

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1305

By: Eddins

AS INTRODUCED

An Act relating to mental health; amending 43A O.S. 1991, Sections 2-106, as amended by Section 1, Chapter 85, O.S.L. 1995, 2-107, 2-202, as amended by Section 2, Chapter 389, O.S.L. 1992, 2-204 and 2-207 (43A O.S. Supp. 1996, Sections 2-106 and 2-202), which relate to the Department of Mental Health and Substance Abuse Services; authorizing Board of Mental Health and Substance Abuse Services to have designee perform certain duties; substituting Department as entity to perform certain duties; eliminating consent of Board as condition for certain functions performed by Commissioner; modifying provisions regarding appointment of Assistant Commissioner; repealing 43A O.S. 1991, Section 2-209, which relates to the appointment and removal of officers for institutions; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 1991, Section 2-106, as amended by Section 1, Chapter 85, O.S.L. 1995 (43A O.S. Supp. 1996, Section 2-106), is amended to read as follows:

Section 2-106. The Board of Mental Health and Substance Abuse Services shall accept, hold in trust and authorize the use of any grant or devise of land, or any donation or bequest of money, or other personal property made to the Department of Mental Health and Substance Abuse Services, or to any institution therein, so long as the terms of the grant, donation, bequest, gift, or will are carried out. The Board of Mental Health and Substance Abuse Services, or a designee, may invest and reinvest any funds and may lease or sell any real or personal property and invest the proceeds, for the benefit of the Department or any institution therein unless prevented by the terms of the grant, donation, bequest, gift or will.

The Board, or a designee, may lease any property owned or held in trust to any other state agency, political subdivision, county, municipality or a nonprofit organization established for the purpose of providing community-based services or assistance to clients of the mental health system, for a period not to exceed ten (10) years. Any lease in effect at the time of the effective date of this provision may be amended to extend the lease to a ten-year term. Any lease entered into pursuant to these provisions shall be governed by the provisions of the Interlocal Cooperation Act, Section 1001 et seq. of Title 74 of the Oklahoma Statutes.

The ~~Board~~ Department of Mental Health and Substance Abuse Services must annually account to the State Auditor and Inspector for all monies or property received or expended by virtue of this section which account shall state the source of the monies or property received with the actual date of its receipt, the particular use or place for which it was expended, the balance on hand showing the place of deposit of the unexpended balance.

SECTION 2. AMENDATORY 43A O.S. 1991, Section 2-107, is amended to read as follows:

Section 2-107. There is hereby created in the State Treasury a revolving fund for the Department of Mental Health and Substance Abuse Services to be designated the "Capital Outlay Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of income as provided in this section. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department of Mental Health and Substance Abuse Services for the purposes described in this section. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

On and after July 1, 1988, no easement, right-of-way, oil and gas lease or surface lease on any land used or occupied by any institution, under the jurisdiction of the ~~Board~~ Department of Mental Health and Substance Abuse Services, shall be granted or conveyed without the approval of the Board or its designee; and all monies hereafter received or derived therefrom, including rentals and royalties for leases and from sale of land and equipment, shall be deposited in the Capital Outlay Fund of the Department of Mental Health and Substance Abuse Services and used by the Board for capital improvement at any Department of Mental Health and Substance Abuse Services facility, except as otherwise provided by the Legislature.

SECTION 3. AMENDATORY 43A O.S. 1991, Section 2-202, as amended by Section 2, Chapter 389, O.S.L. 1992 (43A O.S. Supp. 1996, Section 2-202), is amended to read as follows:

Section 2-202. The Commissioner of Mental Health and Substance Abuse Services shall have charge of the administration of the Department of Mental Health and Substance Abuse Services as directed by the Board of Mental Health and Substance Abuse Services and shall be charged with the duty of carrying out the provisions of the Mental Health Law. The Commissioner shall appoint a business

administrator for the Department with the approval of the Board and may appoint necessary personnel to carry on the work of the Department of Mental Health and Substance Abuse Services and prescribe their titles and duties and fix their compensation. The Commissioner may prescribe rules and regulations for the operation of the Department. In addition, the Commissioner shall:

1. Counsel with the various superintendents about their institutional needs and budget requests and shall prepare and submit for appropriate legislative action budget requests sufficient to carry on the functions of the Department. These budget requests shall be submitted to the Board of Mental Health and Substance Abuse Services for its recommendations before being submitted for legislative action; and

