

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1266

By: Balkman

AS INTRODUCED

An Act relating to mental health and substance abuse; amending 43A O.S. 2001, Sections 1-102, 1-106, 1-107, as amended by Section 2, Chapter 488, O.S.L. 2002, 1-109, as amended by Section 3, Chapter 488, O.S.L. 2002, 1-110, as amended by Section 4, Chapter 488, O.S.L. 2002, 2-106, 2-219, 2-220, 3-101, 3-107, 3-107a, 3-111, 3-302, as amended by Section 12, Chapter 488, O.S.L. 2002, 3-315, Section 18, Chapter 488, O.S.L. 2002, 3-403, as amended by Section 20, Chapter 488, O.S.L. 2002, 3-417.1, as amended by Section 19, Chapter 230, O.S.L. 2002, 3-451, 3-452, 3-453, 3-460, 3-601, as amended by Section 26, Chapter 488, O.S.L. 2002, 3-602, as amended by Section 27, Chapter 488, O.S.L. 2002, 3-603, as amended by Section 28, Chapter 488, O.S.L. 2002, Section 21, Chapter 3, O.S.L. 2002, as amended by Section 2, Chapter 384, O.S.L. 2002, 3-702, 4-105, 4-106, 4-203, 4-204, 4-205, 4-206, 5-207, as amended by Section 33, Chapter 488, O.S.L. 2002, 5-208, as amended by Section 34, Chapter 488, O.S.L. 2002, 5-209, 5-306, 7-101 and 7-102, as amended by Section 46, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, Sections 1-107, 1-109, 1-110, 3-302, 3-318, 3-403, 3-417.1, 3-601, 3-602, 3-603, 3-701a, 5-207, 5-208 and 7-102), which relate to the Mental Health Law; modifying purpose; adding to duties of district attorneys; modifying locations of certain commitment actions; limiting availability of certain information and use; removing certain requirements and procedures; modifying restrictions application; modifying disclosure provisions; modifying access to certain information by certain persons; modifying contents of certain releases; requiring certain peace officers to be responsible for certain transportation for certain purposes; removing certain restrictions for certain leases; clarifying and updating language; modifying terminology; authorizing collection of certain information; requiring confidentiality; modifying and clarifying the facilities within Department; adding certain facilities; creating certain petty cash funds; providing for rules; providing contingency; updating and clarifying language; clarifying purpose of certain rules; removing certain requirements for development of rules; modifying certain prohibitions; requiring certain certification; providing for assessments; increasing certain enrollment fees; providing for certain modification of rules; providing for content; increasing certain instructor qualifications; limiting class size; providing for certain application fees; providing for assessment and evaluation fees; providing for calculations;

specifying uses and designation; modifying terms; authorizing waiver of certain requirements for certain addicted persons; making certain administration of drug not considered treatment for certain program; providing procedures for certain persons in prison; specifying procedures relating to involuntary commitment and treatment for certain prisoners; modifying persons ordering certain restraints; providing for sliding scale payment by certain patients for certain services; modifying procedures; removing location of certain civil actions and payment for certain claims; providing for release of certain persons; prohibiting certain refusals; requiring preparation of certain statements; requiring certain actions for emergency detention; modifying procedures for protective custody; removing certain notification requirements; amending contents of certain certificates; authorizing visiting status; modifying contents of discharge plans; repealing 43A O.S. 2001, Sections 3-101.1, which relates to duties of Department with regards to Eastern State Hospital, 3-101.6, which relates to certain transition plans, 3-110, which relates to certain contracts with certain facilities, 3-250, which relates to the interagency council for services to mentally ill homeless persons, 3-403, as amended by Section 17, Chapter 230, O.S.L. 2002 (43A O.S. Supp. 2002, Section 3-403), which is a duplicate section and 3-703, which relates to transfers of penal or correctional institutions; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 43A O.S. 2001, Section 1-102, is amended to read as follows:

Section 1-102. A. The purpose of the Mental Health Law is to provide for the humane care and treatment of persons who are:

1. Are mentally ill ~~or who require;~~
2. Require treatment for drug or alcohol abuse~~;~~ or ~~who require~~
3. Require domestic violence or sexual assault services.

