

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2929

By: Roach

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 1991, Section 1-101, which relates to the Oklahoma Public Health Code; Section 1-701, as amended by Section 5, Chapter 231, O.S.L. 1995 (63 O.S. Supp. 1995, Section 1-701), which relates to hospitals and related institutions; amending 43A O.S. 1991, Section 10-103, as amended by Section 1, Chapter 244, O.S.L. 1994 (43A O.S. Supp. 1995, Section 10-103), which relates to protective services for the elderly and for incapacitated adults; clarifying language; modifying definitions; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-101, is amended to read as follows:

Section 1-101. ~~This act~~ Sections 1-102 through 1-2605 of this title shall be known and may be cited as the "Oklahoma Public Health Code".

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-701, as amended by Section 5, Chapter 231, O.S.L. 1995 (63 O.S. Supp. 1995, Section 1-701), is amended to read as follows:

Section 1-701. For the purposes of this article:

1. "Hospital" means any institution, place, building or agency, public or private, whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care of patients admitted for overnight stay or longer in order to obtain medical care, surgical care, obstetrical care, or nursing care for illness, disease, injury, infirmity, or deformity. Except as otherwise provided by paragraph 5 of this ~~subsection~~ section, places where pregnant females are admitted and receive care incident to pregnancy, abortion or delivery shall be considered to be a "hospital" within the meaning of this article, regardless of the number of patients received or the duration of their stay. The term "hospital" includes general and specialized hospitals, tuberculosis sanatoria, maternity homes, lying-in homes, and, except as otherwise provided by paragraph 5 of this section, homes for unwed mothers in which care is given during delivery.

2. "General hospital" means a hospital maintained for the purpose of providing hospital care in a broad category of illness and injury.

3. "Specialized hospital" means a hospital maintained for the purpose of providing hospital care in a certain category, or categories, of illness and injury.

4. "Related institution" means an institution, or an industrial or other type of infirmary, providing limited medical or surgical care to ill or injured persons on a temporary basis, or a birthing center.

5. "Birthing center" means any facility, place or institution, which is maintained or established primarily for the purpose of

providing services of a certified midwife or licensed medical doctor to assist or attend a woman in delivery and birth, and where a woman is scheduled in advance to give birth following a normal, uncomplicated, low-risk pregnancy. Provided, however, licensure for a birthing center shall not be compulsory.

6. "Day treatment program" means nonresidential, partial hospitalization programs, day treatment programs, and day hospital programs as defined by subsection A of Section ~~±~~ 175.20 of ~~this act~~ Title 10 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 43A O.S. 1991, Section 10-103, as amended by Section 1, Chapter 244, O.S.L. 1994 (43A O.S. Supp. 1995, Section 10-103), is amended to read as follows:

Section 10-103. When used in the Protective Services for the Elderly and for Incapacitated Adults Act:

1. "Protective services" means services which are necessary to aid an elderly or incapacitated person in meeting the essential requirements for ~~his~~ such person's mental or physical health and safety which ~~such~~ the person is unable to provide or obtain without assistance and includes services provided to or obtained for ~~such~~ the person in order to prevent or remedy the abuse, neglect, or exploitation of ~~such~~ the person;

2. "Services which are necessary to aid an individual to meet essential requirements for mental or physical health and safety" include but shall not be limited to the identification of adults in need of the services, the provision of medical care for physical and mental health needs, provision of social services assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from physical mistreatment, guardianship referral, outreach and transportation necessary to secure any of such needs. The term shall not include taking the person into physical custody without the consent of ~~said~~ the person except as provided for in Section 10-

107 of this title, and evaluation, monitoring, and provision of protective placements;

3. "Meet essential requirements for mental or physical health and safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which physical injury or illness is likely to occur;

4. "Elderly person" means any person aged sixty-five (65) or over residing in this state;

5. "Incapacitated ~~person~~ adult" means ~~any~~ a person eighteen (18) years of age or older:

a. who is impaired by reason of:

(1) ~~mental or physical illness or disability,~~

~~advanced age, mental retardation, developmental~~

~~disability or other cause and whose ability to~~

~~receive and evaluate information effectively or~~

~~to make and to communicate responsible decisions~~

~~is impaired to such an extent that they lack the~~

~~capacity to manage their financial resources or~~

~~to meet essential requirements for their mental~~

~~or physical health or safety without assistance~~

as defined by Section 1-103 of this title,

(2) mental retardation or developmental disability as

defined by Section 1-818.2 of Title 63 of the

Oklahoma Statutes,

(3) physical illness or disability,

(4) drug or alcohol dependency as defined by Section

3-403 of this title, or

(5) other similar cause, and

b. whose ability to receive and evaluate information

effectively or to make and to communicate responsible

decisions is impaired to such an extent that the

person:

- (1) lacks the capacity to meet essential requirements for the person's mental or physical health, welfare or safety, or
- (2) is unable to manage financial resources;

6. "Partially incapacitated adult" means a person eighteen (18) years of age or older whose impairment is only to the extent that, without the assistance of another person, such person is unable to:

- a. meet the essential requirements for mental or physical health, welfare and safety, or
- b. manage all of the financial resources or to engage in all of the activities necessary for the effective management of the financial resources of the person;

7. ~~"Adult in need of protective services" means an individual who, because of physical or mental disability, incapacity or other disability, is substantially impaired in his ability to provide adequately for his own care or custody, or is unable to manage his property and affairs effectively, or to carry out the activities of daily living, or to protect himself from abuse, neglect, or exploitation~~ an elderly person or incapacitated or partially incapacitated person who cannot adequately protect themselves from abuse, exploitation or neglect without assistance from others;

~~7.~~ 8. "Caretaker" means a person who has the responsibility for the care of the adult in need of protective services as a result of family relationship or who has assumed the responsibility for the care of the elderly person or incapacitated adult voluntarily, by contract, or as a result of the ties of friendship either temporarily or permanently responsible for the care of an elderly or incapacitated or partially incapacitated adult. The term "caretaker" includes but is not limited to adult children, parents, relatives, neighbors, adult daycare administration and personnel of public and private agencies, institutions and facilities, adult

congregate living facilities, subdivisions of this state or state agencies and:

- a. nursing facilities licensed by the Nursing Home Care Act,
- b. homes licensed by the Residential Care Act, group homes licensed by the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, adult companion homes certified by the Oklahoma Adult Companion Home Certification Act,
- c. home care agencies licensed by the Home Care Act,
- d. adult daycare centers licensed by the Adult Day Care Act, and
- e. the officers and employees of the facilities, homes, agencies and centers;

~~8.~~ 9. "Department" means the Department of Human Services;

~~9.~~ 10. "Abuse" means the intentional infliction of physical pain, injury, or mental anguish or the deprivation of food, clothing, shelter, or medical care by a caretaker or other person responsible for providing these services;

~~10.~~ 11. "Exploitation" means an unjust or improper use of the resources of an elderly person or incapacitated adult for the profit or advantage, pecuniary or otherwise, of another person; and

~~11.~~ 12. "Neglect" means the failure to provide protection for an elderly person or incapacitated adult who is unable to protect ~~his~~ their own interest; or the failure to provide adequate shelter or clothing; or the harming or threatening with harm through action or inaction by either another individual or through the person's own action or inaction because of ~~his~~ lack of awareness, incompetence, or incapacity, which has resulted or may result in physical or mental injury.

SECTION 4. 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.

45-2-9000

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