

ENGROSSED SENATE  
BILL NO. 1624

By: Cain of the Senate

and

Lindley of the House

[ mental health and substance abuse - Mental Health

Code - codification - repealer -

effective date ]

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

SECTION 1. AMENDATORY 43A O.S. 2001, 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. "Chair" means the chair of the Board of Mental Health and Substance Abuse Services;

3. ~~"Mentally ill person"~~ "Mental illness" 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 the person ~~while mentally ill~~ and to

support members of the family of the person lawfully dependent on 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~~ the Mental Health Law, or in an outpatient status;

9. "Care and treatment" means medical care and behavioral health services, as well as food, clothing and maintenance, furnished to a patient person;

10. Whenever in this law~~, or in any other law, or in any rule,~~ or 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 such terms shall have equal significance to the words ~~"mentally ill"~~ "mental illness";

11. ~~"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~~  
"Licensed mental health professional" means:

- a. a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology,

- b. a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions,
- c. a licensed clinical psychologist,
- d. a licensed professional counselor as defined in Section 1902 of Title 59 of the Oklahoma Statutes,
- e. a person licensed as a clinical social worker pursuant to the provisions of Section 1250 et seq. of Title 59 of the Oklahoma Statutes,
- f. a licensed marital and family therapist as defined in Section 1925.2 of Title 59 of the Oklahoma Statutes,
- g. a licensed behavioral practitioner as defined in Section 1931 of Title 59 of the Oklahoma Statutes, or
- h. an advanced practice nurse as defined in Section 567.3a of Title 59 of the Oklahoma Statutes specializing in mental health;

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

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

- ~~a.~~ (1) a person who has a demonstrable because of the person's 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 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 represents a risk of harm to self or others, or

~~b.~~ (2) 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 the basic physical needs of the person such as food, clothing or shelter that must be attended to in order for 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 represents a risk of harm to self or others, or

~~e.~~ (3) a person who appears to require inpatient treatment:

~~(1)~~ (a) (i) for a previously diagnosed history of schizophrenia, bipolar disorder, or major depression with suicidal intent, or

~~(b)~~ (ii) due to the appearance of symptoms of schizophrenia, bipolar disorder, or major depression with suicidal intent, and

~~(2)~~ (b) for whom such treatment is reasonably believed ~~to~~ will prevent progressively more debilitating mental impairment.

b. Person requiring treatment shall not mean:

(1) a person whose mental processes have ~~simply~~ been weakened or impaired by reason of advanced years,

(2) a mentally ~~deficient~~ retarded person as defined in Title 10 of the Oklahoma Statutes, ~~or~~

(3) a person with ~~epilepsy~~ seizure disorder, 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, or~~  
(4) a person with a head injury unless the person also meets the criteria set forth in this paragraph;

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

15. "Executive director" means the person in charge of a facility as defined in this section;

16. "Private hospital or institution" means any general hospital maintaining a neuro-psychiatric unit or ward, or any private hospital or ~~sanitarium~~ facility for care and treatment of ~~mentally ill persons~~ a person having a mental illness, 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~~ elderly and ~~infirm~~ disabled persons;  
and

17. "Individualized treatment plan" means a proposal developed during ~~a patient's~~ an individual's stay in a facility, under the provisions of this title, which is specifically tailored to the ~~individual patient's~~ individual'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 by the individual receiving treatment and, if applicable, the ~~patient's~~ individual's accordance with the treatment plan, and
- e. a statement attesting that the ~~person in charge~~ executive director 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~~ individual's home community; and

18. "Risk of harm to self or others" means:

- a. a substantial risk of physical harm to one's self as manifested by evidence or serious threats of or attempts at suicide or other self-inflicted or bodily harm,
- b. a substantial risk of physical harm to another person or persons as manifested by evidence of violent behavior directed toward another person or persons,
- c. having placed another person or persons in a reasonable fear of violent behavior directed towards such person or persons or serious physical harm to them as manifested by serious threats,
- d. a reasonable certainty that without immediate treatment severe impairment or injury will result to the person alleged to be a person requiring treatment

as manifested by the inability of the person to avoid or protect self from such impairment or injury, or  
e. a substantial risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs and that appropriate provision for those needs cannot be made immediately available in the community.

SECTION 2. AMENDATORY 43A O.S. 2001, Section 1-107, is amended to read as follows:

Section 1-107. A. ~~Hearings required by the Mental Health Law~~ Civil actions for ~~emergency detention or~~ involuntary commitment of a person may be brought in the county in which the person resides or the county in which the person is found or being held on emergency detention.

B. 1. Hearings in actions for involuntary commitment may be held within the mental health facility in which the person is being detained or is to be committed whenever the judge deems such venue would it to be in the best interest interests of the patient.

2. Such hearings shall be conducted by any judge designated by the presiding judge of the judicial district ~~in which the mental health facility is located.~~ Hearings may be held in an area of the ~~hospital facility~~ designated by the Commissioner of Mental Health and Substance Abuse Services executive director and agreed upon by the presiding judge of that judicial district.

~~B. The Department of Mental Health and Substance Abuse Services, if funds become available, or any board of county commissioners within the judicial district in which a mental health facility is located may purchase or otherwise provide for the operation, maintenance and equipping of a video teleconferencing system in the mental health facility for conducting any nonjury~~

~~hearings pursuant to this section or such other uses determined necessary by the board of county commissioners.~~

C. The court may conduct any ~~nonjury~~ non-jury hearing required or authorized pursuant to the provisions of ~~the Mental Health Law~~ this title for detained or confined persons, at the discretion of the judge, by video teleconferencing after advising the person subject to possible detention or commitment of his or her constitutional rights. If the video teleconferencing hearing is conducted, the image of the detainee or person subject to commitment may be broadcast by closed-circuit television to the judge. A closed-circuit television system shall provide for two-way communications including image and sound between the detainee ~~or person to be committed~~ and the judge.

D. The provisions for criminal venue as provided otherwise by law shall not be applicable to proceedings encompassed by commitment statutes referred to in ~~the Mental Health Law~~ this title which are deemed civil in nature.

E. Unless otherwise provided by law, the rules of civil procedure shall apply to all judicial proceedings provided for in ~~the Mental Health Law~~ this title, including, but not limited to, the rules concerning vacation of orders and appellate review.

SECTION 3. AMENDATORY 43A O.S. 2001, Section 1-109, is amended to read as follows:

Section 1-109. A. All ~~medical records~~ mental health and drug or alcohol abuse treatment information, whether written or recorded, and all communications between a physician or psychotherapist and a patient are both privileged and confidential. In addition, the identity of all persons who have received or are receiving mental health or drug or alcohol abuse treatment services shall be considered confidential and privileged. Such information ~~is~~ shall only be available ~~only~~ to persons or agencies actively engaged in



~~the treatment of the patient or in treatment of a minor child of the patient,~~ or in related administrative work.

~~1. Except as provided in this section and Section 19 of Title 76 of the Oklahoma Statutes, privileged or confidential~~ Such information shall not be ~~released~~ disclosed to anyone not involved in the treatment ~~programs~~ or related administrative work without a valid written release by the patient or, if a guardian has been ~~appointed for the patient, the guardian of the patient,~~ or an order from a court of competent jurisdiction. If the patient is a minor child, the written consent of the parent, as defined by the Inpatient Mental Health Treatment of Children Act, ~~or public or private child care agency having legal custody of the child~~ is required. ~~Provided;~~ provided, however, confidential information may be released as provided by Sections 7005-1.1 through 7005-1.3 of Title 10 of the Oklahoma Statutes. ~~Upon admission and after a person has been an inpatient for seventy-two (72) hours, the facility shall inquire, at least once, whether the person wishes to authorize the release of information regarding the inpatient status of the person.~~

~~2. Individuals and agencies holding a contract with the Department of Mental Health and Substance Abuse Services to provide mental health or drug or alcohol treatment services and who have signed~~

B. The restrictions on disclosure shall not apply to the following:

1. Communications between facilities pursuant to a qualified service agreement as provided by such a contract may transmit records and information as necessary and appropriate for the care and treatment of patients pursuant to rules adopted by the Board of Mental Health and Substance Abuse Services with the Department to provide mental health or substance abuse treatment services;

2. When failure to disclose the information presents a serious and imminent threat to the health and safety of any person;

3. Communications to law enforcement officers that are directly related to a patient's commission of a crime on the premises of a facility or against facility personnel or to a threat to commit such a crime, and that are limited to the circumstances of the incident, including the patient status of the individual committing or threatening to commit the crime, that individual's name and address, and that individual's last-known whereabouts;

4. Reporting under state law of incidents of suspected child abuse and neglect to the appropriate authorities;

5. Disclosure of information about a patient to those persons within the criminal justice system which have made participation in the program a condition of the disposition of any criminal proceedings against the patient or of the patient's parole or other release; and

6. Disclosure of patient-identifying information to medical personnel who have a need for information about a patient for the purpose of treating a condition which poses an immediate threat to the health of any individual and which requires immediate medical intervention.

~~3. The Board of Mental Health and Substance Abuse Services shall adopt rules providing for the transmittal of records and information if necessary and appropriate to other public and private agencies which are actively providing services to minor patients, former patients who are minors, or the minor children of adult patients~~ Disclosures under this subsection shall be limited to the minimum information necessary to accomplish the intended purpose of the disclosure.

~~B. C.~~ C. A person who is or has been a patient of a physician, psychotherapist, mental health institution or facility, a drug or alcohol abuse treatment facility or service, a community mental

~~health service or agency or a community social service~~ other agency for the purpose of mental health or drug or alcohol abuse care and treatment shall not be entitled to personal access to ~~the information contained in such person's psychiatric or psychological records or to copies of such records~~ psychotherapy notes or progress notes unless such access to ~~such records~~ is consented to by the treating physician or practitioner or is ordered by a court. ~~Such person shall, upon request, be provided with information contained in such records as appropriate as determined by the person in charge of the care and treatment of the patient.~~ Such Access to such information shall be provided to the patient in a manner consistent with the best interests of the patient as determined by the person in charge of the care and treatment of the patient.

~~C. Upon request, a responsible family member of a patient or former patient, the attorney, guardian or conservator of a patient or former patient, is entitled to the following information from the Department, individuals or agencies holding contracts with the Department to provide mental health or drug or alcohol treatment services, and facilities certified by the Department as mental health or drug or alcohol treatment facilities regarding the person who is the subject of the request:~~

- ~~1. Information as to whether the person is or was a patient;~~
  - ~~2. If the person is receiving inpatient care and treatment, a statement as to the probable duration of such inpatient care;~~
  - ~~3. A summary of the diagnosis and prognosis of the person;~~
  - ~~4. A listing of the medications the person has received or is receiving, a copy of the treatment plan of the person, and, when the person making the request is a responsible family member, guardian or conservator, any other information necessary in order for the responsible family member to assist in the implementation of the discharge planning required pursuant to Section 7-102 of this title;~~
- ~~and~~

~~5. As requested, such other information as may be necessary to determine whether guardianship or conservatorship proceedings should be initiated.~~

~~For the purposes of this subsection, "responsible family member" means the parent, spouse, adult child, adult sibling, or other adult relative who is actively involved in providing care to or monitoring the care of a person who is a current or former patient as verified by the physician, psychologist or other person responsible for the care and treatment of such person. Except in an emergency, as determined by the person verifying the involvement of the responsible family member, the request shall be made in writing.~~

~~The person verifying the involvement of the responsible family member shall notify the patient or former patient of the request and, except with regard to a parent as to his or her minor child or in case of an emergency, obtain the consent of the patient prior to the release of the information~~

D. The restrictions on disclosure of mental health or drug or alcohol abuse treatment information shall not restrict the disclosure of patient-identifying information related to the cause of death of a patient under laws requiring the collection of death or other vital statistics or permitting inquiry into the cause of death. Any other disclosure regarding a deceased patient shall require either a court order or a written release of an executor, administrator, or personal representative appointed by the court, or if there is no such appointment, by the patient's spouse or, if none, by any responsible member of the patient's family.