B. All such residents of this state are entitled to care and treatment in accordance with the ~~highest standards accepted in practice~~ appropriate standard of care.

SECTION 2. AMENDATORY 43A O.S. 2001, Section 1-106, is amended to read as follows:

Section 1-106. The district attorneys of this state shall represent the people of ~~the State of~~ Oklahoma in all court proceedings provided for in the Mental Health Law in which the State of Oklahoma including any facility operated by the Department of Mental Health and Substance Abuse Services is the petitioner for ~~emergency detention and involuntary admissions~~ commitment.

SECTION 3. AMENDATORY 43A O.S. 2001, Section 1-107, as amended by Section 2, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, Section 1-107), is amended to read as follows:

Section 1-107. A. Civil actions for involuntary commitment of a person may be brought in any of the ~~county in which the person resides or the following~~ counties:

1. The person's county in which of residence;
2. The county where the person is found or being held on emergency detention was first taken into protective custody; or
3. The county in which the person is 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 it to be in the best interests of the patient.

2. Such hearings shall be conducted by any judge designated by the presiding judge of the judicial district. Hearings may be held in an area of the facility designated by the executive director and agreed upon by the presiding judge of that judicial district.

C. The court may conduct any nonjury hearing required or authorized pursuant to the provisions of 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 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 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 this title, including, but not limited to, the rules concerning vacation of orders and appellate review.

SECTION 4. AMENDATORY 43A O.S. 2001, Section 1-109, as amended by Section 3, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, Section 1-109), is amended to read as follows:

Section 1-109. A. 1. All mental health and drug or alcohol abuse treatment information, whether ~~written~~ or not 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.

2. Such information shall only be available to persons ~~or~~ ~~agencies~~ actively engaged in the treatment of the patient or in related administrative work. The information available to persons actively engaged in the treatment of the consumer or in related administrative work shall be limited to the minimum amount of information necessary for the person or agency to carry out its function.

3. Such information shall not be disclosed to anyone not involved in the treatment or related administrative work without a valid written release 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, is required; 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.~~

B. 1. The restrictions on disclosure shall not apply to the following:

~~1. Communications between facilities pursuant to a qualified service agreement as provided by a contract 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~~

a. communications to law enforcement officers that are directly related to a commission of a crime by a patient 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, the name and address of that individual, and the last-known whereabouts of that individual~~;~~.

~~4. Reporting~~

b. 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 parole or other release of the patient; and~~

~~6. Disclosure~~

c. 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.

2. Disclosures under this subsection shall be limited to the minimum information necessary to accomplish the intended purpose of the disclosure.

C. A person who is or has been a patient of a physician, psychotherapist, mental health facility, a drug or alcohol abuse treatment facility or 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 ~~psychotherapy notes or progress notes~~ such person's mental health or drug or alcohol abuse treatment information unless such access is ~~consented to by the treating physician or practitioner or is ordered by a court.~~ Access to such information shall be provided to the patient in a manner consistent with the best interests of the patient reasonably likely to endanger the life or physical safety of the patient or another person as determined by the person in charge of the care and treatment of the patient.

D. 1. 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 spouse of the patient or, if none, by any responsible member of the family of the patient.

2. "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, at a minimum, 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 whose records are to be released;

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 right of the patient 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; and

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 the authority of such person to act.

SECTION 5. AMENDATORY 43A O.S. 2001, Section 1-110, as amended by Section 4, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, Section 1-110), is amended to read as follows:

Section 1-110. A. Sheriffs and peace officers shall be responsible for transporting individuals to and from designated

sites or facilities for the purpose of examination, emergency detention, protective custody and inpatient services.

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

~~B.~~ C. 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~~,~~ or court appearance~~,~~ ~~mental health services,~~ ~~or placement of a minor or an adult~~ shall be reimbursed in accordance with the provisions of the State Travel Reimbursement Act.

