

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL 1107

By: Gilbert of the House

and

Cain of the Senate

COMMITTEE SUBSTITUTE

An Act relating to mental health; amending 43A O.S. 1991, Sections 1-102 and 1-103, as amended by Section 1, Chapter 389, O.S.L. 1992 (43A O.S. Supp. 2000, Section 1-103), which relate to purposes and definitions of the Mental Health Law; adding purposes; modifying definitions; amending 43A O.S. 1991, Section 2-103, as amended by Section 1, Chapter 414, O.S.L. 1999 (43A O.S. Supp. 2000, Section 2-103), which relates to the Board of Mental Health and Substance Abuse Services; modifying certain duties; amending 43A O.S. 1991, Section 2-202, as last amended by Section 2, Chapter 414, O.S.L. 1999 (43A O.S. Supp. 2000, Section 2-202), which relates to the Commissioner of Mental Health and Substance Abuse Services; modifying certain duties; amending 43A O.S. 1991, Section 3-107, as amended by Section 3, Chapter 323, O.S.L. 1993 (43A O.S. Supp. 2000, Section 3-107), which relates to alcohol and drug treatment centers; adding certain facility to list; amending 43A O.S. 1991, Sections 3-302, as amended by Section 7, Chapter 231, O.S.L. 1995, 3-306, as amended by Section 2, Chapter 348, O.S.L. 1992, 3-310 and Section 50, Chapter 354, O.S.L. 1996 (43A O.S. Supp. 2000, Sections 3-302, 3-306 and 3-317), which relate to the Unified Community Mental Health Services Act; modifying definitions; establishing application fee; eliminating certain requirements regarding contracts with private nonprofit agencies; amending 43A O.S. 1991, Section 3-403, which relates to the Oklahoma Alcohol and Drug Abuse Services Act; eliminating definitions; authorizing Department of Mental Health and Substance Abuse Services to certify certain programs; authorizing fee for certification; amending 43A O.S. 1991, Section 3-502, as amended by Section 17, Chapter 246, O.S.L. 1998 (43A O.S. Supp. 2000, Section 3-502), which relates to the Oklahoma Comprehensive Mental Health Services for the Deaf and Hard-of-Hearing Act; eliminating certain qualifications for director of program; amending 43A O.S. 1991, Section 3-602, as amended by Section 53, Chapter 354, O.S.L. 1996 (43A O.S. Supp. 2000, Section 3-602), which relates to the methadone treatment programs; eliminating certain program requirements; amending 43A O.S. 1991, Section 3-702, which relates to inmates in correctional facilities;

requiring penal institution to bear certain costs; amending 43A O.S. 1991, Section 5-309, which relates to the Mental Hospital Voluntary Admission Procedures Act; modifying detention periods under certain circumstances; amending 43A O.S. 1991, Section 7-101, which relates to discharge and release of patients; modifying rulemaking authority; repealing 43A O.S. 1991, Sections 2-204, 2-208, 2-209, 2-210, 2-211, 2-212, 2-215 and 2-216, which relate to officers and employees of the Department of Mental Health and Substance Abuse Services; repealing 43A O.S. 1991, Section 3-308, which relates to the schedule of services; repealing 43A O.S. 1991, Sections 3-418, 3-419, 3-420 and 3-421, which relate to the Oklahoma Alcohol and Drug Abuse Services Act; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 1991, Section 1-102, is amended to read as follows:

Section 1-102. The purpose of the Mental Health Law is to provide for the humane care and treatment of persons who are mentally ill or who require treatment for drug or alcohol abuse, or who require domestic violence or sexual assault services. All such residents of this state are entitled to ~~medical~~ care and treatment in accordance with the highest standards accepted in ~~medical~~ practice.

SECTION 2. AMENDATORY 43A O.S. 1991, Section 1-103, as amended by Section 1, Chapter 389, O.S.L. 1992 (43A O.S. Supp. 2000, Section 1-103), is amended to read as follows:

Section 1-103. When used in this title, unless otherwise expressly stated, or unless the context or subject matter otherwise requires:

1. "Department" means the Department of Mental Health and Substance Abuse Services;

2. "~~Chairman~~" "Chair" means ~~chairman~~ the chair of the Board of Mental Health and Substance Abuse Services;

3. "Mentally ill person" means any person afflicted with a substantial disorder of thought, mood, perception, psychological orientation or memory that significantly impairs judgment, behavior, capacity to recognize reality or ability to meet the ordinary demands of life;

4. "Board" means the "Board of Mental Health and Substance Abuse Services" as established by this law;

5. "Commissioner" means the individual selected and appointed by the Board to serve as Commissioner of Mental Health and Substance Abuse Services;

6. "Indigent person" means a person who has not sufficient assets or resources to support ~~himself~~ the person while mentally ill and to support members of ~~his~~ the family of the person lawfully dependent on ~~him~~ the person for support;

7. "Facility" means any hospital, school, building, house or retreat, authorized by law to have the care, treatment or custody of the mentally ill or drug-dependent or alcohol-dependent persons including, but not limited to, public or private hospitals, community mental health centers, clinics, satellites or institutions; provided that facility shall not mean a child guidance center operated by the State Department of Health;

8. "Patient" means a person under care or treatment in a facility pursuant to this act, Section 1-101 et seq. of this title, or in an outpatient status;

9. "Care and treatment" means medical care, ~~surgical~~ attendance, nursing and medications and behavioral health services, as well as food, clothing and maintenance, furnished a patient;