"Responsible family member" means the parent, adult child, adult sibling, or other adult relative who was actively involved in providing care to or monitoring the care of the deceased patient as verified by the physician, psychologist or other person responsible for the care and treatment of such person.

E. A valid written release for disclosure of mental health or drug or alcohol abuse treatment information shall have the following elements:

1. The specific name or general designation of the program or person permitted to make the disclosure;

2. The name or title of the individual or the name of the organization to which disclosure is to be made;

3. The name of the patient;

4. The purpose of the disclosure;

5. A description of the information to be disclosed;

6. The dated signature of the patient and, if a guardian has been appointed for the patient, the guardian of the patient and, when required for a patient who is a minor, the signature of a person authorized to give consent;

7. A statement of the patient's right to revoke the release in writing and a description of how the patient may do so;

8. An expiration date, event or condition if not revoked before, which shall ensure the release will last no longer than reasonably necessary to serve the purpose for which it is given;

9. A statement that the information may be subject to redisclosure by the recipient resulting in the information no longer being protected; and

10. If the release is signed by a person authorized to act for a patient, a description of such person's authority to act.

SECTION 4. AMENDATORY 43A O.S. 2001, Section 1-110, is amended to read as follows:

Section 1-110. A. Sheriffs and peace officers shall be entitled to reimbursement from the Department of Mental Health and Substance Abuse Services for transportation services associated with ~~children~~ minors or adults requiring mental health treatment, examination, emergency detention, protective custody, and inpatient services.

B. Any transportation provided by a sheriff or deputy sheriff or a peace officer on behalf of any county, city, town or municipality of this state, to or from any facility for the purpose of examination, admission, interfacility transfer, discharge, medical treatment, court appearance, mental health services, or placement of a ~~child~~ minor or an adult shall be reimbursed ~~for each mile actually traveled at the rate of:~~

~~1. Ten cents (\$0.10) per mile for the period of time from November 1, 1998, to June 30, 1999;~~

~~2. Twenty cents (\$0.20) per mile for the period of time from July 1, 1999, to June 30, 2000; and~~

~~3. On and after July 1, 2000, the rate established in accordance with the provisions of the State Travel Reimbursement Act.~~

SECTION 5. AMENDATORY 43A O.S. 2001, 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., as follows:~~

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~~ 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;

2. One member, who 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, who 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, 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 for terms ending on December 31, 2002, December 31, 2004, and December 31, 2006, respectively; and

5. One member, qualified by experience in the area of treating domestic violence or sexual assault, who 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 for a term ending December 31, 2000.

B. ~~1. Four members shall be appointed as follows:~~

~~a. 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. 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, 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. 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 6. AMENDATORY 43A O.S. 2001, Section 2-104, is amended to read as follows:

Section 2-104. ~~The Board of Mental Health and Substance Abuse Services shall be the controlling board and shall have authority to administer the affairs of the institutions, including the authority to employ the superintendent or other administrative head of the institutions and their employees and to fix their salaries. The controlling board shall make administrative decisions governing the type, nature, and propriety of all purchases made for general maintenance of the institution.~~ The Board of Mental Health and Substance Abuse Services is authorized to discontinue farm operations or any portion of the farm operations at any time it feels it is ~~to~~ in the best interest ~~to~~ of the Department of Mental Health and Substance Abuse Services and this state. The Board may



declare equipment and land which are surplus to the needs of the Department to the ~~Office of Public Affairs~~ Department of Central Services. The ~~Office of Public Affairs will~~ Department of Central Services shall dispose of these surpluses as provided by law. The ~~Office of Public Affairs~~ Department of Central Services shall be the purchasing agency for all ~~institutions~~ facilities for which appropriations are made in the Mental Health Law, but shall not have authority to determine the propriety of purchases of institutions over which ~~they are~~ the Department of Central Services is not the controlling ~~board~~ entity. The Board ~~of Mental Health and Substance Abuse Services~~ is authorized to spend funds for the development of recreational facilities on state-owned land outside the ~~institution~~ facility grounds.

SECTION 7. AMENDATORY 43A O.S. 2001, Section 2-108, is amended to read as follows:

Section 2-108. A. When the ~~Board~~ Department of Mental Health and Substance Abuse Services has reason to believe that any ~~person~~ individual receiving services from a facility operated by, certified by, or under contract with the Department has been wrongfully deprived of ~~his~~ liberty, or is cruelly, negligently or improperly treated, or inadequate provision is made for ~~his skillful~~ the individual's appropriate medical care, proper supervision and safe keeping, the ~~Commissioner~~ Department may ascertain the facts or may ~~order~~ require an investigation of the facts ~~for the Board~~.

B. The Board shall establish and maintain a fair, simple and expeditious system for resolution of complaints of all individuals receiving such services.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-109 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. The Board of Mental Health and Substance Abuse Services is authorized and directed to establish the Office of Consumer Advocacy within the Department of Mental Health and Substance Abuse Services and to employ such personnel as may be necessary to carry out the purposes of Section 2-108 of Title 43A of the Oklahoma Statutes.

1. The chief administrative officer of the Office of Consumer Advocacy shall be the Advocate General, who shall be an attorney admitted to practice in the State of Oklahoma with a minimum of three (3) years experience. The Advocate General shall report to the Board and be supervised by the Board, and may be dismissed only for cause.

2. The Advocate General shall have the following powers and duties:

- a. to serve as an advocate, but not as an attorney, for individuals receiving services from facilities operated by, subject to certification by or under contract with the Department, and, if an individual needs legal counsel, advise the individual of the right to seek counsel and refer the individual to counsel, if necessary,
- b. to supervise personnel assigned to the Office of Consumer Advocacy,
- c. to monitor and review grievance procedures in facilities operated by, subject to certification by or under contract with the Department,
- d. to investigate unresolved grievances and allegation of abuse, neglect and improper treatment of individuals receiving services from facilities operated by, subject to certification by or under contract with the Department,
- e. to access facilities operated by, subject to certification by or under contract with the Department

and the records of such facilities. Reasonable access shall be granted for the purposes of conducting investigations of abuse, neglect and improper treatment, and performing other activities as necessary to monitor care and treatment provided by such facilities,

- f. to access the records of individuals receiving services from facilities operated by, subject to certification by or under contract with the Department. Records that are confidential under state and federal law shall be maintained as confidential and not be redisclosed by the Advocate General,
- g. to submit a report of the results of investigations of abuse to the appropriate district attorney and, if the individual is a juvenile in the custody of a state agency, submit a report to that state agency,
- h. to make recommendations to the Commissioner and provide regular or special reports regarding investigations and unresolved grievances to the Commissioner and the Board, and
- i. to perform such other duties as assigned by the Board.

B. The Advocate General and the staff of the Office of Consumer Advocacy shall not act as an attorney on behalf of individuals receiving services from facilities operated by, subject to certification by or under contract with the Department, except that they shall have the authority to file habeas corpus actions on behalf of such individuals and appear on their behalf in commitment proceedings.

C. Except as otherwise specifically provided in this section and as otherwise provided by state or federal laws, the information, records, materials and reports related to investigations by the Office of Consumer Advocacy are confidential and contain privileged information. Accordingly, such records, materials and reports shall

not be open to public inspection nor their contents disclosed, nor shall a subpoena or subpoena duces tecum purporting to compel disclosure of such information be valid.

1. An order of the court authorizing the inspection, release or disclosure of information, records, materials and reports related to investigations by the Office of Consumer Advocacy shall be entered by a court only after a review of the records and a determination, with due regard for the confidentiality of the information and records and the privilege of the persons identified in the records, that a compelling reason exists, any applicable privilege has been waived and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.

2. This section shall not be construed as prohibiting the Department or the Office of Consumer Advocacy from summarizing the outcome of an investigation, stating the allegation and finding. The summary may be provided to the person suspected of abuse, neglect or improper treatment, the person subject to alleged abuse, neglect or improper treatment, the person who reported an allegation, and the administrator of a facility certified by or under contract with the Department at which the alleged abuse, neglect or improper treatment occurred.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-110 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner of Mental Health and Substance Abuse Services may appoint such citizen advisory groups as are deemed necessary for effective planning and delivery of services. Membership, terms and other details related to the functioning of such groups shall be established by the Commissioner and may be revised or rescinded at any time.

B. Members shall be eligible for reimbursement for their travel expenses in accordance with the provisions of the State Travel Reimbursement Act.

SECTION 10. AMENDATORY 43A O.S. 2001, 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 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 policies for the operation of the Department. In addition, the Commissioner shall have the following powers and duties:

1. 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 executive directors about facility needs and budget requests; and ~~shall~~ to 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. 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 facilities;

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

4. After conference with the executive director of each 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;

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;

6. To visit each facility in the Department at least once each calendar year. During such visits, the Commissioner shall have access to any or all facilities and records and shall have the privilege of interviewing all personnel and patients within the facility. The purpose of such visits shall be:

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

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

8. To designate the type of patient that will be cared for at each facility and designate hospital or community mental health center districts for the purpose of determining to which of the 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. The Commissioner or the Commissioner's designee may establish specific hours for patient admissions at each facility. The Commissioner or the Commissioner's designee may delay inpatient admissions when such admissions would cause facilities to exceed their authorized capacity. Patients may be transferred from one 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 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 facility of such patient's present residence. Requests for transfer shall be initiated by the executive director of the facility in which the patient resides. Sufficient supporting information from the patient's records shall be submitted by the executive director to the Commissioner to warrant a decision as to the advisability of the transfer;

9. To call meetings of the executive directors of the 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 facilities for the maximum service to the state. Such called meetings may or may not be held jointly with the Board;

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 executive director of any facility concludes that a patient within such facility is subject to discharge but such 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;

11. To keep a list of all nonresidents admitted to 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 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 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 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 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 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;

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 a facility within the Department, except that when a person is ordered to a facility by a court, the



order to hospitalize or admit such person may be on such form as the court deems proper;

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~~ director 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;

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

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 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 6 of this section;

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

17. Any other power necessary to implement the provisions of the Mental Health Law.

SECTION 11. AMENDATORY 43A O.S. 2001, Section 3-301, is amended to read as follows:

Section 3-301. Sections 3-301 through ~~3-314~~ 3-318 of this title shall be known as the "Unified Community Mental Health Services Act".

SECTION 12. AMENDATORY 43A O.S. 2001, Section 3-302, is amended to read as follows:

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

1. "Certified behavioral health case manager" means any person who is certified by the Department of Mental Health and Substance Abuse Services to offer behavioral health case management services within the confines of an outpatient mental health facility,

domestic violence or sexual assault program, or services for alcohol and drug dependents, that is operated by the Department or contracts with the state to provide behavioral services;

2. "Case management" means the application of case management principles and practices of linking, advocacy and referral in partnership with the consumer to support the consumer in self-sufficiency and community tenure for consumers of mental health substance abuse and domestic violence and sexual assault services;

3. "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- 4. "Community mental health center" means a facility offering:

- a. a comprehensive array of community-based mental health services, including, but not limited to, inpatient treatment, outpatient treatment, partial hospitalization, emergency care, consultation and education, and
- b. certain services at the option of the center, including, but not limited to, prescreening, rehabilitation services, pre-care and aftercare, training programs, and research and evaluation programs.

5. "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- 6. "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;

4. 7. "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
- d. persons who commit domestic 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

~~5.~~ 8. "Day treatment program" means a structured, comprehensive program designed to improve or maintain a person's ability to function in the community, which includes, but is not limited to, nonresidential, partial hospitalization programs, day treatment programs, and day hospital programs.