SECTION 6. AMENDATORY 43A O.S. 2001, Section 2-106, is amended to read as follows:

Section 2-106. A. 1. The Board of Mental Health and Substance Abuse Services shall accept, hold in trust and authorize the use of any grant or devise of land, or any donation or bequest of money, or other personal property made to the Department of Mental Health and Substance Abuse Services, or to any institution therein, so long as the terms of the grant, donation, bequest, gift, or will are carried out.

2. The Board ~~of Mental Health and Substance Abuse Services~~ may invest and reinvest any funds and may lease or sell any real or personal property and invest the proceeds, for the benefit of the Department or any institution therein unless prevented by the terms of the grant, donation, bequest, gift or will.

B. The Board may lease any property owned or held in trust to any other state agency, political subdivision, federal agency, county, municipality or a nonprofit organization ~~established for the purpose of providing community-based services or assistance to~~

~~clients of the mental health system or other persons that would benefit from community-based mental health services,~~ for a period not to exceed fifty (50) years. An original lease may be for a period not to exceed ten (10) years with up to four ten-year options. ~~Any lease entered into pursuant to these provisions shall be approved by the Office of the Attorney General.~~

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

SECTION 7. AMENDATORY 43A O.S. 2001, Section 2-219, is amended to read as follows:

Section 2-219. Any officer or employee of ~~any of said hospitals~~ a facility who ~~shall~~ maliciously ~~assault~~ assaults, ~~beat~~ beats, ~~batter~~ batters, ~~abuse~~ abuses, or ~~use~~ uses mechanical restraints ~~without authority~~, or willfully ~~aid~~ aids, ~~abet~~ abets, ~~advise~~ advises or ~~permit~~ permits any patient confined therein to be maliciously assaulted, beaten, battered, abused, or ~~use mechanical restraints without authority~~ mechanically restrained shall be guilty of a felony, and on conviction thereof shall be punished by imprisonment in the State Penitentiary for not more than five (5) years, or a fine not exceeding Five Hundred Dollars (\$500.00), or both ~~said~~ such fine and imprisonment.

SECTION 8. AMENDATORY 43A O.S. 2001, Section 2-220, is amended to read as follows:

Section 2-220. ~~A superintendent~~ An executive director of a facility who ~~shall fail~~ fails to report to the district attorney of the county in which ~~his institution~~ the facility is located any officer or employee who shall willfully or maliciously assault,

beat, batter, abuse or use mechanical restraints without authority or who ~~shall aid~~ aids, ~~abet~~ abets, ~~advise~~ advises or ~~permit~~ permits any patient confined in ~~his institution~~ the facility to be subjected to such conduct shall be guilty of a misdemeanor.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-224 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. The Department of Mental Health and Substance Abuse Services shall have the authority to collect information sufficient to meet the administration's needs related to oversight, management, evaluation, performance improvement and auditing of mental health, substance abuse, domestic violence and sexual assault services and combating and preventing mental illness, substance abuse, domestic violence and sexual assault.

B. The individual forms, computer tapes and other forms of data collected by and furnished to the Department shall be confidential and shall not be public records as defined in the Open Records Act, Section 24A.1, et seq. of Title 51 of the Oklahoma Statutes.

C. Except as otherwise provided by state and federal confidentiality laws, identifying information shall not be disclosed and shall not be used for any public purpose other than the creation and maintenance of anonymous datasets for statistical reporting and data analysis.

SECTION 10. AMENDATORY 43A O.S. 2001, Section 3-101, is amended to read as follows:

Section 3-101. The ~~institutions~~ facilities within the Department of Mental Health and Substance Abuse Services, which shall be maintained for residents of the state, are:

~~A. Hospitals:~~

1. Griffin Memorial Hospital, Norman;
2. ~~Eastern State Hospital~~ Oklahoma Forensic Center, Vinita; ~~and~~
3. Oklahoma Youth Center, Norman;

4. Tulsa Center for Behavioral Health;

~~B. Regional Community Mental Health and Substance Abuse Services Center, Western State Psychiatric Center, Fort Supply.~~