10. Whenever in this law, or in any other law, or in any rule, order or regulation, made or promulgated pursuant to this law, or to any other law, or in the printed forms prepared for the admission of patients or for statistical reports, the words "insane", "insanity", "lunacy", "mentally sick", "mental disease" or "mental disorder", or

any of them, are used, they shall have equal significance to the words "mentally ill";

~~11. Whenever in this law, or in any other law, or in any rule, order or regulation, made or promulgated pursuant to this act, or any other law, or in the printed forms prepared for the admission of patients or for statistical reports, the terms "certification" of a person, a person "certified" or to "certify" a person by a court of competent jurisdiction to a facility as provided by this act shall have equal significance to the terms "commitment" of a person, a person "committed" or to "commit" a person;~~

~~12.~~ "Qualified examiner" means any doctor of medicine, clinical psychologist or osteopathic physician who is duly licensed to practice his profession by the State Board of Medical Licensure and Supervision, the State Board of Examiners of Psychologists or the Oklahoma Board of Osteopathic Examiners and who is not related by blood or marriage to the person being examined or has any interest in his estate except as modified under the provisions of this title;

~~13.~~ 12. "Mentally incompetent person" means any person who has been adjudicated mentally or legally incompetent by an appropriate district court;

~~14.~~ 13. "Person requiring treatment" means either:

- a. a person who has a demonstrable mental illness or is a drug- or alcohol-dependent person and who as a result of that mental illness or dependency can be expected within the near future to intentionally or unintentionally seriously and physically injure ~~himself~~ self or another person and who has engaged in one or more recent overt acts or made significant recent threats that substantially support that expectation, or
- b. a person who has a demonstrable mental illness or is a drug- or alcohol-dependent person and who as a result

- of that mental illness or dependency is unable to attend to those of ~~his~~ the basic physical needs of the person such as food, clothing or shelter that must be attended to in order for ~~him~~ the person to avoid serious harm in the near future and who has demonstrated such inability by failing to attend to those basic physical needs in the recent past, or
- c. a person who appears to require inpatient treatment:
- (1) (a) for a previously diagnosed history of schizophrenia, bipolar disorder, or major depression with suicidal intent, or
  - (b) due to the appearance of symptoms of schizophrenia, bipolar disorder, or major depression with suicidal intent, and
  - (2) for whom such treatment is reasonably believed to prevent progressively more debilitating mental impairment.

Person requiring treatment shall not mean a person whose mental processes have simply been weakened or impaired by reason of advanced years, a mentally deficient person as defined in Title 10 of the Oklahoma Statutes, or a person with epilepsy, unless the person also meets the criteria set forth in this paragraph. However, the person may be hospitalized under the voluntary admission provisions of this act if he is deemed clinically suitable and a fit subject for care and treatment by the person in charge of the facility;

~~15.~~ 14. "Petitioner" means a person who files a petition alleging that an individual is a person requiring treatment;

~~16.~~ ~~"Person in charge of the facility"~~ 15. "Executive director" means the person in charge of ~~any hospital, school, building, house or retreat, authorized by law to have the care, treatment or custody of the mentally ill including, but not limited~~

~~to, public or private hospitals, community mental health centers, clinics, satellites or institutions; provided that person in charge of the facility shall not mean persons in charge of child guidance centers operated by the Department of Health~~ a facility as defined in this section;

17. 16. "Private hospital or institution" means any general hospital maintaining a neuro-psychiatric unit or ward, or any private hospital or sanitarium for care and treatment of mentally ill persons, which is not supported by state or federal government, except that the term shall include the Oklahoma Memorial Hospital Neuro-psychiatric Unit. The term shall not include nursing homes or other facilities maintained primarily for the care of aged and infirm persons; and

~~18.~~ 17. "Individualized treatment plan" means a proposal developed during a patient's stay in a facility, under the provisions of this title, which is specifically tailored to the individual patient's treatment needs. Each plan shall clearly include the following:

- a. a statement of treatment goals or objectives, based upon and related to a clinical evaluation, which can be reasonably achieved within a designated time interval,
- b. treatment methods and procedures to be used to obtain these goals, which methods and procedures are related to each of these goals and which include specific prognosis for achieving each of these goals,
- c. identification of the types of professional personnel who will carry out the treatment procedures, including appropriate medical or other professional involvement by a physician or other health professional properly qualified to fulfill legal requirements mandated under state and federal law,

- d. documentation of patient involvement and, if applicable, the patient's accordance with the treatment plan, and
- e. a statement attesting that the person in charge of the facility or clinical director has made a reasonable effort to meet the plan's individualized treatment goals in the least restrictive environment possible closest to the patient's home community.

SECTION 3. AMENDATORY 43A O.S. 1991, Section 2-103, as amended by Section 1, Chapter 414, O.S.L. 1999 (43A O.S. Supp. 2000, 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 eleven (11) 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) 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 diplomat 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;

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;

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;

4. Three members, qualified by education and experience in the area of substance abuse recovery, 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; and

5. One member, qualified by experience in the area of treating domestic violence or sexual assault, shall be appointed from a list of not less than three names submitted to the Governor by a state association of domestic violence and sexual assault programs or organizations.

B. 1. ~~The four~~ Four members ~~appointed pursuant to the provisions of this act~~ shall be appointed as follows:

- a. ~~the~~ a member qualified by experience in the area of treating domestic violence or sexual assault shall be appointed for a term ending December 31, 2000, and
- b. ~~the~~ three members qualified by education and experience in the area of substance abuse recovery shall be appointed for terms ending on December 31, 2002, December 31, 2004, and December 31, 2006, respectively.