SECTION 13. AMENDATORY 43A O.S. 2001, Section 3-306, is amended to read as follows:

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

1. ~~To promulgate and enforce policies to assure statewide conformance with standards of care and operation and promulgate~~ Promulgate rules governing eligibility of public agencies or mental health facilities to contract with the Department of Mental Health and Substance Abuse Services; ~~prescribe~~

2. Prescribe standards for qualifications ~~or~~ of personnel and quality of professional services; ~~ensure~~

3. 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~~

4. Promulgate such other rules 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;~~

B. The Department shall have the following responsibilities and authority to:

~~2. To provide~~ 1. Provide technical assistance to community mental health facilities and boards;

~~3. To provide~~ 2. Provide clinical, fiscal and management audit of services and facilities;

~~4. To approve~~ 3. 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; and

~~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;~~

~~8. To assist~~ 4. 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 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-306.1 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. The Board of Mental Health and Substance Abuse Services shall promulgate rules and standards for certification of a facility or organization that desires to be certified as a community mental health center.

B. Applications for certification as a community mental health center shall be made to the Department of Mental Health and Substance Abuse Services on prescribed forms. The Board, or the Commissioner of Mental Health and Substance Abuse Services upon delegation by the Board, may certify the community mental health

centers for a period of three (3) years subject to renewal as provided in the rules promulgated by the Board.

C. The Board is authorized to establish an application and renewal fee of no more than One Hundred Fifty Dollars (\$150.00) to defray the costs incurred in the certification process.

D. The Department shall not enter into a contract with a community mental health center unless it is certified pursuant to this section.

E. Certified community mental health centers shall comply with standards adopted by the Board. Such standards shall be in compliance with:

1. The Joint Commission on Accreditation of Healthcare Organizations;
2. The Commission on Accreditation of Rehabilitation Facilities; or
3. Approved medical and professional standards as determined by the Board.

F. Failure to comply with rules and standards promulgated by the Board shall be grounds for revocation, suspension or non-renewal of certification.

SECTION 15. AMENDATORY 43A O.S. 2001, Section 3-314.1, is amended to read as follows:

Section 3-314.1 A. The Board of Mental Health and Substance Abuse Services shall adopt and promulgate rules and standards for certification of domestic violence programs and for private facilities and organizations which offer domestic and sexual assault services in this state. These facilities shall be known as "Certified Domestic Violence Shelters" or "Certified Domestic Violence Programs" or "Certified Sexual Assault Programs" or "Certified Batterer's Treatment Programs", as applicable.

B. Applications for certification as a certified domestic violence shelter, domestic violence program ~~or~~, sexual assault

program or batterer's treatment program, pursuant to the provisions of this section, shall be made to the Department of Mental Health and Substance Abuse Services on prescribed forms. ~~The Department Board, or the Commissioner upon delegation by the Board,~~ may certify the shelter or program for a period of three (3) years subject to renewal as provided in the rules promulgated by the Board. Nothing in this section shall preclude the Department from making inspection visits to a shelter or program to determine contract or program compliance.

C. ~~Excepted from certification regulations are licensed~~ Licensed physicians, licensed psychologists, licensed social workers, individual members of the clergy, licensed marital and family therapists, licensed behavioral practitioners, and licensed professional counselors shall be exempt from certification requirements; provided, ~~that~~ however, these exemptions shall only apply to individual professional persons in their private practice and not to any domestic violence program or sexual assault program operated by such person.

D. ~~Beginning January 1, 1991, any facility~~ Facilities providing services for victims or survivors of domestic abuse or sexual assault and any dependent children of such victims or survivors shall comply with standards adopted by the ~~Department~~ Board; provided, that the certification requirements and standards adopted by the ~~Department~~ Board shall not apply to programs and services offered by the State Department of Health and the Department of Human Services. The domestic violence or sexual assault programs certified pursuant to the provisions of this section shall cooperate with inspection personnel of the state and shall promptly file all reports required by the Department. Failure to comply with ~~regulations~~ rules and standards promulgated by the ~~Department~~ Board shall be grounds for revocation of certification, after proper notice and hearing.



E. The Department is hereby authorized to collect from each applicant the sum of One Hundred Dollars (\$100.00) annually to help defray the costs incurred in the certification procedure.

SECTION 16. AMENDATORY 43A O.S. 2001, Section 3-317, is amended to read as follows:

Section 3-317. A. The Board of Mental Health and Substance Abuse Services, or the Commissioner of Mental Health and Substance Abuse Services upon delegation by the Board, shall certify community-based structured crisis centers for the provision of nonhospital emergency services for mental health and substance abuse crisis intervention. The 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 Board and is certified ~~by the 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 stabilization services including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance abuse treatment services.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-318 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. The Board of Mental Health and Substance Abuse Services shall promulgate rules and standards for certification of behavioral health case managers who are employed by the state or by private, nonprofit behavioral services providers contracting with the state to provide behavioral health services. Such rules and standards

shall address criteria for certification and renewal, including minimum education requirements, examination and supervision requirements, continuing education requirements, and rules of professional conduct.

B. Application for certification as a behavioral health case manager shall be made to the Department of Mental Health and Substance Abuse Services on prescribed forms. The Board, or the Commissioner of Mental Health and Substance Abuse Services upon delegation by the Board, may certify the behavioral health case manager for a period of two (2) years subject to renewal as provided in the rules promulgated by the Board.

C. The Board is authorized to establish an application and renewal fee of no more than One Hundred Dollars (\$100.00) to defray the costs incurred in the certification process.

D. Behavioral health case managers certified by the Board or the Commissioner shall only use the title "certified behavioral health case manager" if employed by the state or by private, nonprofit behavioral services providers contracting with the state to provide behavioral health services. This section shall not be construed to permit the certified behavioral health case manager to practice any of the following professions or use the following titles unless also licensed or accredited by the appropriate authority: physician, psychologist, clinical social worker, professional counselor, marital and family therapist, behavioral practitioner, or alcohol and drug counselor.

E. Failure to comply with rules and standards promulgated by the Board shall be grounds for revocation, suspension or nonrenewal of certification.

SECTION 18. AMENDATORY 43A O.S. 2001, 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~~ Board of Mental Health and Substance Abuse Services 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 the health, family life, 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 Advisory Council on Alcohol and Drug Abuse;~~

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.~~ 5. "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.~~ 6. "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.~~ 7. "Inpatient treatment" means the process of providing residential diagnostic and treatment services on a scheduled basis;

~~11.~~ 8. "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.~~ 9. "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 residents;~~

~~13.~~ 10. "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.~~ 11. "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 19. AMENDATORY 43A O.S. 2001, Section 3-405, is amended to read as follows:

Section 3-405. ~~The Commissioner and the Superintendents of the Department of Mental Health and Substance Abuse Services may, in accordance with an agreement entered into by the Superintendents and the Commissioner,~~ use any monies appropriated to the agencies to fund or assist in funding expenditures of the ~~Alcohol and Drug Abuse~~

~~Prevention, Training, Treatment and Rehabilitation Authority Board~~ Board of Mental Health and Substance Abuse Services which are necessary to perform the duties imposed upon the ~~Authority Board~~ by law.

SECTION 20. AMENDATORY 43A O.S. 2001, Section 3-406, is amended to read as follows:

Section 3-406. ~~The Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority Board~~ Board of Mental Health and Substance Abuse Services shall have the following duties and powers:

1. Survey and analyze the state's needs and formulate a comprehensive plan for the long-range development, through the utilization of federal, state, local and private resources, of adequate services and facilities for the prevention of alcohol and drug dependence and the diagnosis, treatment and rehabilitation of alcohol- and drug-dependent persons;
2. Promote, develop, establish, coordinate and conduct unified programs for the prevention of alcohol and drug dependence and the diagnosis, treatment and rehabilitation of alcohol- and drug-dependent persons and, within funds available, implement and administer such programs;
3. Direct and carry on basic clinical, epidemiological, social, psychological and statistical research in alcohol and drug dependence within the funds available therefor;
4. Provide consultation, education and training in the prevention of alcohol and drug dependence and in the diagnosis, treatment and rehabilitation of alcohol- and drug-dependent persons, for those persons with program responsibility, either separately or in conjunction with other agencies, public or private;
5. In cooperation with other public or private agencies, provide public education on the nature and results of alcohol and drug abuse and on the potentials of prevention and rehabilitation in order to promote public understanding, interest and support;

6. Disseminate information relating to public and private services and facilities in the state available for the assistance of alcohol- and drug-dependent persons;

7. Gather information and maintain statistical and other records relating to alcohol- and drug-dependent persons in the state. The Authority may require specified reports from those organizations and agencies engaged in the treatment and rehabilitation of alcohol- and drug-dependent persons;

8. Have the power to enter into agreements and joint financial arrangements, including agreements and arrangements with public and private agencies, to do or cause to be done that which may be necessary or desirable to carry out the purposes of the Oklahoma Alcohol and Drug Abuse Services Act;

9. Accept on behalf of the state any gift, grant, devise or bequest. All monies so received shall be deposited in a special depository account with the State Treasurer and may be expended for all or any purpose set forth in this act upon a voucher signed by the Commissioner of the Department of Mental Health and Substance Abuse Services;

10. Assign funds under the Oklahoma Community Mental Health Services Act to support programs of treatment and rehabilitation of alcohol- and drug-dependent persons;

11. Prepare and present a budget to carry out the programs provided for in the Oklahoma Alcohol and Drug Abuse Services Act;

12. Promote the inclusion of alcoholism and drug abuse as a covered illness in all health and disability insurance programs;

13. Cooperate with the Department of Corrections in establishing and conducting programs to provide treatment for alcohol- and drug-dependent persons incarcerated in or on parole from penal institutions; and

14. Assist in the development of~~7~~ and cooperate with~~7~~ alcohol and drug abuse education and treatment programs for the people of Oklahoma.

SECTION 21. AMENDATORY 43A O.S. 2001, Section 3-414, is amended to read as follows:

Section 3-414. For the purpose of providing information to the State Legislature which will aid in its oversight function, the ~~Authority~~ Board of Mental Health and Substance Abuse Services shall report annually to the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The report shall include an account of expenditures for administrative and grant functions, and shall detail the type, quantity, quality and level of services being provided in accordance with the Oklahoma Alcohol and Drug Abuse Services Act. The report shall also state the goals and objectives of the ~~Authority~~ Board with a description of how such goals and objectives will be achieved. The report shall also include a review of the previous annual report's goals and objectives with a statement regarding the implementation and funds spent in implementation.

SECTION 22. AMENDATORY 43A O.S. 2001, Section 3-415, is amended to read as follows:

Section 3-415. A. 1. The ~~Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority~~ Board of Mental Health and Substance Abuse Services shall promulgate ~~regulations~~ rules and standards for certification for private facilities and organizations which provide treatment, counseling~~7~~ and rehabilitation~~7~~ and other related services directed toward alcohol- and drug-dependent persons. These facilities and organizations shall be known as "Certified Services for the Alcohol and Drug Dependent". Only certified facilities may receive and assist alcohol- and drug-dependent persons by providing treatment,



~~rehabilitation, and other related services to alcohol- and drug-dependent persons.~~

2. Any person violating the requirement that only certified facilities may receive and assist alcohol- and drug-dependent persons by providing treatment, ~~rehabilitation, and other related services~~ to alcohol- and drug-dependent persons, upon conviction, shall be guilty of a misdemeanor.

B. ~~1.~~ Applications for certification as a certified service for the alcohol- and drug-dependent person pursuant to the provisions of this section shall be made to the ~~Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority~~ Department of Mental Health and Substance Abuse Services on prescribed forms.

~~2. In reviewing and determining the merits of an application for certification, the Authority may:~~

- ~~a. utilize and consider all available materials and information discovered or submitted to the Authority; provided, the Authority shall notify the applicant of the existence of such materials and information at least seventy-two (72) hours in advance of the hearing, and~~
- ~~b. review, hear and consider all available evidence regarding issues of safety and effectiveness of the treatment modality utilized by the applicant.~~

C. The ~~Authority~~ Board, or the Commissioner of Mental Health and Substance Abuse Services upon delegation by the Board, may certify the facility for a period of thirty-six (36) months subject to renewal as provided.

D. For good cause shown, ~~including,~~ but not limited to, ~~failure to comply with regulations~~ rules and standards promulgated by the ~~Authority Board,~~ pending state or federal investigations, or verified complaints concerning matters affecting the proper

operation or ownership of the facility, the ~~Authority Board~~ may postpone, deny ~~or withdraw~~ renewal of, revoke, or suspend the certification of the facility.