~~C. Community Mental Health and Substance Abuse Services Centers:~~

~~1. 5. Carl Albert Community Mental Health and Substance Abuse Services Center, McAlester;~~

~~2. 6. Jim Taliaferro Community Mental Health and Substance Abuse Services Center, Lawton;~~

~~3. 7. Central Oklahoma Community Mental Health and Substance Abuse Services Center, Norman; and~~

~~4. 8. Bill Willis Community Mental Health and Substance Abuse Services Center, Tahlequah;~~

9. Northwest Center for Behavioral Health; and

10. Oklahoma County Crisis Intervention Center.

SECTION 11. AMENDATORY 43A O.S. 2001, Section 3-107, is amended to read as follows:

Section 3-107. A. There are hereby created and designated as facilities within the Department of Mental Health and Substance Abuse Services, the Norman Alcohol and Drug Treatment Center at Norman, and the Vinita Alcohol and Drug Treatment Center at Vinita, ~~and the Tulsa Women's Center at Tulsa.~~ The facilities shall be operated under the supervision and administration of the Commissioner of Mental Health and Substance Abuse Services. It is the intent of the Legislature that the centers in Norman and Vinita utilize and receive business management, support services and medical ancillary services of the respective state ~~hospital~~ facility where the center is located.

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

amount of each petty cash fund ~~and the~~. The Director of State Finance shall prescribe the rules and procedures for the administration of each petty cash fund.

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

SECTION 12. AMENDATORY 43A O.S. 2001, Section 3-107a, is amended to read as follows:

Section 3-107a. A. The ~~Western State Psychiatric~~ Northwest Center for Behavioral Health at Fort Supply, Oklahoma, is hereby created and designated a facility within the Department of Mental Health and Substance Abuse Services. The facility shall be operated under the supervision of the Department and shall consist of those entities formerly known as:

1. Western State Hospital, Fort Supply;
2. Northwest Oklahoma Community Mental Health and Substance Abuse Services Center; ~~and~~
3. Fort Supply Alcohol and Drug Treatment Center at Fort Supply; and
4. Western State Psychiatric Center, Fort Supply.

B. ~~Western State Psychiatric~~ Northwest Center for Behavioral Health shall serve as a regional inpatient mental health and substance abuse services center serving counties deemed appropriate by the Commissioner of Mental Health and Substance Abuse Services. ~~Western State Psychiatric~~ Northwest Center for Behavioral Health shall also provide outpatient mental health and substance abuse services to Alfalfa, Beaver, Cimarron, Ellis, Harper, Major, Texas,

Woods and Woodward Counties, and any other counties deemed appropriate by the Commissioner.

C. The Department is authorized to effect the transfer of property, records, equipment, supplies and funds, and encumbrances from Western State Hospital, Northwest Oklahoma Community Mental Health and Substance Abuse Services Center, and Fort Supply Alcohol and Drug Treatment Center to the ~~Western State Psychiatric~~ Northwest Center for Behavioral Health.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-107b of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. The "Tulsa Center for Behavioral Health" is hereby created and designated as a facility within the Department of Mental Health and Substance Abuse Services and shall be operated under the supervision of the Department of Mental Health and Substance Abuse Services.

B. There is hereby created a petty cash fund for the "Tulsa Center for Behavioral Health". The Director of State Finance and Commissioner of Mental Health and Substance Abuse Services are authorized to fix the maximum amount of this petty cash fund and the Director of State Finance shall prescribe the rules and procedures for the administration of the petty cash fund.

SECTION 14. AMENDATORY 43A O.S. 2001, Section 3-111, is amended to read as follows:

Section 3-111. A. The provisions of this section shall not become effective until funding to implement this section is authorized by the Legislature.

B. Except as provided in subsection C of this section, the land, and all buildings and equipment attached thereto, at ~~Western State Psychiatric~~ Northwest Center for Behavioral Health at Fort Supply, Oklahoma, shall be transferred from the Department of Mental Health and Substance Abuse Services to the Department of

Corrections. The transfer shall be of surface rights only and all interest in mineral rights shall be retained by the Department of Mental Health and Substance Abuse Services. The transferred land shall be used for a correctional institution to incarcerate prisoners of minimum security classification.