2. Upon expiration of the initial terms of each of the four members ~~appointed pursuant to the provisions of this act~~, a successor shall be appointed for a full term of seven (7) years.

C. 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.

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

E. All regularly scheduled meetings 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 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.~~ 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.

F. 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 chair or vice-chair.

G. The duties of the Board shall pertain to the care, treatment, and hospitalization of persons with mental illness, alcohol- or drug-dependent persons, and victims of domestic violence or sexual assault.

H. Members of the Board of Mental Health and Substance Abuse Services shall be allowed their necessary travel expenses pursuant to the provisions of the State Travel Reimbursement Act.

SECTION 4. AMENDATORY 43A O.S. 1991, Section 2-202, as last amended by Section 2, Chapter 414, O.S.L. 1999 (43A O.S. Supp. 2000, Section 2-202), is amended to read as follows:

Section 2-202. 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.~~ The Commissioner may appoint necessary personnel to carry on the work of the Department, prescribe their titles and duties, and fix their compensation. The Commissioner may prescribe ~~rules~~ policies for the operation of the Department. In addition, the Commissioner shall have the following powers and duties:

1. ~~Counsel~~ To appoint, with the consent of the Board, an executive director of each facility within the Department, and fix

the qualifications, duties and compensation of the executive directors, and to counsel with the various superintendents executive directors about ~~their institutional~~ facility 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 for its recommendations before being submitted for legislative action;

~~2. Appoint the superintendents of the institutions within the Department with the consent of the Board. The Commissioner, with the consent of the Board, may remove a superintendent for cause;~~

~~3. Develop~~ To develop, institute, and administer such administrative and professional policies as may be necessary to guarantee effective, efficient and uniform operation of the Department and its ~~institutions~~ facilities;

~~4. Prescribe~~ 3. To prescribe uniform reports to be made by the ~~superintendents~~ executive directors of the ~~institutions~~ facilities and designate forms to be used;

~~5. 4.~~ After conference with the ~~superintendent~~ executive director of each ~~institution~~ facility, determine the number of employees to be appointed and fix their respective titles, salaries, and wages which shall be as uniform as possible for comparable service;

~~6. Aid~~ 5. To aid, assist and cooperate with the State Department of Health, institutions of higher learning, public schools, and others interested in public education regarding the issue of mental hygiene in the establishment of a sound mental health program in the State of Oklahoma;

~~7. a. Visit~~

6. To visit each ~~institution~~ facility in the Department at least ~~four times during~~ once each calendar year. During 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~~ facility. The purpose of such visits shall be:

- ~~(1)~~ a. to review and evaluate the professional and administrative activity of such ~~institutions~~ facilities,
  - ~~(2)~~ b. to ensure compliance with medical and administrative policies and procedures established by the Department,
  - ~~(3)~~ c. to modify and revise existing operating procedure to improve operational effectiveness,
  - ~~(4)~~ d. to institute new policies and procedures to effect improvement and economy of overall operation, and
  - ~~(5)~~ e. to coordinate the activities of each ~~institution~~ facility with the overall operation of the Department.
- ~~b.~~ Following each official visit, the Commissioner shall make a report of the Commissioner's findings and recommendations, and submit such findings and recommendations to the Board;

~~8. Authorize~~ 7. To authorize other members of the Department to visit the ~~institutions~~ facilities in the Department. Such persons shall have the same power to inspect the ~~institution~~ facility and its records and to interview personnel and patients as the Commissioner;

~~9. Designate, with the consent of the Board, which~~

8. To designate the type of patient ~~shall~~ that will be cared for at each ~~institution or community mental health center~~ facility and designate hospital or community mental health center districts for the purpose of determining to which of the ~~institutions~~ facilities 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~~ facility 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 facility~~, provided the parents or guardian are 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 services not available at the ~~institution facility~~ of such patient's present residence. Requests for transfer shall be initiated by the ~~superintendent~~ executive director of the ~~institution facility~~ in which the patient resides. Sufficient supporting information from the patient's records shall be submitted by the ~~superintendent~~ executive director to the Commissioner to warrant a decision as to the advisability of the transfer;

~~10.—~~ Call 9. To call meetings of the ~~superintendents~~ executive directors of the ~~institutions facilities~~ in the Department, and act as chair of such meetings, to discuss common problems in order to obtain uniformity and bring about coordination of the ~~institutions facilities~~ for the maximum service to the state. Such called meetings may or may not be held jointly with the Board;

~~11.—~~ Act as 10. To be the chair of a Board of Psychiatric Examiners to review the case of any patient, and to examine any patient when the ~~superintendent~~ executive director of any ~~institution facility~~ concludes that a patient within such ~~institution facility~~ is subject to discharge but such ~~superintendent~~ executive director is unwilling to discharge the patient as provided in the Mental Health Law. The Board of Psychiatric Examiners shall be composed of the Commissioner and two members selected by the Board. 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 as

chair when circumstances warrant and when the Commissioner deems it necessary;

~~12. Keep~~ 11. To keep a list of all nonresidents admitted to ~~an institution~~ a facility 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~~ facility 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~~ facilities 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~~ facilities 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~~ facilities in this state. Removal of a nonresident to 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~~ facility 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;

~~13. Compile and keep a central registration of names and addresses, and names of nearest relatives of all residents of mental institutions. Such record and the documents from which it is compiled shall be confidential and the information contained therein 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;~~

~~14. Prescribe~~ 12. To 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~~ a facility within the Department, except that when a person is ordered to ~~an institution~~ a facility by a court, the order to hospitalize or admit such person may be on such form as the court deems proper;