E. Licensed physicians, licensed psychologists, licensed social workers, individual members of the clergy, and certified alcohol or drug abuse counselors are exempt from the regulations and standards for certification, provided that such exemptions shall apply only to individual professional persons in their private practice and not to any treatment facility operated by such person. Properly licensed hospitals, programs or facilities operated by ~~the State Department of Health or Department of Human Services~~ a state agency, programs conducted and facilities operated by Alcoholics Anonymous, ~~the Department of Corrections, the Department of Mental Health and Substance Abuse Services,~~ or the Salvation Army are also exempt from the provisions of the Oklahoma Alcohol and Drug Abuse Services Act, ~~Section 3-401 et seq. of this title.~~

F. Certified services for the alcohol- or drug-dependent person shall comply with standards adopted by the ~~Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority Board.~~ Such standards shall require that treatment and therapeutic methods shall be in compliance with:

1. The Joint Commission on Accreditation of Healthcare Organizations;
2. The Commission on Accreditation of Rehabilitation Facilities; or
3. Approved medical and professional standards as determined by the Board ~~of Mental Health and Substance Abuse Services.~~

G. ~~The Board may require a precertification review of any new applications that appear to use nontraditional methods of treatment. The Board may select an independent, recognized authority in Oklahoma to review such programs to make recommendations to the Board as to the validity of the proposed program.~~

~~H.~~ Any facility or organization certified to provide certified services shall cooperate with inspection personnel of the state and shall promptly file all reports required by the ~~Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority Board~~ Board.

~~I.~~ Failure to comply with regulations and standards promulgated by the Authority shall be grounds for revocation of certification and licensing, after proper notice and hearing.

~~J.~~ H. All claims by and accomplishments publicized by any applicant for certification or any certified alcohol- or drug-dependent organization, including but not limited to patient count and success rates, shall be documented and verifiable by the Board.

~~K.~~ I. The ~~Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority Board~~ Board is hereby authorized to collect from each applicant the sum of One Hundred Dollars (\$100.00) annually to help defray the costs incurred in the certification procedure.

~~L.~~ J. Any materials or information received by the ~~Authority Department~~ Department from an applicant regarding the applicant's financial status ~~or including a client's identity~~ shall not be construed to be open records pursuant to the Oklahoma Open Records Act, ~~Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes~~.

SECTION 23. AMENDATORY 43A O.S. 2001, Section 3-422, is amended to read as follows:

Section 3-422. A. ~~All medical records and all communications between doctor and patient are both privileged and confidential. Such information is available only to those engaged in treatment of the patient or in related administrative work. Privileged or confidential information will not be released to anyone not involved in the treatment programs without a written release by the patient or an order from a court of competent jurisdiction.~~

~~All communications by certified facilities, organizations, or individuals and organizations excepted from certification concerning the treatment and rehabilitation of drug-dependent persons are classified as confidential.~~ All written communications relating to the treatment and rehabilitation of drug-dependent persons shall be contained in folders and clearly marked "Confidential". These confidential communications may be seen and used only by persons who are actively involved in treatment and rehabilitation programs as provided in Section 1-109 of this title.

B. Any person involved in a treatment and rehabilitation program is prohibited from testifying to any information relating to drug possession or dependency gained in the program in any court action against a drug-dependent person. The medical records compiled during the treatment and rehabilitation of a drug-dependent person may not be accepted as evidence or used in any manner in any court action against the drug-dependent person.

SECTION 24. AMENDATORY 43A O.S. 2001, Section 3-601, is amended to read as follows:

Section 3-601. A. Any Class II controlled dangerous substance, when used in this state by a narcotic treatment program for persons with a history of addiction to or physiologic dependence on controlled dangerous substances, shall only be used in treating persons with a history of addiction for two (2) years or more, or persons with a one-year history, as defined by ~~Chapter 1 of Title 21 of~~ the Code of Federal Regulations, and documentation of attempting another type of treatment.

B. Any conviction for a violation of the provisions of this section or any rules promulgated pursuant to the provisions of this section shall be a felony.

C. For the purposes of this section, "narcotic treatment program" means a person, private physician, or organization that administers or dispenses a narcotic drug to a narcotic addict for

the purposes of detoxification or maintenance treatment or provides, when necessary and appropriate, comprehensive medical and rehabilitation services. A narcotic treatment program shall be approved by the ~~Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority~~ Board of Mental Health and Substance Abuse Services, or the Commissioner of Mental Health and Substance Abuse Services upon delegation by the Board, and registered with the federal Drug Enforcement Administration for the use of a narcotic drug to treat narcotic addiction.

~~D. The Authority shall establish a central registry of persons receiving Class II controlled dangerous substances as participants of a narcotic treatment program. Narcotic treatment programs shall participate in the registries of adjoining states when the programs are within one hundred twenty-five (125) miles of the boundaries of the adjoining state.~~

~~E.~~ Narcotic treatment programs shall notify the ~~Authority~~ Department of Mental Health and Substance Abuse Services of plans to close or relocate within a minimum of thirty (30) days prior to closure or relocation.

SECTION 25. AMENDATORY 43A O.S. 2001, Section 3-602, is amended to read as follows:

Section 3-602. A. 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 Department of Mental Health and Substance Abuse Services shall approve any drug to be used in a narcotic treatment program and 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. Pregnancy tests for women shall be

conducted upon admission to the narcotic treatment program and at least annually thereafter, unless otherwise indicated.

SECTION 26. AMENDATORY 43A O.S. 2001, Section 3-603, is amended to read as follows:

Section 3-603. A. ~~The Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority~~ Board of Mental Health and Substance Abuse Services shall approve a standard medication fee for persons participating in a narcotic treatment program.

B. A person participating in a narcotic treatment program shall be terminated from the program if the person fails to participate in counseling sessions ~~as prescribed by the case review team~~ or if the person fails to adhere to the program's guidelines as promulgated by the ~~Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority~~. ~~Exceptions may be granted based on health or other considerations approved by the attending physician and the case review team. The case review team may recertify persons terminated from a narcotic treatment program pursuant to guidelines promulgated by the Authority Board.~~

C. ~~The Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority~~ Board is authorized to promulgate such rules as are necessary to implement this act.

SECTION 27. AMENDATORY 43A O.S. 2001, Section 4-101, is amended to read as follows:

Section 4-101. All ~~patients~~ persons at ~~institutions~~ facilities within the Department of Mental Health and Substance Abuse Services and facilities certified by the Department shall be given humane care and treatment. The food shall always be sufficient and wholesome. No ~~severe~~ physical or emotional punishment shall be inflicted, and the rules and discipline shall be designed to promote the well-being of the ~~patients~~ person being treated. The physical, medical, psychiatric and psychological testing, diagnosis, care and

treatment shall be in accordance with the highest standards accepted in private and public medical and psychiatric practice to the extent that facilities, equipment and personnel are available.

SECTION 28. AMENDATORY 43A O.S. 2001, Section 4-108, is amended to read as follows:

Section 4-108. A. ~~A patient~~ person receiving treatment for mental illness or alcohol- or drug-dependency may perform labor which contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone only if ~~the:~~

1. The patient voluntarily agrees to perform the labor, ~~engaging;~~

2. Engaging in the labor would not be inconsistent with the treatment plan for the patient, ~~and the;~~

3. The amount of time or effort necessary to perform the labor would not be excessive. ~~In no event shall discharge or;~~

4. The patient is compensated appropriately and in accordance with applicable federal and state minimum wage laws; and

5. Discharge and privileges ~~be~~ are not conditioned upon the performance of such labor.

B. ~~A patient who performs labor which contributes to the operation and maintenance of the facility for which the facility would otherwise be required to employ someone, or who takes the place of an employee, shall be compensated appropriately and in accordance with applicable federal and state minimum wage laws, including minimum wage and minimum wage reduction provisions. The provisions herein of this section shall not apply to bona fide "work therapy" which is a part of the treatment program.~~

C. ~~A patient who performs labor for a person or agency other than that described in subsection B of this section shall be compensated an appropriate amount if an economic benefit to the person or agency results from his labor. The patient shall be compensated an appropriate amount by such person or agency.~~

~~D. The governing body of a facility may provide for compensation of a patient when he performs labor not governed by subsection B or C of this section including, but not limited to, tasks performed pursuant to a "work therapy" or a vocational training program. Tasks performed as "work therapy" or as vocational training shall be an integral part of the patient's individualized care and treatment plan. The amount of compensation may be set by the facility~~ Work therapy shall be:

1. In the person's best interests;
2. Therapeutic in nature and purpose;
3. Part of the person's treatment plan;
4. Documented in the treatment record with a rationale for the work therapy;
5. Voluntarily entered into by the person;
6. Compensated by the facility at a rate derived from the value of the work performed; and
7. Compensated in accordance with federal and state minimum wage law if the primary benefit is to the facility.

~~E. C.~~ C. Subsections ~~A, B and C~~ of this section shall not apply to ~~labor matters~~ of a personal housekeeping nature, ~~nor to labor performed as a condition of residence in a small group living arrangement, personal maintenance, or communal living,~~ nor tasks oriented to improving ~~community living~~ life skills. These activities shall not primarily benefit the facility.

~~F. D.~~ D. Payment ~~to patients~~ pursuant to this section shall not be applied by the facility to offset the costs of maintenance of ~~patients~~ persons receiving treatment in the facility, unless a ~~patient~~ the person authorizes such payment or offset in writing.

SECTION 29. AMENDATORY 43A O.S. 2001, Section 5-101, is amended to read as follows:

Section 5-101. A. Any person ~~alleged to be mentally ill~~ who has a mental illness or is alcohol- or drug-dependent to a degree



which warrants ~~institutional~~ inpatient treatment or care, and who is not in confinement in a jail or adult lock-up facility on a criminal charge and who has no criminal charges pending against him or her, may be admitted to and confined in ~~an institution~~ a facility within the Department of Mental Health and Substance Abuse Services, a state psychiatric hospital, or a licensed private institution by compliance with any one of the following procedures:

1. Emergency admission;
2. On voluntary application; and
3. On involuntary court ~~certification~~ commitment.

B. Any person ~~alleged to be mentally ill~~ who has a mental illness or is alcohol- or drug-dependent to a degree which warrants ~~institutional~~ inpatient treatment or care and who has criminal charges pending against him or her but is not confined in a jail or adult lock-up facility may be admitted to ~~an institution~~ a facility within the Department, ~~a state psychiatric hospital~~ or a licensed private institution pursuant to the provisions of subsection A of this section; provided, the ~~institution~~ facility or hospital shall be authorized to take such reasonable steps as necessary to assure the protection of the public, the residents of the ~~institution~~ facility or hospital and the person, including but not limited to segregation and private facilities. Provided further, treatment received pursuant to this subsection shall not constitute a defense in any criminal proceeding except as otherwise provided by Title 22 of the Oklahoma Statutes.

C. 1. Any person confined pursuant to a criminal charge ~~may~~ shall only be admitted to and confined pursuant to a court order issued in compliance with the provisions of Section 1175.6 of Title 22 of the Oklahoma Statutes.