C. The Department of Mental Health and Substance Abuse Services shall retain the following land, all buildings and equipment attached thereto, which shall comprise ~~Western State Psychiatric~~ Northwest Center for Behavioral Health:

Beginning at a point 732 ft. North and 33.0 ft. East of the 1/4 section corner common to Sections 8 and 9, T-24-N, R-22-W, thence N89 37 26E, 3877.0 ft., thence S02 07 26W, 318.0 ft., thence N75 55 34W, 115 ft., thence S42 17 05W, 85.0 ft., thence S13 46 36W, 228.0 ft., thence N76 13 24W, 122.0 ft., thence S14 06 36W, 230.0 ft., thence N75 53 24W, 163.0 ft., thence S13 56 36W, 185.0 ft., thence N76 03 24W, 220.0 ft., thence S84 31 16W, 378.0 ft., thence S22 09 00W, 347.0 ft., to the North R/W line of S.H.3, thence N67 51 00W along said R/W line 2601.99 ft. to the P.C. of a curve, thence 142.19 ft. along a curve to the left having a radius of 1959.86 ft., said point being on the East R/W line of the N and S section line, thence N00 16 54W along said R/W line 157.16 ft. to the point of beginning. Said described tract contains 61.70 acres more or less.

D. The Department of Corrections and the Department of Mental Health and Substance Abuse Services shall enter into cooperative agreements to provide the following services:

1. Security personnel;
2. Utilities;
3. Water;
4. Sewage;
5. Maintenance of grounds;
6. Electrical maintenance and repair;
7. Carpentry;

8. Printing;
 9. Caustic storage;
 10. Warehouse facilities;
 11. Food service;
 12. Laundry service;
 13. Sewing;
 14. Dental services;
 15. Switchboard services;
 16. Use of motor pool;
 17. Cost and statistics;
 18. Supplies, other than pharmaceuticals and laboratory supplies;
 19. Inpatient infirmary services;
 20. Pharmacy;
 21. Professional services for treatment alternatives for drinking drivers; and
 22. Professional services for the Youthful Offender Program.
- E. The Department of Mental Health and Substance Abuse Services and the Department of Corrections jointly shall provide fire fighting services for ~~Western State Psychiatric~~ Northwest Center for Behavioral Health, the correctional institution at Fort Supply, Oklahoma, and the surrounding community.
- F. All official records pertaining to the operation of ~~Western State Psychiatric~~ Northwest Center for Behavioral Health shall be retained by the Department of Mental Health and Substance Abuse Services. All inventory not needed for the operation of ~~Western State Psychiatric~~ Northwest Center for Behavioral Health shall be transferred to the Department of Corrections.

SECTION 15. AMENDATORY 43A O.S. 2001, Section 3-302, as amended by Section 12, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, 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~~ a 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;

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;

6. "Mental health facility" means:

- a. a community mental health center,
- 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;

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,
- 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;

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, and day hospital programs; and

9. "Program of assertive community treatment" means a facility, agency or organization that offers or provides a self-contained clinical team, under the medical supervision of a licensed psychiatrist, to provide needed treatment, rehabilitation, and support services to individuals with serious mental illness who have severe symptoms and impairments not effectively remedied by available treatments or to individuals who resist or avoid involvement in other needed mental health services.

SECTION 16. AMENDATORY 43A O.S. 2001, Section 3-315, is amended to read as follows:

Section 3-315. A. The Board of Mental Health and Substance Abuse Services shall adopt minimum standards for program certification for residential care homes operating as community residential mental health programs ~~and facilities~~ as provided in this section. The standards shall be adopted as rules and promulgated by the Board of Mental Health and Substance Abuse Services pursuant to the provisions of the Administrative Procedures Act.