~~15. Utilize~~ 13. To utilize the services of employees of the Department of Central Services, the State Department of Health, and the Department of Human Services when authorized by the 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;

~~16. Have power to~~ 14. To make contracts and agreements with other departments of this state to carry out these provisions;

~~17. Make~~ 15. To make a written report annually to the Governor concerning the administration of the Department and submit copies thereof to members of the Legislature. Such report shall be presented one (1) month prior to the convening of any regular session of the Legislature and shall include:

- a. specific information regarding the number of patients admitted, treated, and discharged,
- b. the methods of treatment used and an appraisal of the success thereof,
- c. the financial condition and needs of each ~~institution~~ facility in the Department,
- d. any long-range plans or recommendations for the utilization and improvement of facilities, equipment, and personnel and for the care and treatment of patients,
- e. any recommendations requiring legislation, and

f. major findings, in summarized form, obtained by visits made pursuant to the provisions of paragraph ~~7~~ 6 of this section;

~~18. Have power to~~ 16. To designate as peace officers qualified personnel in the fire and safety officer, security officer and correctional officer job classifications. 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 subsection A of Section 510 of Title 57 of the Oklahoma Statutes and be of good moral character; and

~~19. Exercise any~~ 17. Any other power necessary to implement the provisions of the Mental Health Law.

SECTION 5. AMENDATORY 43A O.S. 1991, Section 3-107, as amended by Section 3, Chapter 323, O.S.L. 1993 (43A O.S. Supp. 2000, Section 3-107), is amended to read as follows:

Section 3-107. A. There are hereby created and designated as facilities within the Department of Mental Health and Substance Abuse Services, the Norman Alcohol and Drug Treatment Center at

Norman ~~and~~, the Vinita Alcohol and Drug Treatment Center at Vinita, and the Tulsa Women's Center at Tulsa. ~~Said~~ The facilities shall be operated under the supervision and administration of the Commissioner of Mental Health and Substance Abuse Services. It is the intent of the Legislature that the centers in Norman and Vinita utilize and receive business management, support services and medical ancillary services of the respective state hospital where the center is located.

B. There are hereby created separate petty cash funds for the Alcohol and Drug Treatment Centers at Norman ~~and~~, Vinita, and Tulsa. The Director of State Finance and Commissioner of Mental Health and Substance Abuse Services are authorized to fix the maximum amount of each petty cash fund and the Director of State Finance shall prescribe the rules and procedures for the administration of each petty cash fund.

C. The Department of Mental Health and Substance Abuse Services is authorized to effect the transfer of property, records, equipment, supplies, funds, and encumbrances from Griffin Memorial Hospital to or from the Norman Alcohol and Drug Treatment Center; and to effect the transfer of property, records, equipment, supplies, funds, and encumbrances from Eastern State Hospital to or from the Vinita Alcohol and Drug Treatment Center and Tulsa Women's Treatment Center.

SECTION 6. AMENDATORY 43A O.S. 1991, Section 3-302, as amended by Section 7, Chapter 231, O.S.L. 1995 (43A O.S. Supp. 2000, Section 3-302), is amended to read as follows:

Section 3-302. As used in the Unified Community Mental Health Services Act:

1. "Catchment area or service area" means a geographic area established by the Department of Mental Health and Substance Abuse Services for support of mental health and substance abuse services;

2. "Community mental health services", in conformance with federal requirements, means services for the treatment of alcoholism, drug addiction or abuse, and mental illness, and the prevention, diagnosis, or rehabilitation of such persons;

3. ~~"Board" means the Alcohol, Drug Abuse and Community Mental Health Planning and Coordination Board;~~

4. "Mental health facility" means:

- a. a comprehensive community mental health center offering services including, but not limited to, the following basic services: Inpatient, outpatient, partial hospitalization, emergency care, and consultation and education; and offering the following services at the option of the center: Prescreening services, rehabilitation services, precare and aftercare services, training programs, and research and evaluation programs,
- b. an outpatient facility offering diagnostic and treatment services,
- c. a day care facility offering a treatment program for children or adults suffering from mental or emotional problems, or
- d. community residential mental health programs and facilities which provide supervised residential care, counseling, case management or other similar services to children or adults suffering from mental or emotional problems;

~~5.~~ 4. "Domestic violence program" or "sexual assault program" means a facility, agency or organization which offers or provides or a person who engages in the offering of shelter, residential services or support services to:

- a. victims or survivors of domestic abuse as defined in Section 60.1 of Title 22 of the Oklahoma Statutes, any

dependent children of said victims or survivors and any other member of the family or household of such victim or survivor,

b. victims or survivors of sexual assault, and

c. persons who are homeless as a result of domestic or sexual violence or both domestic and sexual violence,

and which may provide other services, including, but not limited to, counseling, case management, referrals or other similar services to victims or survivors of domestic abuse or sexual assault; and

~~6.~~ 5. "Day treatment program" means nonresidential, partial hospitalization programs, day treatment programs, and day hospital programs ~~as defined by subsection A of Section 1 of this act.~~

SECTION 7. AMENDATORY 43A O.S. 1991, Section 3-306, as amended by Section 2, Chapter 348, O.S.L. 1992 (43A O.S. Supp. 2000, Section 3-306), is amended to read as follows:

Section 3-306. The Board of Mental Health and Substance Abuse Services shall have the following responsibilities and authority:

1. To promulgate and enforce policies ~~and regulations~~ to assure statewide conformance with standards of care and operation and promulgate rules ~~and regulations~~ governing eligibility of public agencies or mental health facilities to contract with the Department of Mental Health and Substance Abuse Services; prescribe standards for qualifications or personnel and quality of professional services; ensure eligibility for community mental health services so that no person will be denied services on the basis of race, color or creed or inability to pay; and promulgate such other rules ~~and regulations~~ as may be necessary to carry out the provisions of the Unified Community Mental Health Services Act, Section 3-301 et seq. of this title;

2. To provide technical assistance to community mental health facilities and boards;

3. To provide clinical, fiscal and management audit of services and facilities;

4. To approve and compile catchment area plans and budget requests into a statewide mental health plan and budget for submission to the Governor, Legislature and federal funding sources as appropriate;

5. To provide funding to each Community Mental Health Board within available funds for the performance of its duties prescribed herein;

6. To review and evaluate local programs for community mental health services and the performance of administrative and professional personnel in municipalities having Community Mental Health Boards and make recommendations to Community Mental Health Boards;

7. To certify community mental health centers for a period of three (3) years subject to renewal as provided in the rule promulgated by the Board; ~~and~~

8. To assist mental health facilities in the recruitment of qualified personnel and in conducting in-service training programs; and

9. To help promulgate such rules as may be necessary to establish an application fee of no more than One Hundred Fifty Dollars (\$150.00) to help defray the cost of certification granted pursuant to the Unified Community Mental Health Services Act.

SECTION 8. AMENDATORY 43A O.S. 1991, Section 3-310, is amended to read as follows:

Section 3-310. Any nonprofit private agency providing services pursuant to a contract or subcontract with the Department of Mental Health and Substance Abuse Services, the Board of Mental Health and Substance Abuse Services or any facility of the Department of Mental Health and Substance Abuse Services and receiving funds disbursed thereof shall submit information on operating budgets and employee

salaries and benefits to the Department of Mental Health and Substance Abuse Services. ~~Prior to finalizing any contracts with such private nonprofit agency, the Department of Mental Health and Substance Abuse Services shall develop maximum salary and budget criteria for such private nonprofit agencies which shall be commensurate with state employee salary, benefit, budget and accounting standards.~~

SECTION 9. AMENDATORY Section 50, Chapter 354, O.S.L. 1996 (43A O.S. Supp. 2000, Section 3-317), is amended to read as follows:

Section 3-317. A. The ~~Department~~ Board of Mental Health and Substance Abuse Services shall certify community-based structured crisis centers for the provision of nonhospital emergency services for mental health and substance abuse crisis intervention. The ~~Department~~ Board shall promulgate rules for the certification of community-based structured crisis centers.

B. No community based structured crisis center shall operate or continue to operate unless the facility complies with the rules promulgated by the ~~Department~~ Board and is certified by the ~~Department~~ Board as required by this section.

C. For the purposes of this section, "community-based structured crisis center" means any certified community mental health center or facility operated by the Department which is established and maintained for the purpose of providing community-based mental health and substance abuse crisis ~~intervention~~ stabilization services including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance abuse treatment services.

SECTION 10. AMENDATORY 43A O.S. 1991, Section 3-403, is amended to read as follows:

Section 3-403. As used in the Oklahoma Alcohol and Drug Abuse Services Act:

1. "Approved treatment facility" means any facility which offers either inpatient, intermediate or outpatient treatment to any person suffering from alcohol or drug abuse, or alcohol- or drug-related problems and which is certified by the Alcohol Prevention, Training, Treatment and Rehabilitation Authority and which has been licensed by the State Department of Health pursuant to the provisions of the Oklahoma Alcohol and Drug Abuse Services Act;

2. An "alcohol-dependent person" is one who uses alcoholic beverages to such an extent that it impairs ~~his~~ the health, ~~his~~ family life, ~~his~~ or occupation of the person and compromises the health and safety of the community;

3. A "drug-dependent person" means a person who is using a controlled substance as presently defined in Section 102 of the Federal Controlled Substances Act and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled substance on an intermittent or continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence;

4. "Authority" means the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority;

5. "Council" means the ~~Alcoholism~~ Advisory Council on Alcohol and Drug Abuse ~~Advisory Council~~;

6. "Incompetent person" means a person who has been adjudged legally mentally incompetent by a district court and who has not been judicially restored to competency;

7. "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as the direct result of the consumption of alcohol or drugs;

8. "Medical detoxification" means diagnostic and treatment services performed by licensed facilities for acute alcohol intoxication, delirium tremens and physical and neurological complications resulting from acute intoxication. Medical detoxification includes the services of a physician and attendant medical personnel including nurses, interns and emergency room personnel, the administration of a medical examination and a medical history, the use of an emergency room and emergency medical equipment if warranted, a general diet of three meals each day, the administration of appropriate laboratory tests, and supervision by properly trained personnel until the person is no longer medically incapacitated by the effects of alcohol;

9. "Nonmedical detoxification" means detoxification services for intoxicated clients with no apparent physical or neurological symptoms requiring medical treatment as a result of their intoxication. Nonmedical detoxification includes providing a bed, oral administration of fluids, three meals a day and the taking of the client's temperature, blood pressure and pulse at least once every six (6) hours for the duration of the client's stay in the nonmedical detoxification service;

10. "Inpatient treatment" means the process of providing residential diagnostic and treatment services on a scheduled basis;

11. "Intermediate care" means an organized therapeutic environment in which a client may receive diagnostic services, counseling, vocational rehabilitation and/or work therapy while benefiting from the support which a full or partial residential setting can provide. Intermediate care should provide a transition between the inpatient detoxification facility and reintegration into community life. Intermediate care must include provision for a bed, three meals a day and medical support if needed;

