STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 599 By: Brown

AS INTRODUCED

An Act relating to mental health; amending 43A O.S. 1991, Sections 2-103 and 2-202, as amended by Section 2, Chapter 389, O.S.L. 1992 (43A O.S. Supp. 1998, Section 2-202), which relate to the Board of Mental Health and Substance Abuse Services and the powers and duties of the Commissioner; expanding and modifying composition of Board; providing for appointment of a separate Commissioner for Alcohol and Substance Abuse Services; requiring such Commissioner to report directly to the Board on certain matters; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 43A O.S. 1991, Section 2-103, is amended to read as follows:

Section 2-103. A. The Board of Mental Health and Substance Abuse Services shall be composed of ~~seven (7)~~ ten (10) members appointed by the Governor with the advice and consent of the Senate. Immediately after June 3, 1953, one member shall be appointed for a term expiring December 31, 1953, and one each for terms ending respectively one (1), two (2), three (3), four (4), five (5) ~~and~~, six (6), seven (7), eight (8) and nine (9) years thereafter. Upon the expiration of any of the terms a successor shall be appointed for a full term of seven (7) years.

1. One member, who shall be a physician licensed to practice in this state, and one member, who shall be a psychiatrist certified as a diplomate of the American Board of Psychiatry and Neurology, shall both be appointed from a list containing the names of not less than three physicians and not less than three psychiatrists submitted to the Governor by the Oklahoma State Medical Association; ~~one~~

2. One member shall be an attorney licensed to practice in this state and shall be appointed from a list of not less than three names submitted to the Governor by the Oklahoma Bar Association; ~~and one~~

3. One member shall be a psychologist, licensed to practice in this state, who shall be appointed from a list of not less than three names submitted to the Governor by the Oklahoma State Psychological Association; and

4. Three members shall be individuals who are qualified by education and experience in the area of substance abuse recovery and who shall be appointed from a list of not less than ten names submitted to the Governor by a state association of substance abuse recovery programs or organizations.

B. No person shall be appointed a member of the Board who has been a member of the Legislature of this state within the preceding five (5) years.

C. The Board shall elect ~~its own chairman~~ from among its members a chair and ~~vice-chairman~~ a vice-chair. The ~~chairman~~ chair may call meetings at any time.

D. All regularly scheduled meetings ~~will~~ of the Board shall be held at the Central Office of the Department of Mental Health and Substance Abuse Services, Oklahoma City, Oklahoma, unless otherwise scheduled. The Board, not in conjunction with a regularly scheduled meeting, or ~~their~~ its designee, shall visit each facility once during each fiscal year with a report on the status of each facility given to the full Board after such visit. ~~Four~~ Six members shall constitute a quorum at any meeting, and all action may be taken by an affirmative vote of the majority of the members present at any such meeting.

E. The action taken by the Board on any matter, or any document passed by the Board, shall be considered official when such action

is placed in writing and signed by the ~~chairman,~~ chair or ~~vice-chairman~~ vice-chair.

F. The duties of the Board shall pertain to the care, treatment, and hospitalization of the mentally ill, and alcohol- or drug-dependent persons.

G. Members of the Board of Mental Health and Substance Abuse Services shall be allowed their necessary travel expenses pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 43A O.S. 1991, Section 2-202, as amended by Section 2, Chapter 389, O.S.L. 1992 (43A O.S. Supp. 1998, Section 2-202), is amended to read as follows:

Section 2-202. ~~The~~ Except as herein provided, 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~~ such 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~~ such 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~~ the Commissioner's 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 the 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~~ such patient's 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~~ chair 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~~ Chair 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~~ such institution is subject to discharge but ~~said~~ such 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~~ Such 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~~ chair when circumstances warrant and when ~~he~~ the Commissioner 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~~ the nonresident's 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~~ Such 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~~ chair 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~~ Such 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; provided, however, the Board shall appoint a separate Commissioner for Alcohol and Substance Abuse Services who shall report directly to the Board on all matters of the Department related to alcohol and substance abuse.

SECTION 3. This act shall become effective July 1, 1999.

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.

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