2. No person shall be deprived of his or her liberty on the grounds that such person is, or is supposed to ~~be~~ have, ~~mentally ill~~ a mental illness or is in need of mental health treatment, except in

accordance with the provisions of the Mental Health Law, ~~Section 1-101 et seq. of this title.~~

SECTION 30. AMENDATORY 43A O.S. 2001, Section 5-206, is amended to read as follows:

Section 5-206. As used in Sections 5-206 through 5-212 of this title:

1. ~~"Licensed mental health professional" means:~~

- ~~a. a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology,~~
- ~~b. a licensed clinical psychologist,~~
- ~~c. a licensed professional counselor as defined in Section 1902 of Title 59 of the Oklahoma Statutes,~~
- ~~d. a person licensed as a licensed clinical social worker pursuant to Section 1250 et seq. of Title 59 of the Oklahoma Statutes,~~
- ~~e. a licensed marital and family therapist as defined in Section 1925.2 of Title 59 of the Oklahoma Statutes,~~  
~~or~~
- ~~f. a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions or a qualified examiner as defined in Section 1-103 of this title;~~

2. ~~"Immediate likelihood of serious harm to self or others"~~

~~means:~~

- ~~a. a substantial risk of physical harm to oneself as manifested by evidence of serious threats of or attempts at suicide or other self-infliction of bodily harm, or~~
- ~~b. a substantial risk of physical harm to another person or persons as manifested by evidence of violent behavior directed toward another person or persons, or~~

~~e. having placed another person or persons in a reasonable fear of violent behavior directed towards them or serious physical harm to them as manifested by serious threats, or~~

~~d. a reasonable certainty that without immediate treatment severe impairment or injury will result to the person alleged to be a person requiring treatment as manifested by the inability of the person to avoid or protect self from such impairment or injury;~~

~~3.~~ "Evaluation" means the examination of a person who appears to ~~be~~ have a ~~mentally ill person, an~~ mental illness or ~~be~~ alcohol- or ~~dependent person, or a~~ drug-dependent person by two licensed mental health professionals, at least one of whom is a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology, a licensed clinical psychologist, or a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions, for the purpose of:

- a. determining if a petition requesting involuntary commitment or treatment is warranted, or
- b. completing a certificate of evaluation pursuant to Section 5-414 of this title, or
- c. both subparagraphs a and b of this paragraph;

~~4.~~ 2. "Emergency examination" means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted, by a licensed mental health professional to determine if emergency detention of the person is warranted;

~~5.~~ 3. "Emergency detention" means the detention of a person who appears to be ~~mentally ill, alcohol-dependent, or drug-dependent~~ and a person requiring treatment in a facility approved by the

Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination and a determination ~~by a licensed mental health professional~~ that emergency detention is warranted. ~~No person shall be detained in emergency detention more than~~ for a period not to exceed seventy-two (72) hours, excluding weekends and holidays, except upon a court order authorizing detention beyond a seventy-two-hour period or pending the hearing on a petition requesting involuntary commitment or treatment as provided by this act;

~~6.~~ 4. "Protective custody" means the taking into protective custody and detention of a person pursuant to the provisions of Section 5-208 of this title until such time as an emergency examination is completed and a determination is made as to whether or not emergency detention is warranted; and

~~7.~~ 5. "Prehearing detention" means the court-ordered detention of a person who is alleged to be mentally ill, alcohol-dependent, or drug-dependent in a facility approved by the Commissioner as appropriate for such detention, pending a hearing on a petition requesting involuntary commitment or treatment as provided by Section 5-415 or 9-102 of this title.

SECTION 31. AMENDATORY 43A O.S. 2001, Section 5-207, is amended to read as follows:

Section 5-207. A. Any person who appears to be or states that such person is mentally ill, alcohol-dependent, or drug-dependent to a degree that immediate emergency action is necessary may be taken into protective custody and detained as provided pursuant to the provisions of this section. Nothing in this section shall be construed as being in lieu of prosecution under state or local statutes or ordinances relating to public intoxication offenses.

B. Any peace officer who reasonably believes that a person is a person requiring treatment, ~~an alcohol-dependent person, or a drug-dependent person to a degree that immediate emergency action is~~

~~necessary~~ as defined in Section 1-103 of this title shall take ~~said~~ the person into protective custody. The officer shall make every reasonable effort to take the person into custody in the least conspicuous manner.

C. The officer shall prepare a written affidavit indicating the basis for the officer's belief that the person is a person requiring treatment and the circumstances under which the officer took the person into protective custody. The officer shall give a copy of the statement to the person or the person's attorney upon the request of either. If the officer does not make the determination to take an individual into protective custody on the basis of the officer's personal observation, the officer shall not be required to prepare a written affidavit. However, the person stating to be mentally ill, alcohol-dependent, or drug-dependent or the person upon whose statement the officer relies shall sign a written affidavit indicating the basis for such person's belief that the person is a person requiring treatment. Any false statement given to the officer by the person upon whose statement the officer relies shall be a misdemeanor and subject to the sanctions of Title 21 of the Oklahoma Statutes.

D. The officer shall immediately transport the person to the nearest facility designated by the Commissioner of Mental Health and Substance Abuse Services as an appropriate facility for emergency examinations. If, subsequent to an emergency examination, it is determined that emergency detention is warranted, the officer shall transport the person to the nearest facility designated by the ~~Commissioner of Mental Health and Substance Abuse Services~~ as appropriate for such detention.

E. The parent, brother or sister who is eighteen (18) years of age or older, child who is eighteen (18) years of age or older, or guardian of the person, or a person who appears to be or states that such person is mentally ill, alcohol-dependent, or drug-dependent to

a degree that emergency action is necessary may request the administrator of a facility designated by the Commissioner ~~of Mental Health and Substance Abuse Services~~ as an appropriate facility for an emergency examination to conduct an emergency examination to determine whether the condition of the person is such that emergency detention is warranted and, if emergency detention is warranted, to detain said person as provided by this act.

SECTION 32. AMENDATORY 43A O.S. 2001, Section 5-208, is amended to read as follows:

Section 5-208. A. ~~A person~~ An individual in protective custody as provided by Section 5-207 of this title shall be ~~examined~~ subject to an emergency examination at the appropriate facility by a licensed mental health professional within twelve (12) hours of being placed in protective custody for the purpose of determining whether emergency detention of the ~~person~~ individual is warranted.

1. If, upon examination, the licensed mental health professional determines that the ~~person~~ individual is not a ~~mentally ill person, an alcohol-dependent person, or a drug-dependent person~~ requiring treatment or that the condition of the ~~person~~ individual is such that emergency detention is not warranted, the ~~person~~ individual shall be returned immediately to the point where ~~such person~~ the individual was taken into protective custody and released or the ~~person~~ individual may be taken to the home or residence of that ~~person~~ individual or to an alternative facility.

2. If, upon examination, the licensed mental health professional determines that the ~~person~~ individual is a ~~mentally ill person, an alcohol-dependent person, or a drug-dependent person~~ requiring treatment to a degree that emergency detention is warranted, the person shall be detained in emergency detention for a period not to exceed seventy-two (72) hours, excluding weekends and holidays, except upon a court order authorizing detention pending a hearing on a petition requesting involuntary commitment or

treatment. The licensed mental health professional shall immediately:

- a. prepare a statement describing the findings of the examination and stating the basis for the determination. ~~The statement shall be substantially in a form prescribed by the Department of Mental Health and Substance Abuse Services,~~
- b. provide for a full examination and evaluation of the person by two licensed mental health professionals and, if the person appears to ~~be~~ have a ~~mentally ill person~~ mental illness or be alcohol- or drug-dependent and be a person requiring treatment, the completion of a certificate of evaluation as provided by Section 5-414 of this title, and
- c. make reasonable efforts to determine whether the ~~person~~ individual has a current and unrevoked advance directive executed pursuant to the Advance Directives for Mental Health Treatment Act.

B. If a licensed mental health professional, designated to have such responsibility by the ~~administrator~~ executive director of a hospital, or the administrator of a facility designated by the Commissioner of Mental Health and Substance Abuse Services as appropriate for emergency detention believes a voluntary patient to be a ~~mentally ill person, an alcohol-dependent person, or a drug-dependent~~ person requiring treatment to a degree that emergency action is necessary, the administrator may detain such patient in emergency detention for a period not to exceed seventy-two (72) hours, excluding weekends and holidays, only on the following conditions:

1. The ~~patient~~ individual has refused to consent or has withdrawn consent to voluntary treatment;

2. The ~~patient~~ individual has been examined by a licensed mental health professional who has determined that the ~~person~~ individual is a ~~mentally ill person, an alcohol-dependent person, or a drug-dependent~~ person requiring treatment, the condition of the individual is such that emergency detention is warranted, and a statement has been prepared as provided in subsection A of this section; and

3. The administrator or the designee of the administrator shall provide for a full examination and evaluation of the patient by two licensed mental health professionals and, if the person appears to be a ~~mentally ill~~ person requiring treatment, the completion of a certificate of evaluation.

C. Whenever it appears that a person detained as provided by this section will require treatment beyond the period of emergency detention and the person has refused to consent to voluntary treatment, a licensed mental health professional conducting an evaluation of the person or the administrator of the facility in which the person is being detained, or the designee of the administrator, shall immediately file a petition or request the district attorney to file a petition with the district court as provided by Section 5-410 of this title or Section 9-102 of this title, and may request a court order directing prehearing detention when such detention is necessary for the protection of the person or others.

SECTION 33. AMENDATORY 43A O.S. 2001, Section 5-304, is amended to read as follows:

Section 5-304. The ~~Commissioner~~ Board of Mental Health and Substance Abuse Services shall make rules and regulations for reception and retention of voluntary patients by state ~~hospitals~~ facilities. The ~~superintendent~~ executive director in charge of any state ~~hospital~~ facility or licensed private hospital for care and treatment of the mentally ill may at his discretion receive and



retain therein as a patient any person eighteen (18) years of age or over, suitable for care and treatment, who voluntarily makes written application therefor, or any person, suitable for care and treatment at least sixteen (16) years but not over eighteen (18) years of age, with the consent of such person's parent or guardian. A person thus received at any ~~hospital or institution~~ facility shall not be detained for a period exceeding ~~fifteen (15) days~~ seventy-two (72) hours, excluding weekends and holidays, from and inclusive of the date of notice in writing of his intention or desire to leave such hospital or institution. The form for voluntary application shall be printed or written on eight and one-half-inch by eleven-inch paper and shall be substantially as follows:

Mental Health Law Form 19.

VOLUNTARY APPLICATION FOR ADMISSION TO THE SUPERINTENDENT OF THE HOSPITAL \_\_\_\_\_ AT \_\_\_\_\_

Application is hereby made for my admission to the above named ~~institution~~ facility within the Department of Mental Health and Substance Abuse Services as a voluntary patient under the provisions of the Oklahoma Mental Health Law.

Dated this \_\_\_\_ day of \_\_\_\_, ~~19~~ 20\_\_.

\_\_\_\_\_ Applicant

\_\_\_\_\_ Address

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_ ~~19~~ 20\_\_.

\_\_\_\_\_  
Notary Public

The applicant, or someone for him, must give a bond for the cost of care and treatment or pay such cost each month in advance, unless it is determined that the applicant is a poor or indigent person as provided in this title.

SECTION 34. AMENDATORY 43A O.S. 2001, Section 5-305, is amended to read as follows:

Section 5-305. Any person desiring and needing psychiatric treatment in a state ~~hospital~~ facility for the mentally ill as a voluntary patient may present ~~his~~ a written application to the judge of the district court of the county in which ~~he~~ the person resides, or of the county in which a state hospital for the mentally ill is located, which application may be in substantially the following form:

IN THE ~~COUNTY~~ DISTRICT COURT OF \_\_\_\_\_ COUNTY,  
OKLAHOMA In the Matter of the Mental Health of No. \_\_\_\_\_  
on the Mental Health Patient Docket  
APPLICATION FOR VOLUNTARY ADMISSION TO MENTAL HOSPITAL

I declare that my name is \_\_\_\_\_, that I am \_\_\_\_\_ years of age, and that I reside in \_\_\_\_\_ County, Oklahoma, my permanent residence address being as follows:

\_\_\_\_\_

I have obtained medical advice concerning my condition, and I desire to be admitted to the \_\_\_\_\_ State ~~Hospital~~ Facility at \_\_\_\_\_, Oklahoma, as a voluntary patient under the provisions of the Mental Hospital Voluntary Admission Procedures Act. I understand that if admitted to ~~said hospital~~ this facility I may be detained in ~~said hospital~~ this facility until the ~~superintendent~~ executive director of ~~said hospital~~ this facility concludes that it is proper for me to be released, not exceeding, however, a period of ~~sixty days~~ seventy-two (72) hours after I give written notification to the ~~superintendent~~ executive director or ~~his~~ a designee of my desire to leave the ~~hospital~~ facility.