12. "Transitional living facility" and "halfway house" means an approved treatment facility which offers or provides temporary

residential accommodations, meals, supervision at all times residents are in the facility or on facility premises, and services, including counseling, short-term supportive care, case management, mental health services or treatment services to residents pursuant to a contract with the Department of Mental Health and Substance Abuse Services. A transitional living facility shall provide services to not more than twelve ~~(12)~~ residents;

13. "Short-term supportive care" means a service rendered to any person residing in a halfway house or transitional living facility which is sufficient to assist the person to meet or achieve an adequate level of daily living and to learn or develop adequate daily living skills. Daily living skills shall include but not be limited to resident participation in meal preparation and routine housekeeping and laundry tasks. Short-term supportive assistance includes, but is not limited to assistance in the preparation of meals, housekeeping, laundry tasks and personal hygiene. Short-term supportive assistance shall not include medical services or personal care as defined in Section 1-820 of Title 63 of the Oklahoma Statutes; and

14. "Treatment" means the broad range of emergency, inpatient, intermediate and outpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to alcohol-dependent, intoxicated and drug-dependent persons.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-460 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. The Department of Mental Health and Substance Abuse Services shall certify assessment agencies, agency assessment personnel, and qualified practitioners for the purpose of conducting alcohol and

drug assessment and evaluation programs related to driver license revocation.

B. Application fees for certification of agency assessment personnel and qualified practitioners shall be set by the Department to defray the costs of administering the program and shall be:

1. Not less than One Hundred Dollars (\$100.00) and not more than Two Hundred Dollars (\$200.00) upon initial application; and
2. Not less than Twenty-five dollars (\$25.00) and not more than Fifty Dollars (\$50.00) upon annual renewal.

SECTION 12. AMENDATORY 43A O.S. 1991, Section 3-502, as amended by Section 17, Chapter 246, O.S.L. 1998 (43A O.S. Supp. 2000, Section 3-502), is amended to read as follows:

Section 3-502. A. The Commissioner of Mental Health and Substance Abuse Services shall establish a program to provide comprehensive inpatient and outpatient mental health care and treatment for deaf and hard-of-hearing individuals, and their families who need such services. For purposes of the Oklahoma Comprehensive Mental Health Services for the Deaf and Hard-of-Hearing Act, the term "individuals" shall include adults and children.

~~B. A director for the program shall be appointed by the Commissioner of Mental Health and Substance Abuse Services. Such appointment shall be made after consultation with the advisory Committee established pursuant to Section 3-503 of this title and with the advice and approval of the Board of Mental Health and Substance Abuse Services.~~

~~1. The Director shall be a trained professional from the field of deafness or a psychiatrist, physician, licensed clinical psychologist, licensed clinical social worker, psychiatric nurse who possesses professional training and expertise in the field of deafness or have other similar professional qualifications, shall have a minimum of three (3) years of clinical mental health,~~

~~adequate administrative experience as determined by the Commissioner, and shall meet the qualifications for professional staff established pursuant to subsection D of this section.~~

~~2. The Director shall prepare, in consultation with the advisory committee, a plan for the implementation of the Oklahoma Comprehensive Mental Health Services for the Deaf and Hard-of-Hearing Act.~~

~~The Director shall be responsible for the administration and supervision of the program established pursuant to the provisions of subsection A of this section.~~

~~C.~~ Such program shall include, but not be limited to, the following:

1. Inpatient and outpatient treatment; ~~and~~
2. Evaluation, diagnostic, and information resource services for mental health care for deaf and hard-of-hearing individuals and their families; ~~and~~
3. Cooperation with state-supported community mental health programs and other community mental health programs and services in order to provide mental health care throughout the state for deaf and hard-of-hearing individuals and their families; ~~and~~
4. Services to aid deaf and hard-of-hearing individuals who are committed to mental health facilities in making the transition from inpatient care to independent existence outside of the facility. In counties having a population of not less than two hundred fifty thousand (250,000) according to the last preceding Federal Decennial Census, the program shall include transitional living facilities as well as outpatient transitional services provided through community mental health centers.

~~D.~~ C. The professional staff of the program shall:

1. Have experience in techniques of assessing the mental health problems of deaf and hard-of-hearing individuals and their families

and in individual and group psychotherapy with deaf and hard-of-hearing individuals and their families; and

2. Have specialized training in the psychosocial aspects of deafness and in therapeutic work with deaf and hard-of-hearing individuals in mental health facilities; and

3. Be fluent in receptive and expressive manual communication including, but not limited to, American Sign Language, or reach a level of fluency in such communication acceptable to the Director of the unit within one (1) year of being employed.

SECTION 13. AMENDATORY 43A O.S. 1991, Section 3-602, as amended by Section 53, Chapter 354, O.S.L. 1996 (43A O.S. Supp. 2000, Section 3-602), is amended to read as follows:

Section 3-602. A. ~~Each narcotic treatment program shall have a case review team consisting of persons independent of the program to be appointed by the Commissioner of Mental Health and Substance Abuse Services~~ A course of treatment in a narcotic treatment program may include, but shall not be limited to, short-term detoxification, interim maintenance treatment or comprehensive maintenance treatment depending on the availability of such services and the needs of the individual.