2. Appoint the superintendents of the institutions within the Department ~~with the consent of the Board of Mental Health and Substance Abuse Services. The Commissioner, with the consent of the Board, may remove a superintendent for cause;~~ and

3. Develop, institute, and administer such administrative and professional policies as may be necessary to guarantee the effective and efficient uniform operation of the Department of Mental Health and Substance Abuse Services and its institutions; and

4. Prescribe uniform reports to be made by the superintendents of the institutions and designate forms to be used; and

5. After conference with the superintendent of each institution, determine the number of employees to be appointed and fix their respective titles, salaries, and wages, which shall be uniform, as far as possible for comparable service; and

6. Aid and assist and cooperate with the State Department of Health, institutions of higher learning, public schools, and others interested in public education of the problems of mental hygiene in the establishment of a sound mental health program in Oklahoma; and

7. Visit each institution in the Department at least four times during each calendar year. During said visits, the Commissioner shall have access to any or all institutional facilities and records and shall have the privilege of interviewing all personnel and patients within the institution. The purpose of such visits shall be:

- a. to review and evaluate the professional and administrative activity of said institutions, and
- b. to ensure compliance with medical and administrative policies and procedures established by the Department, and
- c. to modify and revise existing operating procedure to improve operational effectiveness, and
- d. to institute new policies and procedures to effect improvement and economy of overall operation, and
- e. to coordinate the activity of each institution with the overall operation of the Department.

Following each official visit, the Commissioner shall make a report of his findings and recommendations, and submit such findings and recommendations to the Board of Mental Health and Substance Abuse Services; and

8. Authorize other members of the Department to visit the institutions in the Department. Such persons shall have the same power to inspect the institution and its records and to interview personnel and patients of the Commissioner; and

9. Designate, with consent of the Board, which type of patient shall be cared for at each institution or community mental health center and designate hospital or community mental health center districts for the purpose of determining to which of the institutions within the Department or community mental health centers persons committed from each county shall initially be sent. These designations may be changed from time to time. Patients may

be transferred from one institution to another within the Department on the authority of the Commissioner as provided for in the Mental Health Law. Permanent transfer of a patient may be made when it is apparent that the patient's general welfare, care, and treatment can be more effectively provided at another institution, provided the parents or guardian be notified as soon as possible of the transfer. Temporary transfer of a patient may be made in order that a patient may have the advantage of special service not available at the institution of his present residence. Requests for transfer shall be initiated by the superintendent of the institution in which the patient resides. Sufficient supporting information from the patient's records shall be submitted by the superintendent to the Commissioner to warrant a decision as to the advisability of the transfer; and

10. Call meetings of the superintendents of the institutions in the Department, and act as chairman of such meetings, to discuss problems common to all in order to obtain uniformity and bring about coordination of the institutions for the maximum service to the state. Such called meetings may or may not be held jointly with the Board of Mental Health and Substance Abuse Services; and

11. Act as Chairman of a Board of Psychiatric Examiners to review the case of any patient, and to examine any patient when the superintendent of any institution concludes that a patient within his institution is subject to discharge but said superintendent is unwilling to discharge the patient as provided in the Mental Health Law. Such Board shall be composed of the Commissioner and two members selected by the Board of Mental Health and Substance Abuse Services. Said members shall be selected from persons who are qualified examiners according to the Mental Health Law. The Commissioner may designate a third qualified examiner to act in his place as chairman when circumstances warrant and when he deems it necessary; and

12. Keep a list of all nonresidents admitted to the institution within the Department and to make every effort possible to make arrangements with other states so that mentally ill persons who are being cared for at public expense in any institution in this state and who are citizens or residents of such other states may be transferred at the expense of this state to similar institutions in such other states. The Commissioner shall not prevail upon relatives or friends of such mentally ill person or any other person to defray such expenses. Mentally ill persons who are being cared for at public expense in hospitals for mentally ill or institutions of other states, other than persons who have been transferred from penal institutions and the terms of whose sentences to such penal institutions shall not have expired, and who are citizens or residents of this state, may be transferred at the expense of such other states to similar institutions in this state. Removal of a nonresident to his state may be authorized by the Commissioner and all expenses of such transfer shall be taken from the Travel Fund of the institution if the transfer is to be at public expense. Patients returned to this state pursuant to these provisions shall be delivered directly to the hospital designated by the Commissioner and shall be admitted in accordance with these provisions; and