I declare that the names and addresses of my close relatives are as follows:

Father: \_\_\_\_\_

Mother: \_\_\_\_\_

Spouse: \_\_\_\_\_

Adult Children: \_\_\_\_\_

Other: \_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 19 20.

\_\_\_\_\_  
(Signature)

SECTION 35. AMENDATORY 43A O.S. 2001, Section 5-410, is amended to read as follows:

Section 5-410. A. The following persons may file or request the district attorney to file a petition with the district court, upon which is hereby conferred jurisdiction, to determine whether a ~~person~~ an individual has a mental illness and is a mentally ill person and a person requiring treatment, and to order the least restrictive appropriate treatment for ~~such~~ the person:

1. The father, mother, husband, wife, brother, sister, guardian or child, over the age of eighteen (18) years, of ~~a person~~ an individual alleged to have a mental illness and to be a person requiring treatment;

2. A licensed mental health professional;

3. The ~~administrator~~ executive director of a facility designated by the Commissioner of Mental Health and Substance Abuse Services as appropriate for emergency detention or an administrator of a hospital that is approved by the Joint Commission on Accreditation of ~~Hospitals~~ Healthcare Organizations;

4. A person in charge of any correctional institution;

5. Any peace officer within the county in which the ~~person~~ individual alleged to ~~be a mentally ill person~~ have a mental illness and to be a person requiring treatment resides or may be found; or

6. The district attorney in whose district the person resides or may be found.

B. Upon request of an appropriate person as stated in subsection A of this section, the district attorney shall file a petition in district court for involuntary commitment of a person alleged to be a person requiring treatment.

C. The petition shall contain a statement of the facts upon which the allegation is based and, if known, the names and addresses of any witnesses to the alleged facts.

1. The petition shall be verified and made under penalty of perjury.

2. A request for the prehearing detention of the ~~person~~ individual alleged to have a mental illness and to be a ~~mentally ill~~ person requiring treatment may be attached to the petition.

3. If the ~~person~~ individual alleged to have a mental illness and to be a ~~mentally ill~~ person requiring treatment is being held in emergency detention, a copy of the certificate of evaluation shall be attached to the petition.

~~C.~~ D. The inpatient mental health treatment of ~~children~~ minors shall be pursuant to the provisions of the Inpatient Mental Health Treatment of ~~Children~~ Minors Act.

SECTION 36. AMENDATORY 43A O.S. 2001, Section 5-411, is amended to read as follows:

Section 5-411. A. ~~A person~~ An individual alleged to have a mental illness and to be a ~~mentally ill person and a~~ person requiring treatment shall have the following rights:

1. The right to notice, as provided by Section ~~6~~ 5-412 of this ~~act~~ title;

2. The right to counsel, including court-appointed counsel, and if the person has no counsel, that the court shall appoint an attorney to represent the person at no cost if the person is an indigent person and cannot afford an attorney;

3. The right to a hearing and the right to a closed hearing, unless the person requests otherwise;

4. Upon request, right to a jury trial. The jury shall be composed of six persons having the qualifications required of jurors in courts of record;

5. The right to be present at the hearing on the petition or jury trial. The person shall be present at the hearing or jury trial unless the court finds that the presence of the person alleged to be a mentally ill person requiring treatment makes it impossible to conduct the hearing or trial in a reasonable manner or that the presence of the person would be injurious to the health or well-being of such person.

- a. The court shall not decide in advance of the hearing, solely on the basis of the certificate of evaluation, that the person alleged to be a mentally ill person requiring treatment should not be allowed nor required to appear.
- b. Prior to issuing an order excluding the person from the hearing or jury trial, the court shall find, based upon clear and convincing evidence, that alternatives to exclusion of the person were attempted;

6. The right to present and to cross-examine witnesses. The petitioner and witnesses identified in the petition shall offer testimony under oath at the hearing on the petition. When the hearing is conducted as a jury trial, the petitioner and any witness in behalf of the petitioner shall be subject to cross-examination by the attorney for the person alleged to be a person requiring treatment. The person alleged to be a person requiring treatment may also be called as a witness and cross-examined.

B. ~~A person~~ An individual alleged to be or found by a court to have a mental illness and ~~be a mentally ill person and~~ a person requiring treatment shall be afforded such other rights as are guaranteed by state and federal law.

C. No statement, admission or confession made by the person alleged to have a mental illness and to be a mentally ill person requiring treatment shall be used for any purpose except for proceedings under this act. No such statement, admission or

confession may be used against such person in any criminal action whether pending at the time the hearing is held or filed against such person at any later time directly or in any manner or form.

D. An attorney appointed by the court to represent a person alleged to have a mental illness and to be a mentally ill person and a person requiring treatment shall be a licensed and actively practicing attorney who shall represent the person until final disposition of the case. The court may appoint a public defender where available.

1. The attorney appointed by the court shall meet and consult with the person within one (1) day of notification of the appointment. The attorney shall immediately, upon meeting with the person alleged to be a ~~mentally ill~~ person requiring treatment, present to such person a statement of the rights, including all rights afforded to persons alleged to have a mental illness and to be mentally ill persons requiring treatment by the Oklahoma and the United States Constitutions.

2. The court-appointed attorney shall be replaced by another attorney if:

- a. the person alleged to have a mental illness and to be a mentally ill person requiring treatment prefers the services of an attorney other than the one initially appointed for ~~him~~ the person,
- b. the preferred attorney agrees to accept the responsibility, and
- c. the person alleged to have a mental illness and to be a mentally ill person requiring treatment or the preferred attorney notifies the court of the preference and the attorney's acceptance of employment.

The preferred attorney shall meet and consult with the person within one (1) day of employment or appointment. Any request for

additional days shall be subject to the discretion of the court, considering the facts and circumstances of each particular case, including cost.

3. The attorney fees for all services shall be paid by the person alleged to be a ~~mentally ill~~ person requiring treatment. However, if the person alleged to be a person requiring treatment, or a person empowered pursuant to law to act on behalf of such person, submits an affidavit that such person is indigent and unable to pay attorney fees, the attorney fees shall be paid from the court fund, after a determination by the court that such person is indigent. The amount of such fee shall be set by the court.

4. The attorney representing the person alleged to have a mental illness and to be a ~~mentally ill~~ person requiring treatment shall notify the court of any current and unrevoked advance directive that has been executed by such person pursuant to the Advance Directives for Mental Health Treatment Act and provide a written copy of the advance directive, if available, to the court and a representative of the district attorney's office.

SECTION 37. AMENDATORY 43A O.S. 2001, Section 5-412, is amended to read as follows:

Section 5-412. A. Notice of the date, time and place of the hearing on a petition alleging a person to have a mental illness and ~~to be a mentally ill person and~~ a person requiring treatment shall be delivered to such person at least one (1) day prior to the hearing. Notice shall be personally delivered to the person together with a copy of the petition and, if applicable, copies of the certificate of evaluation, the affidavit of the peace officer, and any order of the court directing prehearing detention or an evaluation of the person.

B. The notice shall contain the following information:

1. The definitions provided by Section 1-103 of this title of a "~~mentally ill person~~" "mental illness" and a "person requiring treatment";

2. If applicable, that the court has ordered the evaluation of the person by two licensed mental health professionals, at least one of whom is a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology, a licensed clinical psychologist, or a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions, for the purpose of conducting an evaluation of the person alleged to have a mental illness and to be a ~~mentally ill~~ person requiring treatment and executing a certificate of evaluation stating their findings, and the time and place of the evaluation;

3. That, upon request, the hearing on the petition may be conducted as a jury trial and the jury shall be composed of six persons having the qualifications required of jurors in courts of record;

4. That the petitioner and witnesses identified in the petition may offer testimony under oath at the hearing on the petition;

5. If applicable, that the court has appointed an attorney for the person alleged to have a mental illness and to be a ~~mentally ill~~ person requiring treatment who shall represent the person until final disposition of the case and that if the person is indigent, the court shall pay the attorney fees;

6. That, if the person is found at the hearing or at a jury trial to have a mental illness and to be ~~mentally ill~~ and a person requiring treatment under this act, the court will take evidence and make findings of fact concerning the person's competency to consent or to refuse the treatment that is ordered, including, but not limited to, the right of the person to refuse psychotropic medications; and



7. That the person alleged to have a mental illness and to be a ~~mentally ill~~ person requiring treatment shall be afforded such other rights as are guaranteed by state and federal law.

C. The person delivering the copy of the notice and petition to the person alleged to have a mental illness and to be a ~~mentally ill~~ person requiring treatment shall, at the time of delivery, explain the content, purpose and effect of the notice and the legal right to judicial review by habeas corpus.

D. 1. A copy of the notice, the petition, and the attachments to the petition, if any, shall also be delivered at least one (1) day prior to the hearing to:

- a. the individual initiating the request for protective custody, emergency detention, involuntary commitment or prehearing detention,
  - b. the attorney or court-appointed counsel of the person, to the district attorney, and to the public defender, if any,
  - c. the facility, if any, in which the person is detained in emergency detention,
  - d. the Department of Mental Health and Substance Abuse Services, and
  - e. a parent, spouse, guardian, brother, sister or child who is at least eighteen (18) years of age of the person alleged to have a mental illness and to be a ~~mentally ill~~ person requiring treatment and who is not the individual initiating the petition or a request for protective custody, emergency detention, involuntary commitment or prehearing detention.
- Notice shall also be delivered to any other person as may be ordered by the court.

2. The notice required by this subsection may be served personally or by certified mail. When notice is served personally,

the person making such service shall make affidavit of the same and file such notice, with proof of service, with the district court. This notice may be served in any part of the state when so ordered by the court.

E. Notice of orders of a court directing an evaluation or prehearing detention of a person alleged to have a mental illness and to be a ~~mentally ill person and~~ a person requiring treatment shall be delivered in substantially the same manner as provided by subsection A of this section. Notice of a court order directing an evaluation of the person shall be delivered at least one (1) day before the evaluation, and as many additional days as are requested by the person alleged to have a mental illness and to be a ~~mentally ill~~ person requiring treatment or the attorney of such person as are reasonable without prejudice to the person. Any request for additional days shall be subject to the discretion of the court, considering the facts and circumstances of each particular case.

SECTION 38. AMENDATORY 43A O.S. 2001, Section 5-413, is amended to read as follows:

Section 5-413. A. When a request for an order of prehearing detention is attached to a petition alleging a person to have a mental illness and to be a ~~mentally ill person and~~ a person requiring treatment, the district court shall determine whether there is probable cause to detain the person who is the subject of the petition prior to a hearing on the petition.

1. If the court issues an order for detention, it shall immediately set a date, time, and place for a hearing on the petition.

2. The period of prehearing detention shall not exceed seventy-two (72) hours, excluding ~~weekdays~~ the weekends and holidays, except upon a court order authorizing detention beyond a seventy-two-hour period or pending the hearing on a petition requesting involuntary

commitment or treatment. Prehearing detention may be extended to coincide with any order of continuance entered by the court.

B. If the court finds that probable cause to detain the person alleged to have a mental illness and to be a ~~mentally ill~~ person requiring treatment does not exist, the court shall dismiss the request and, if the person is being held in protective custody or emergency detention, order the person released and returned to the point where such person was taken into protective custody.

C. If the court finds that probable cause to detain the person alleged to have a mental illness and to be a ~~mentally ill~~ person requiring treatment does exist:

1. An order may be entered authorizing any peace officer to take that person into custody and to detain such person in a suitable facility prior to the hearing on the petition; or

2. If the person is being held in emergency detention, the court may issue an order authorizing the facility to detain the person prior to a hearing on the petition.

A certified copy of an order of prehearing detention shall constitute authority for a facility to detain or to continue to detain the person who is the subject of the order.