B. ~~The team shall certify persons to a narcotic treatment after a full review of the person's record and recommendations as to a course of treatment, as defined by Chapter 1 of Title 21 of the Code of Federal Regulations, for each individual certified. A course of treatment may include but shall not be limited to short-term detoxification, interim maintenance treatment or comprehensive maintenance treatment depending on the availability of such services and the needs of the individual.~~

~~1. Upon certification of a person to the program, the case review team shall approve a medical treatment plan for the person. The medical treatment plan shall not be altered without the approval of the case review team.~~

~~2.~~ The Department of Mental Health and Substance Abuse Services shall approve any drug to be used in a narcotic treatment program and ~~set~~ the Board shall promulgate rules establishing guidelines for the maximum daily dose, not to exceed limits set by Title 21 of the Code of Federal Regulations. ~~The attending physician shall make specific recommendations for all persons receiving a dosage above the maximum approved daily dose and receive approval of the case review team.~~ Pregnancy tests for women shall be conducted upon admission to the narcotic treatment program and at least annually thereafter, unless otherwise indicated.

~~3.~~ ~~The case review team shall review the progress of each client of the facility with the medical, nursing and counseling personnel familiar with the client not less than every thirty (30) days the client is in interim maintenance treatment, every ninety (90) days the client is in long-term detoxification treatment, and not less than one hundred eighty (180) days the client is in comprehensive maintenance treatment. Additional requirements and exceptions for each type of narcotic treatment services shall apply, as required by Title 21 of the Code of Federal Regulations.~~

SECTION 14. AMENDATORY 43A O.S. 1991, Section 3-702, is amended to read as follows:

Section 3-702. When a person confined in a penal or correctional institution or reformatory of this state is evaluated as provided by law by either the Department of Mental Health and Substance Abuse Services or the Department of Corrections to be mentally ill and ~~said~~ the inmate is in need of observation and treatment on account of mental illness, and that such observation and treatment cannot be properly carried out by the Department of Corrections ~~Special Care Unit~~, the district court may then order ~~his~~ the inmate's transfer to a ~~state mental institution~~ facility, pursuant to the laws governing involuntary commitment, where ~~he~~ the inmate shall remain until the ~~superintendent~~ executive director of

~~the hospital facility~~ which received ~~him~~ ~~advises the Commissioner of~~  
~~Mental Health and Substance Abuse Services~~ the inmate determines  
that ~~his condition~~ the inmate has ~~so far~~ improved to the point that  
~~he~~ the inmate may be returned to the penal institution from which ~~he~~  
the inmate came without special jeopardy to ~~his~~ the mental health of  
the inmate or the discipline and conduct of that institution. The  
costs incurred in transferring and treating the prisoner shall be  
borne by the penal institution. If the sentence expires during the  
time of a prisoner's stay in the mental institution, and ~~he~~ the  
prisoner is still mentally ill and a fit subject for commitment to a  
~~state institution facility~~, the ~~superintendent~~ executive director  
shall immediately instigate proceedings for commitment under one of  
the procedures provided in this title.

SECTION 15. AMENDATORY 43A O.S. 1991, Section 5-309, is  
amended to read as follows:

Section 5-309. No patient admitted to a state mental hospital  
under the provisions of the Mental Hospital Voluntary Admission  
Procedures Act shall be detained in a mental hospital against ~~his~~  
the will of the person more than ~~sixty (60) days~~ seventy-two (72)  
hours, excluding weekends and holidays, after ~~he~~ the patient gives  
notice in writing to the ~~superintendent~~ executive director of ~~said~~  
~~hospital~~ the facility of ~~his~~ the desire of the patient to be  
discharged from ~~said hospital~~ the facility. The ~~superintendent~~  
executive director of the ~~hospital~~ facility may designate one or  
more employees of the ~~institution~~ facility to receive a notification  
provided by this section with the same effect as if delivered to the  
~~superintendent~~ executive director personally.

SECTION 16. AMENDATORY 43A O.S. 1991, Section 5-416, as  
last amended by Section 9, Chapter 421, O.S.L. 2000 (43A O.S. Supp.  
2000, Section 5-426), is amended to read as follows:

Section 5-416. A. The court, in considering a commitment  
petition filed under Section 5-410 or Section 9-102 of this title,

shall not order hospitalization without a thorough consideration of available treatment alternatives to hospitalization, nor without addressing the patient's competency to consent to or refuse the treatment that is ordered including, but not limited to, the patient's rights:

1. To be heard concerning the patient's treatment; and
2. To refuse medications.

B. 1. If the court, in considering a commitment petition filed under Section 5-410 or Section 9-102 of this title, finds that a program other than hospitalization is adequate to meet the individual's treatment needs and is sufficient to prevent injury to the individual or to others, the court may order the individual to receive whatever treatment other than hospitalization is appropriate for a period set by the court, during which time the court:

- a. shall have continuing jurisdiction over the individual as a person requiring treatment, and
- b. shall periodically, no less often than annually, review the treatment needs of the individual and determine whether or not to continue, discontinue, or modify the treatment.

2. If at any time it comes to the attention of the court from a person competent to file a petition, pursuant to subsection A of Section 5-410 of this title, that the individual ordered to undergo a program of alternative treatment to hospitalization is not complying with the order or that the alternative treatment program has not been sufficient to prevent harm or injury which the individual may be inflicting upon himself or others, the court may order the person to show cause why the court should not:

- a. implement other alternatives to hospitalization, modify or rescind the original order or direct the individual to undergo another program of alternative

treatment, if necessary and appropriate, based on written findings of the court, or

- b. enter an order of admission pursuant to the provisions of this title, directing that the person be hospitalized and, if the individual refuses to comply with this order of hospitalization, the court may direct a peace officer to take the individual into protective custody and transport the person to a public or private facility designated by the court.