13. Compile and keep a central registration of names and addresses, and names of nearest relatives of all inmates of mental institutions. Said record and the documents from which the same is compiled shall be confidential and the information contained in such record or documents shall not be disclosed to any person except to the State Commissioner of Health and the Department of Human Services. Upon request, such record or documents shall be available to authorized representatives of the federal government; and

14. Prescribe the official forms of any and all papers not specifically described in the Mental Health Law including those to be used in ordering a person to an institution within the

Department, except that when a person is ordered to an institution by a court, the order to hospitalize or admit such person may be on such form as the court deems proper; and

15. Utilize the services of employees of the Department of Central Services, State Department of Health, and Department of Human Services when authorized by the chairman or commissioner thereof. When employees of those agencies are used, the Commissioner of Mental Health and Substance Abuse Services may authorize payment of their traveling expenses as provided by law; and

16. Have power to make contracts and agreements with other departments of this state to carry out these provisions; and

17. Make a written report annually to the Governor concerning the administration of the Department and submit copies thereof to members of the Legislature. Said report shall be presented one (1) month prior to the convening of any regular session of the Legislature and shall include specific information regarding the number of patients admitted, treated, and discharged; the methods of treatment used and an appraisal of the success thereof; the financial condition and needs of each institution in the Department; any long-range plans or recommendations for the utilization and improvement of facilities, equipment, and personnel and for the care and treatment of patients; any recommendations requiring legislative enactments for fulfillment; and major findings, in summarized form, obtained by visits made pursuant to paragraph 7 of this section; and

18. Have power to designate qualified personnel in the Department of Mental Health and Substance Abuse Services job classifications of Fire and Safety Officers, Security Officers, and Correctional Officers as peace officers. The authority of employees so designated shall be limited to maintaining custody of patients in mental health facilities, maintaining security or performing functions similar to those performed by correctional officers or

other security personnel for Department of Corrections inmates housed in mental health facilities, preventing attempted escapes, and pursuing and returning court committed patients and Department of Corrections inmates who have escaped from Department of Mental Health and Substance Abuse Services facilities. The powers and duties of such peace officers may be exercised for the purpose of maintaining custody of any patient being transported within the state and outside the State of Oklahoma pursuant to the authority of the Interstate Compact on Mental Health. To become qualified for designation as a peace officer pursuant to this section, an employee shall meet the training and screening requirements of the Department of Corrections pursuant to subparagraphs a through g of paragraph 2 of Section 510 of Title 57 of the Oklahoma Statutes and be of good moral character; and

19. Exercise any other power necessary to implement the provisions of the Mental Health Law.

SECTION 4. AMENDATORY 43A O.S. 1991, Section 2-204, is amended to read as follows:

Section 2-204. The Commissioner ~~shall~~ may appoint an Assistant Commissioner with the approval of the Board, and shall set ~~his~~ the salary of the Assistant Commissioner. ~~He~~ The Assistant Commissioner shall meet at least one of the following qualifications:

1. Possession of a Master of Public Health, Master of Mental Health Administration or a Master of Hospital Administration from a program accredited by the Association of University Programs in Hospital Administration and completion of a four-year period of supervisory experience in the administration of health services; or

2. Possession of a Master of Arts or Master's Degree in Business Administration, Social Science, or a related field, and completion of a five-year period of supervisory experience in the administration of health services.

The Assistant Commissioner shall have the primary duty of coordination and supervision of all administrative and fiscal services provided in all facilities operated by the Department of Mental Health and Substance Abuse Services in addition to other duties as prescribed by the Commissioner.

SECTION 5. AMENDATORY 43A O.S. 1991, Section 2-207, is amended to read as follows:

Section 2-207. The Commissioner, ~~with the consent of the Board,~~ may employ persons to assist in collecting the amount due the state for the care and treatment of patients, and may employ counsel to institute such actions or proceedings as he may deem proper to enforce the claim of the state for the care and treatment of a patient against such patient.

SECTION 6. REPEALER 43A O.S. 1991, Section 2-209, is hereby repealed.

SECTION 7. This act shall become effective November 1, 1997.

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