SECTION 39. AMENDATORY 43A O.S. 2001, Section 5-414, is amended to read as follows:

Section 5-414. A. If a certificate of evaluation is not attached to a petition alleging a person to ~~be~~ have a ~~mentally ill person~~ mental illness and to be a person requiring treatment at the time the petition is filed, the court shall order the person who is the subject of the petition to undergo an evaluation by two licensed mental health professionals, and a certificate of evaluation to be completed and filed with the court prior to the hearing.

1. The evaluation shall be conducted on an outpatient basis unless the court has issued an order for prehearing detention.

2. A copy of all petitions, orders, affidavits, police reports and other relevant documents shall accompany the person to the place where the evaluation is to be conducted.

3. Upon completion of the evaluation, the facility shall transmit a copy of the report of the licensed mental health professionals conducting the evaluation and the certificate of evaluation to the court and to the attorney of record for the person evaluated.

B. The report of the licensed mental health professionals conducting an evaluation pursuant to this section shall include written findings as to whether:

1. The person being evaluated appears to have a demonstrable mental illness and ~~as a result of that mental illness can be expected within the near future to inflict or attempt to inflict serious bodily harm to self or another person if mental health treatment services are not provided, and has engaged in one or more recent overt acts or has made significant recent threats which reasonably support that expectation~~ is a person requiring treatment as defined in this title, and is reasonably likely to benefit from mental health treatment; and

2. Based on the following, inpatient treatment is the least restrictive alternative that meets the needs of the person:

- a. reasonable efforts have been made to provide for the mental health treatment needs of the person through the provision of less restrictive alternatives and the alternatives have failed to meet the treatment needs of the person, or
- b. after a thorough consideration of less restrictive alternatives to inpatient treatment, the condition of the person is such that less restrictive alternatives are unlikely to meet the treatment needs of the person.

C. The certificate of evaluation shall be substantially in the following form and signed by two licensed mental health professionals who have participated in the evaluation of the person. At least one of the licensed mental health professionals shall be a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology, a licensed clinical psychologist, or a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions:

NOTICE OF CERTIFICATION

To the District Court of \_\_\_\_\_ County,  
State of Oklahoma

The authorized agency providing evaluation services in the County of \_\_\_\_\_ has evaluated the condition of:

Name \_\_\_\_\_

Address \_\_\_\_\_

Age \_\_\_\_\_

Sex \_\_\_\_\_

Marital status \_\_\_\_\_

Religious affiliation \_\_\_\_\_

We have evaluated the person and make the following findings:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The findings are based on the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The above-named person has been informed of this evaluation, and has been advised of, but has not been able or willing to accept referral to, the following services:

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We hereby state that a copy of this certificate of evaluation has been delivered to the attorney of the above-named person.

SECTION 40. AMENDATORY 43A O.S. 2001, Section 5-415, is amended to read as follows:

Section 5-415. A. Upon receiving a petition alleging a person to ~~be a mentally ill person~~ have a mental illness and to be a person requiring treatment, the court shall set a day and time for the hearing.

1. If the person alleged to have a mental illness and to be a ~~mentally ill~~ person requiring treatment does not have an attorney, the court shall immediately appoint an attorney for the person.

2. If a copy of a certificate of evaluation is not attached to the petition at the time it is filed, the court shall immediately order an evaluation of the person as provided by Section ~~&~~ 5-414 of this act.

B. If the court deems it necessary, or if the person alleged to have a mental illness and to be a ~~mentally ill~~ person requiring treatment shall so demand, the court shall schedule the hearing on the petition as a jury trial to be held within seventy-two (72) hours of the demand, excluding weekends and holidays, or within as much additional time as is requested by the attorney of such person upon good cause shown.

C. The court, at the hearing on the petition, shall determine by clear and convincing evidence whether the person has a mental

illness and is a mentally ill person and a person requiring treatment.

1. The court shall take evidence and make findings of fact concerning the person's competency to consent to or refuse the treatment that may be ordered, including, but not limited to, the patient's right to refuse medication.

2. If a jury trial is not demanded, the court may receive as evidence and act upon the affidavits of the licensed mental health professionals who evaluated the person and the certificate of evaluation.

3. When the hearing is conducted as a jury trial, the petitioner and any witness in behalf of the petitioner shall be subject to cross-examination by the attorney for the person alleged to be a person requiring treatment. The person alleged to have a mental illness and to be a ~~mentally ill~~ person requiring treatment may also be called as a witness and cross-examined.

D. When, after the hearing, the court determines that the person does not have a mental illness and is not a ~~mentally ill~~ person requiring treatment, the court shall dismiss the petition and, if the person is being detained, order the person to be discharged from detention.

E. When, after the hearing, the court determines the person to have a mental illness and to be a ~~mentally ill~~ person requiring treatment, the court shall order the person to receive the least restrictive treatment consistent with the treatment needs of the person and the safety of the person and others.

1. The court shall not order hospitalization without a thorough consideration of available treatment alternatives to hospitalization and may direct the submission of evidence as to the least restrictive treatment alternative or may order a precommitment screening examination ~~as provided by Section 5-403 of this title.~~

2. If the court finds that a program other than hospitalization is appropriate 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 that is appropriate for a period ~~of ninety (90) days~~ set by the court, during which time the court shall continue its jurisdiction over the individual as a ~~mentally ill~~ person requiring treatment.

3. If the court orders the person to be committed for involuntary inpatient treatment, the court shall commit the person to the custody of the Department of Mental Health and Substance Abuse Services for a placement that is suitable to the person's needs or to a private facility willing to accept the person for treatment. ~~The person shall be discharged from inpatient treatment at such time as the person no longer requires treatment as determined by the administrator of the facility or the designee of the administrator, or as otherwise required by law.~~

4. The person shall be delivered to the custody of the Department of Mental Health and Substance Abuse Services for a placement that is suitable to the person's needs or to a private facility willing to accept the person for treatment.

5. If the person is placed in the custody of the Department, the Department may designate two or more facilities to provide treatment and if the person to be treated or a parent, spouse, guardian, brother, sister or child, who is at least eighteen (18) years of age, of the person, expresses a preference for one such facility, the Department shall attempt, if administratively possible, to comply with the preference.

6. The person shall be discharged from inpatient treatment at such time as the person no longer requires treatment as determined by the executive director of the facility or the designee of the executive director, or as otherwise required by law.



F. The court shall make and keep records of all cases brought before it.

1. No records of proceedings pursuant to this section shall be open to public inspection except by order of the court or to employees of the Department of Mental Health and Substance Abuse Services, the person's attorney of record, or persons having a legitimate treatment interest.

2. Bonded abstractors may be deemed to be persons having a legitimate interest for the purpose of having access to records regarding determinations of persons requiring treatment under this section.

SECTION 41. AMENDATORY 43A O.S. 2001, Section 5-416, 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 or request the filing of 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~~ committed to inpatient treatment and, if the individual refuses to comply with this order of ~~hospitalization~~ inpatient treatment, 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. The court shall give notice to the person ordered to show cause and hold the hearing within seventy-two (72) hours of the notice. The person ordered to undergo a program of alternative treatment shall not be detained in emergency detention pending the show cause hearing unless, prior to the emergency detention, the

person has undergone an emergency examination and a determination is made that emergency detention is warranted.

4. 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 or request the filing of a petition, pursuant to subsection A of Section 5-410 of this title, may file or request the district attorney 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.~~ 5. 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~~ inpatient treatment of an individual, the court shall inquire into the adequacy of treatment to be provided to the individual by the facility, and ~~hospitalization~~ inpatient treatment 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, the facility or program providing the alternative treatment 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~~ facility or program providing the alternative treatment shall file a report with the court outlining the disposition of each person admitted pursuant to this section ~~at least within~~ after forty-eight (48) hours ~~prior to~~ discharge.

~~F.~~ E. Notice of any proceedings pursuant to this section shall be given to the ~~patient~~ person, the ~~patient's~~ person's guardian, the ~~patient's~~ person'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 42. AMENDATORY 43A O.S. 2001, Section 5-419, is amended to read as follows:

Section 5-419. ~~Immediately upon the issuance of an ex parte modification order pursuant to Section 5-405 of this title, the~~ The court may modify an order for involuntary inpatient commitment and order alternative treatment pursuant to the provisions of this section upon request of the person committed or the administrator of a facility to which a person has been involuntarily committed for inpatient treatment. The court shall give notice to the person affected thereby to appear within five (5) regular court days, or as many other days as the court may grant, and show cause why ~~said~~ the modification shall not be made. The notice shall contain the following information:

1. The individual ordered to undergo a program of alternative treatment to hospitalization is not complying with the previous order, or that the alternative treatment program has not been sufficient to prevent harm or injury to the person or others or committed for inpatient care and treatment is eligible for discharge and that an evaluation conducted prior to discharge determined that an order for alternative treatment is necessary in order to prevent impairment or injury to the person;

2. A statement of the facts upon which the alleged change of condition is based and a copy of any written findings entered by the court;

3. Notice of the time and place of the show cause hearing;

4. Notice of the types of modifications that the court can make pursuant to this hearing;

5. The witnesses who shall testify or offer evidence for the modification which are known to the court;

6. That the individual has the right to an attorney, and that if ~~he~~ the individual cannot afford an attorney, one will be provided ~~for him~~; and

7. That the individual has the right to cross-examine witnesses, and to call witnesses in such person's own defense.

SECTION 43. AMENDATORY 43A O.S. 2001, Section 5-420, is amended to read as follows:

Section 5-420. A. The ~~Department~~ Board of Mental Health and Substance Abuse Services shall adopt rules, ~~regulations~~ and procedures to ensure that persons involuntarily committed for treatment by a court receive review of their involuntary status at least once every three (3) months, and the Department of Mental Health and Substance Abuse Services shall take appropriate action based upon this review.

B. Any person receiving involuntary inpatient treatment, or such person's attorney, may at any time file a written request that

the treatment order be reviewed by the committing court, or a court in the county where the person is located. If a review is requested, the court shall hear the matter within thirty (30) days after the request, and the court shall give notice to the person and such person's attorney and the person in charge of the facility of the time and place of the hearing. The hearing shall be to determine if the person can be treated on a less restrictive basis. At the conclusion of the hearing, the court may confirm the order of treatment, modify the order of treatment, discharge the respondent, or enter any appropriate order.

SECTION 44. AMENDATORY 43A O.S. 2001, Section 7-102, is amended to read as follows:

Section 7-102. A. Any person detained or voluntarily or involuntarily committed for treatment pursuant to the provisions of the Mental Health Law shall be provided with discharge planning and assistance by the facility where detained or treated. Discharge planning and assistance shall include, but not be limited to, the following:

1. Return of all personal possessions to the person, upon discharge, except contraband considered illegal;
2. Transportation assistance; and
3. The assignment of a case manager and the completion of a discharge plan as provided by subsection B of this section.

B. A discharge plan shall be completed for and a case manager shall be assigned to every person to be discharged from a facility operated by the Department of Mental Health and Substance Abuse Services or an agency which provides services pursuant to a contract with the Department.

1. The case manager shall:
  - a. be assigned prior to the time of discharge and by completion of the discharge plan, and

- b. be responsible for maintaining regular periodic contact with the discharged person, and with the family of the discharged person or other person interested in the welfare of the discharged person.

2. Discharge planning and the discharge plan shall include, but not be limited to:

- a. housing information and referral, a location, approved by the Department, where the patient will reside, provided, the Department shall give preference to discharge to an appropriate verifiable address, and, as necessary, placement assistance pursuant to Section 7-104 of this title,
- b. planning for outpatient treatment, as appropriate, including but not limited to an initial appointment for outpatient services and a treatment plan. Sufficient medication to enable the person to be discharged to continue the course of medication prescribed for such person until such appointment shall be provided to the person being discharged at the time of discharge, and
- c. provision of the information in the discharge plan required by this subsection to the patient in writing after such information has been fully explained to the person being discharged. The plan shall be signed by the person being discharged and by the person explaining the plan upon completion of a verbal explanation of such plan and shall be signed in the presence of a family member of the person being discharged, or other person interested in the welfare of the person being discharged. The original copy of the plan shall become a part of the official discharge papers of the patient and shall be kept in the

permanent files of the patient. A copy of the signed discharge plan shall be furnished the person being discharged.