~~B. The program certification standards for community residential mental health facilities shall be developed jointly by the Department and the State Department of Health, in consultation with representatives of the residential care home operators and administrators and the Long Term Care Facility Advisory Board. The standards shall be reviewed at least annually for any necessary modifications by the Department and the State Department of Health and any necessary modifications shall be presented to the Board for its approval.~~

~~C.~~ The program certification standards adopted by the Board shall provide for a system of classification of community residential mental health ~~facilities~~ programs based upon the level

of care required by residents of the facility and establish minimum program certification standards for each classification. The program certification standards adopted by the Board for each classification shall be such that residential care facilities having a valid contract with the Department and licensed by the State Department of Health on July 1, 1988, shall be qualified and eligible for program certification within an appropriate classification.

~~D. The Board shall establish by rule a schedule of rates for the compensation of or reimbursement for services provided to eligible individuals by community residential mental health programs and facilities.~~

~~E. C. The Department shall not enter into a contract with a residential care home unless such home is certified as a community residential mental health facility and such home is in compliance with all program financial management requirements adopted by the Board and the Department through rules and standards and criteria. The Department shall not enter into a contract for a community mental health program unless said program is certified by the Department program.~~ The Department shall terminate the contract of any home ~~or program~~ that fails to meet contract provisions regarding financial statements.

SECTION 17. AMENDATORY Section 18, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, Section 3-318), is amended to read as follows:

Section 3-318. 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, as amended by Section 20, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, 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:

- a. offers either inpatient, intermediate or outpatient treatment to any person suffering from alcohol or drug abuse, or alcohol- or drug-related problems ~~and which,~~
- b. is certified by the Board of Mental Health and Substance Abuse Services, ~~and which~~
- c. 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. "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as the direct result of the consumption of alcohol or drugs;

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;

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;

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

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;

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;

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

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 3-417.1, as amended by Section 19, Chapter 230, O.S.L. 2002 (43A O.S. Supp. 2002, Section 3-417.1), is amended to read as follows:

Section 3-417.1 ~~For the location of any~~ Any private treatment facility, transitional living center or halfway house, as defined in Section 3-403 of this title, ~~the state, a county, or a municipality~~ shall be subject to the nondiscriminatory zoning ~~ordinances~~ laws of the state, county or municipality in which located, and the location of such facility is specifically prohibited within one thousand (1,000) feet of any public or private elementary or secondary school. Provided, that if any public or private elementary or secondary school shall be established within the prohibited distance from any such facility after such facility has been in use as a treatment facility, transitional living center or halfway house, this shall not be a bar to the continued use of the facility as designated so long as it remains in continuous use as designated.

The distance indicated in this section shall be measured from the nearest property line of the school to the nearest property line of the treatment facility, transitional living center or halfway house. The provisions of this section shall not apply to any treatment facility, transitional living center or halfway house established prior to the effective date of this act.

SECTION 20. AMENDATORY 43A O.S. 2001, Section 3-451, is amended to read as follows:

Section 3-451. As used in Sections ~~66~~ 3-452 and ~~67~~ 3-453 of this ~~act~~ title:

A. "Alcohol and drug substance abuse course" means a course certified by the Department of Mental Health and Substance Abuse Services designed to inform the offender about alcohol or other drugs and driving, and encourages the participants to reassess their use of alcohol or other drugs, and driving behavior, in order to select practical alternatives.

B. "Satisfactory completion of a course" means that the institution or agency conducting the course certifies to the Department of Public Safety that the participant has successfully completed the requirements of the course.

C. "Alcohol and drug substance abuse treatment program" means a program designated by the Department of Mental Health and Substance Abuse Services for the treatment of alcoholism and drug abuse.