3. If an order of alternative treatment will expire without further review by the court and it is believed that the individual continues to require treatment, a person competent to file a petition, pursuant to subsection A of Section 5-410 of this title, may file either an application for an extension of the court's previous order or an entirely new petition for a determination that the individual is a person requiring treatment.

4. A hearing on the application or petition filed pursuant to paragraph 3 of this subsection shall be held within ten (10) days after the application or petition is filed, unless the court extends the time for good cause. In setting the matter for hearing, the court shall consider whether or not the prior orders of the court will expire during the pendency of the hearing and shall make appropriate orders to protect the interests of the individual who is the subject of the hearing.

C. Prior to ordering the hospitalization of an individual, the court shall inquire into the adequacy of treatment to be provided to the individual by the facility, and hospitalization shall not be ordered unless the facility in which the individual is to be treated can provide such person with treatment which is adequate and appropriate to such person's condition.

D. The court may modify an order for involuntary commitment and order alternative treatment pursuant to the provisions of this section upon request of any of the following:

1. The administrator of a facility to which a person has been involuntarily committed for inpatient treatment pursuant to the provisions of Section 5-410 or Section 9-102 of this title;
2. The person committed; or
3. A person competent to file a petition pursuant to subsection A of Section 5-410 of this title.

E. Nothing in this section shall prohibit the Department of Mental Health and Substance Abuse Services, or the court, from discharging a person admitted pursuant to this section, at a time prior to the expiration of the period of alternative treatment, or any extension thereof. The Department of Mental Health and Substance Abuse Services shall file a report with the court outlining the disposition of each person admitted pursuant to this section at least forty-eight (48) hours prior to discharge.

F. Notice of any proceedings pursuant to this section shall be given to the patient, the patient's guardian, the patient's attorney, and the person filing the petition or application.

G. The provisions of this section shall apply to all orders and petitions for alternative treatment in force or pending on and after the effective date of this act.

SECTION 17. AMENDATORY 43A O.S. 1991, Section 7-101, is amended to read as follows:

Section 7-101. A. The person in charge of a facility within the Department of Mental Health and Substance Abuse Services shall discharge a patient or permit ~~him~~ the patient to leave the facility as provided herein.

B. The person in charge shall discharge a patient:

1. Who is not dangerous to ~~himself~~ self or others; and

2. Who is capable of surviving safely in freedom ~~by himself~~ alone or with the help of willing and responsible family members or friends; and

3. For whom a discharge plan has been developed pursuant to the provisions of Section 7-102 of this title.

~~B.~~ C. The person in charge may grant a convalescent leave status to a patient in accordance with ~~rules~~ policies prescribed by the Commissioner. The facility granting a convalescent leave status to a patient has no responsibility in returning the patient to the facility should such become necessary. A convalescent leave may be granted rather than a discharge when the patient's complete recovery can be determined only by permitting ~~him~~ the patient to leave the facility. The person in charge shall discharge a patient who has not returned to the facility within twelve (12) months from the time a convalescent leave was granted.

~~C.~~ D. In accordance with ~~rules~~ policies prescribed by the Commissioner, a person in charge may transfer a patient to an outpatient or other nonhospital status when, in the opinion of the person in charge, such transfer will not be detrimental to the public welfare or injurious to the patient and the necessary treatment may be continued on that basis; provided however, that before transferring the patient, the person in charge shall ~~satisfy himself~~ ensure that appropriate financial resources and appropriate services are available to receive and care for such patient after ~~his~~ such transfer.

~~D.~~ E. A visiting status may be granted for a matter of a few hours or days to any patient considered by the person in charge suitable for such privileges.

~~E.~~ F. The person in charge of the facility shall notify the court that committed the patient that the patient has been discharged. Such notification shall be within forty-eight (48) hours ~~prior to~~ after the actual discharge.

~~F.~~ G. The expense of returning a patient from convalescent leave, outpatient status or visiting status shall be that of:

1. The party removing the patient from the facility; or

2. The Department. When it becomes necessary for the patient to be returned from the county where ~~he~~ the patient happens to be, the Department shall reimburse the county pursuant to the provisions of the State Travel Reimbursement Act.

~~G.~~ H. In the event authorization is necessary to accomplish the return of the patient to the facility, such authority is hereby vested in the judge of the district court in the county where the patient is located. Upon receipt of notice that the patient needs to be returned to the facility, the judge shall cause the patient to be brought before ~~him~~ the court by issuance of a citation directed to the patient to appear and show cause why ~~he~~ the patient should not be returned to the facility. The judge shall, if clear and convincing evidence is presented by testimony under oath that the patient should be returned to the facility, enter an order returning ~~him~~ the patient. If there is a lack of clear and convincing evidence showing the necessity of such return, the patient shall immediately be released. Law enforcement officers are authorized to take into custody, detain and transport a patient pursuant to a citation or an order of the judge of the district court.

~~H.~~ I. An attending physician of any patient admitted to a private facility may discharge a patient or permit ~~him~~ the patient to leave the facility subject to the same provisions applicable to the discharge or release of a patient by the person in charge of a state facility.

SECTION 18. REPEALER 43A O.S. 1991, Sections 2-204, 2-208, 2-209, 2-210, 2-211, 2-212, 2-215, 2-216, 2-400, 3-308, 3-408, 3-410, 3-418, 3-419, 3-420 and 3-421, are hereby repealed.

SECTION 19. This act shall become effective November 1, 2001.