The assigned case manager, or other person designated by the Department, may provide a family member of the person being discharged, or other person interested in the welfare of the person being discharged, with information related to the discharge plan as necessary, appropriate and in compliance with confidentiality requirements to enable said family member or other person to assist with the implementation of and compliance with the treatment plan.

C. If a determination is made that an order for alternative treatment is necessary, the administrator of the facility in which the person is receiving inpatient treatment shall:

1. File or request the filing of a petition as provided by Section ~~5-401~~ 5-410 or 9-102 of this title requesting said order; or
2. Request the court to modify an existing order for involuntary commitment as provided by Section ~~5-405~~ 5-419 of this title.

SECTION 45. AMENDATORY 43A O.S. 2001, Section 9-101, is amended to read as follows:

Section 9-101. A. An alcohol- and/or drug-dependent person may apply for voluntary treatment directly to an approved treatment facility. A minor may apply for voluntary treatment subject to the provisions of Section 2602 of Title 63 of the Oklahoma Statutes. A minor not empowered by Section 2602 of Title 63 of the Oklahoma Statutes to consent to voluntary treatment or an incompetent person may apply for voluntary treatment with the approval of ~~his~~ the minor's parent, spouse or legal guardian.

B. Subject to rules adopted by the ~~Authority~~ Board of Mental Health and Substance Abuse Services, the administrator in charge of an approved treatment facility may determine who shall be admitted for treatment. When a person is refused admission to an approved



treatment facility, the administrator, subject to rules adopted by the ~~Authority Board~~, shall refer the person to another approved treatment facility for treatment if possible and appropriate.

C. When a patient receiving inpatient care leaves an approved treatment facility, ~~he~~ the patient shall be encouraged to consent to appropriate outpatient or intermediate treatment. If it appears to the administrator in charge of the approved treatment facility that the patient is an alcohol- or drug-dependent person who requires help, the facility shall arrange for assistance in obtaining supportive services and residential facilities if possible and appropriate.

D. If ~~he~~ the patient is a minor or an incompetent person, the request for discharge from an inpatient facility shall be made by a parent, spouse, or legal guardian, or by the minor if ~~he~~ the minor was voluntarily admitted.

SECTION 46. AMENDATORY 43A O.S. 2001, Section 9-102, is amended to read as follows:

Section 9-102. A. ~~A person may be committed to an approved treatment facility by the~~ The following persons may file or request that the district attorney file a petition in district court upon ~~the petition of his spouse or guardian, a relative, the certifying physician, or the administrator in charge of any approved public treatment facility. The petition shall allege that the~~ to determine whether an individual is an alcohol- or drug-dependent person who habitually lacks self-control as to the use of alcoholic beverages or other drugs, and that he:

~~1. Has threatened, attempted or inflicted physical harm on another and that unless committed is likely to inflict physical harm on himself or on another; or~~

~~2. Is incapacitated by alcohol or other drugs.~~

~~A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for~~ is a person requiring treatment as defined in this title:

1. The father, mother, husband, wife, brother, sister, guardian or child over the age of eighteen (18) years, of an individual alleged to be alcohol- or drug-dependent and a person requiring treatment;

2. A licensed mental health professional;

3. The executive director of an approved treatment facility;

4. Any peace officer within the county in which the individual alleged to be alcohol- or drug-dependent and a person requiring treatment resides or may be found; or

5. The district attorney in whose district the person resides or may be found.

B. Upon the request of an appropriate person as stated in subsection A of this section, the district attorney shall file a petition in district court for involuntary commitment of a person alleged to be alcohol- or drug-dependent and a person requiring treatment.

C. The petition shall be accompanied by a certificate of a licensed physician who has examined the person within two (2) days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the physician's findings in support of the allegations of the petition. A physician employed by the admitting facility is not eligible to be the certifying physician contain a statement of the facts upon which the allegation is based and, if known, the names and addresses of any witnesses to the alleged facts.

1. The petition shall be verified and made under penalty of perjury.

2. A request for the prehearing detention of the individual alleged to be alcohol- or drug-dependent and a person requiring treatment may be attached to the petition.

3. If the individual alleged to be alcohol- or drug-dependent and a person requiring treatment is being held in emergency detention, a copy of a certificate of evaluation in the form set forth in subsection C of Section 5-414 of this title shall be attached to the petition.

~~B.~~ D. Upon filing the petition, the court shall fix a date for a hearing no later than ~~ten (10) days~~ seventy-two (72) hours after the date the petition was filed. If the court deems it necessary, or if the person alleged to be alcohol- or drug-dependent and a person requiring treatment shall so demand, the court shall schedule the hearing on the petition as a jury trial to be held within seventy-two (72) hours of the demand, excluding weekends and holidays, or within as much additional time as is requested by the attorney of such person upon good cause shown.

E. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall be served on the petitioner, the person whose commitment is sought, ~~his~~ the person's next of kin other than the petitioner, a parent or ~~his~~ legal guardian if ~~he~~ the person is a minor, the administrator in charge of the approved public treatment facility to which ~~he~~ the person has been committed for emergency care, and any other person the court believes advisable. A copy of the petition and certificate shall be delivered to each person notified.

~~C.~~ F. At the hearing the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person shall be present unless the court believes that ~~his~~ the person's presence is likely to be injurious to ~~him;~~ the person, in ~~this~~ which event the court shall appoint a guardian ad

litem to represent ~~him~~ the person throughout the proceeding. The court shall examine the person in open court, or if advisable, shall examine the person out of court. If the person has refused to be examined by a licensed physician, ~~he~~ the person shall be given an opportunity to be examined by a court-appointed licensed physician. If ~~he~~ the person refuses and there is sufficient evidence to believe that the allegations of the petition are true, or if the court believes that more medical evidence is necessary, the court may make a temporary order committing ~~him~~ the person to the approved treatment facility for a period of not more than five (5) days for purposes of a diagnostic examination.

~~D.~~ G. If after hearing all relevant evidence, including the results of any diagnostic examination by the treatment facility, the court finds that grounds for involuntary commitment have been established by clear and convincing proof, it shall make an order of commitment to treatment. It may not order commitment of a person unless it determines that the approved treatment facility is able to provide adequate and appropriate treatment for ~~him~~ the person and the treatment is likely to be beneficial.

~~E.~~ H. A person committed under this section shall ~~remain in the custody of the treatment facility for a period of thirty (30) days unless sooner~~ be discharged. ~~At the end of the thirty-day period, he shall be discharged automatically unless the petitioner, before expiration of the period, obtains a court order for his recommitment upon the grounds set forth in subsection A of this section for a further period of ninety (90) days unless sooner discharged. If a person has been committed because he is an alcoholic or drug-dependent person likely to inflict physical harm on himself or another, the petitioner shall apply for recommitment if after examination it is determined that the likelihood still exists.~~

~~F.~~ A person recommitted under subsection E of this section who has not been discharged by the treatment facility before the end of

~~the ninety-day period shall be discharged at the expiration of that period unless the petitioner, before expiration of the period, obtains a court order on the grounds set forth in subsection A of this section for recommitment for a further period not to exceed ninety (90) days. If a person has been committed because he is an alcoholic or drug-dependent person likely to inflict physical harm on himself or another, the petitioner shall apply for recommitment if after examination it is determined that the likelihood still exists. Only two recommitment orders under subsections E and F of this section are permitted.~~

~~G. Upon the filing of a petition for recommitment under subsections E or F of this section, the court shall fix a date for hearing no later than ten (10) days after the date the petition was filed. A copy of the petition and of the notice of hearing, including the date fixed by the court, shall be served on the petitioner, the person whose commitment is sought, his next of kin other than the petitioner, the original petitioner under subsection A of this section if different from the petitioner for recommitment, one of his parents or his legal guardian if he is a minor, and any other person the court believes advisable. At the hearing the court shall proceed as provided in subsection C of this section from treatment in accordance with the provisions of Section 7-102 of this title at such time as the person no longer requires inpatient treatment as determined by the executive director of the facility or his designee.~~

~~H. I. The approved treatment facility shall provide for adequate and appropriate treatment of a person committed to its custody. The approved facility may transfer any person committed to its custody from one approved public treatment facility to another if transfer is medically advisable.~~

~~I. A person committed to the custody of the facility for treatment shall be discharged at any time before the end of the~~

~~period for which he has been committed if either of the following conditions is met:~~

~~1. In case of an alcoholic or drug-dependent person committed on the grounds of likelihood of infliction of physical harm upon another, that he is no longer an alcoholic or drug-dependent person or the likelihood no longer exists; or~~

~~2. In case of an alcoholic or drug-dependent person committed on the grounds of the need of treatment and incapacity, that the incapacity no longer exists, further treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer adequate or appropriate.~~

J. The court shall inform the person whose commitment ~~or~~ ~~recommitment~~ is sought of ~~his~~ the right to contest the application, be represented by counsel at every stage of any proceedings relating to his commitment ~~and recommitment~~ and have counsel appointed by the court or provided by the court, if ~~he~~ the person wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for ~~him~~ the person regardless of ~~his~~ the person's wishes. The person whose commitment ~~or recommitment~~ is sought shall be informed of ~~his~~ the right to be examined by a licensed physician of ~~his~~ the person's choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

K. If a private treatment facility agrees with the request of a competent patient or ~~his~~ the patient's parent, sibling, adult child or guardian to accept the patient for treatment, the administrator of the public treatment facility shall transfer ~~him~~ the patient's to the private treatment facility.

L. A person committed under this section may at any time seek to be discharged from commitment by writ of habeas corpus.

~~M. The venue for proceedings under this section is the place in which the person to be committed resides or is present.~~

SECTION 47. AMENDATORY 43A O.S. 2001, Section 9-103, is amended to read as follows:

Section 9-103. A. After an initial period of observation and treatment, and subject to the rules and policies established by the ~~Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority~~ Board of Mental Health and Substance Abuse Services, whenever a person committed pursuant to court order has recovered from ~~his~~ addiction or imminent danger of addiction, to such an extent that in the opinion of the physician or superintendent in charge of the facility, release in outpatient status is warranted; ~~the physician or superintendent shall certify such fact to the Authority. If the physician or superintendent has not so certified within the preceding twelve (12) months, in the anniversary month of the commitment of any such person, his case shall automatically be referred to the Authority for consideration of the advisability of release in outpatient status. Upon any such certification by the physician or superintendent or such automatic certification, the Authority may release~~ person shall be discharged to outpatient status. Release of such person in outpatient status shall be subject to all rules and ~~regulations~~ adopted by the ~~Authority, and subject to all conditions imposed by the Authority, whether of general applicability or restricted to the particular person released in outpatient status~~ Board, and subject to being retaken and returned to inpatient status as prescribed in such rules, ~~regulations~~ or conditions. ~~The supervision of such persons while in outpatient status shall be administered by the Department of Mental Health and Substance Abuse Services.~~

B. The rules for persons in outpatient status shall include, but not be limited to, close supervision of the person after release from the facility, periodic and unannounced testing for controlled

dangerous substance use, counseling and return to inpatient status at a suitable facility ~~at the discretion of the Authority~~, if from the reports of agents of the Department of Mental Health and Substance Abuse Services or other information including reports of law enforcement officers as to the conduct of the person, the ~~Authority~~ court concludes that it is in the best interests of the person and society that this be done.

SECTION 48. REPEALER 43A O.S. 2001, Sections 1-106, 2-222, 2-223, 3-101.2, 3-101.3, 3-113, 3-307, 3-309, 3-312, 3-315.2, 3-404, 3-407, 3-423, 3-503, 3-701, 3-702, 3-703, 5-504, 5-507, 5-508, 7-109, 7-110 and 7-111, are hereby repealed.

SECTION 49. This act shall become effective November 1, 2002.

Passed the Senate the 18th day of March, 2002.

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Presiding Officer of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
2002.

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Presiding Officer of the House  
of Representatives