SECTION 21. AMENDATORY 43A O.S. 2001, Section 3-452, is amended to read as follows:

Section 3-452. Except as otherwise provided by law, in any case in a municipal or district court of proper jurisdiction wherein the defendant is charged with actual physical control of or operation of a motor vehicle while under the influence of or impaired by alcohol or a drug, the court may:

~~A.~~ 1. Upon a plea of guilty or nolo contendere, or stipulation by the defendant, or a verdict, but before a judgment of guilt is

entered, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings upon the condition that the defendant enroll in, attend and successfully complete, at his own expense, an alcohol and drug substance abuse course or an alcohol and drug substance abuse treatment program ~~as provided by or~~ both as identified by an assessment conducted by a certified assessment agency or assessor pursuant to Section 3-453 of this title; or

~~B.~~ 2. Upon a conviction, suspend the execution of sentence, with or without probation, upon the condition that the defendant enroll in, attend and successfully complete, at his own expense, an alcohol and drug substance abuse course or an alcohol and drug substance abuse treatment program as provided by Section 3-453 of this title.

SECTION 22. AMENDATORY 43A O.S. 2001, Section 3-453, is amended to read as follows:

Section 3-453. A. Alcohol and drug substance abuse courses shall be offered only by nonprofit educational institutions of higher learning, governmental or nonprofit organizations.

B. Enrollment fees for those attending the courses shall be set by the Department of Mental Health and Substance Abuse Services and shall be within a range of not less than Sixty-five Dollars (\$65.00) and not more than:

1. ~~Eighty-five Dollars (\$85.00)~~ One Hundred Fifty Dollars (\$150.00) for a ~~first offense~~ ten-hour course; and

2. ~~Two Hundred Fifty Dollars (\$250.00)~~ Three Hundred Sixty Dollars (\$360.00) for a ~~second or subsequent offense~~ twenty-four-hour course.

C. Ten percent (10%) of each fee collected shall be remitted by the institution or organization offering alcohol and drug substance abuse courses to the State Treasurer to be credited to the Department of Mental Health and Substance Abuse Services Revolving

Fund in the State Treasury and shall be used to provide substance abuse services to the indigent. Five percent (5%) of each fee collected by the Department shall be used for the administrative costs related to providing such services.

D. Enrollment in the course shall not be limited to persons ordered to enroll, attend and successfully complete the course.

E. All alcohol and drug substance abuse courses ~~for drinking drivers~~ related to driver license revocation and course instructors shall be approved and certified by the Department of Mental Health and Substance Abuse Services.

F. The Department of Mental Health and Substance Abuse Services, in consultation with D.U.I. School Administrators of Oklahoma, is authorized to promulgate rules governing:

1. Minimum curriculum requirements for such courses;
2. Facilities, equipment and instructional materials for such courses;
3. Minimum qualifications for ~~certification of~~ course instructors;
4. Grounds for reprimand and for revocation supervision or nonrenewal of the authority to conduct such courses and for revocation of an instructor's certification;
5. Attendance requirements; and
6. Guidelines for certifying to the Department of Mental Health and Substance Abuse Services and the Department of Public Safety successful completion of such course.

G. The Department shall require that each ten-hour course for a first offense shall be conducted in no less than ~~two~~ three sessions of no more than three and one-half (3 1/2) hours each on ~~two (2)~~ three (3) separate days. For a ~~second or subsequent offense~~ twenty-four-hour course, the Department shall require that:

1. Each such course shall consist of at least twenty-four (24) hours;

2. Each such course shall consist of no more than two (2) hours of education on any given day, nor more than four (4) hours in a given week, and shall not contain more than ten percent (10%) films ~~or education~~ on any one specialized area;

3. Each instructor shall be ~~a qualified practitioner with one (1) year teaching experience, or a certified D.U.I. Instructor with five (5)~~ and have at least three (3) years' teaching experience; and

4. No more than ~~twelve~~ twenty-four (24) students shall be allowed in a given class.

H. Any institution or organization authorized under this act to conduct an alcohol and drug substance abuse course shall certify to the Department of Public Safety all persons who successfully complete such course.

I. Alcohol and drug substance abuse treatment ~~programs~~ courses shall be offered by facilities designated for that purpose by the Department of Mental Health and Substance Abuse Services. The facilities shall either be operated by the Department of Mental Health and Substance Abuse Services or shall be certified approved treatment facilities as provided for in the Oklahoma Alcohol and Drug Abuse Services Act.

