency services for persons under eighteen (18) years of age in accordance with the plan for a comprehensive system of mental health services for children and youth required by Section 1 of this act

and shall issue a certificate of need only to those applications that conform with said plan.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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