J. Any person participating in a substance abuse treatment program recommended as a result of an assessment pursuant to Section 3-460 of this title shall be required to pay all or part of the actual cost incurred for treatment of the person, if the court determines ~~that~~ the person has the ability to pay for all or part of the cost of treatment. The court shall determine the amount of reimbursement the person shall pay.

K. Application fees for certification of course instructors shall be set by the Board to defray the costs of administering the program and shall be:

1. Not less than One Hundred Dollars (\$100.00) and not more than Two Hundred Dollars (\$200.00) upon initial application; and

2. Not less than Twenty-five Dollars (\$25.00) and not more than Fifty Dollars (\$50.00) upon annual renewal.

SECTION 23. AMENDATORY 43A O.S. 2001, Section 3-460, is amended to read as follows:

Section 3-460. A. The Department of Mental Health and Substance Abuse Services shall certify assessment agencies, ~~agency~~ and assessment personnel, ~~and qualified practitioners~~ for the purpose of conducting alcohol and drug assessment and evaluation programs related to driver license revocation.

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

1. Not less than One Hundred Dollars (\$100.00) and not more than Two Hundred Dollars (\$200.00) upon initial application; and

2. Not less than Twenty-five Dollars (\$25.00) and not more than Fifty Dollars (\$50.00) upon annual renewal.

C. The fee for those undergoing an assessment and evaluation pursuant to this section shall be One Hundred Seventy-five Dollars (\$175.00), and ten percent (10%) of each fee collected shall be remitted by the assessment agency or personnel to the State Treasurer to be credited to the Department of Mental Health and Substance Abuse Services Revolving Fund in the State Treasury and shall be used to provide substance abuse services to the indigent. Five percent (5%) of each fee collected by the Department shall be used for the administrative costs related to providing such services. One Dollar (\$1.00) from each assessment fee collected shall be designated for training assessment personnel in the best practice, evaluation and assessment procedures.

SECTION 24. AMENDATORY 43A O.S. 2001, Section 3-601, as amended by Section 26, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, 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~~ an opioid substitution treatment program for persons with a history of opioid 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 the Code of Federal Regulations, and documentation of attempting another type of treatment, or if clinically appropriate, the program physician may waive the requirement of a one-year history of opioid addiction for patients within six (6) months of release from a penal institution, for patients with a pregnancy verified by the program physician, and for patients having received treatment within two (2) years of discharge.

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~~ opioid substitution treatment program" means a person, private physician, or organization that administers or dispenses ~~a narcotic~~ an opioid drug to a narcotic addict for the purposes of detoxification or maintenance treatment or provides, when necessary and appropriate, comprehensive medical and rehabilitation services; provided, a private physician who administers buprenorphine with a waiver from the Drug Enforcement Administration shall not be considered an opioid substitution treatment program. ~~A narcotic~~ An opioid substitution treatment program shall be approved by the 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~~ an opioid drug to treat narcotic addiction.

D. ~~Narcotic~~ Opioid substitution treatment programs shall notify the 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, as amended by Section 27, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, Section 3-602), is amended to read as follows:

Section 3-602. A. A course of treatment in ~~a narcotic~~ an opioid substitution 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~~ an opioid substitution treatment program and the Board shall promulgate rules establishing guidelines for the maximum daily dose, not to exceed limits set by the Code of Federal Regulations. Pregnancy tests for women shall be conducted upon admission to ~~the narcotic~~ an opioid substitution treatment program and at least annually thereafter, unless otherwise indicated.

SECTION 26. AMENDATORY 43A O.S. 2001, Section 3-603, as amended by Section 28, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, Section 3-603), is amended to read as follows:

Section 3-603. A. The Board of Mental Health and Substance Abuse Services shall approve a standard medication fee for persons participating in ~~a narcotic~~ an opioid substitution treatment program.

B. A person participating in ~~a narcotic~~ an opioid substitution treatment program shall be terminated from the program if the person fails to participate in counseling sessions or if the person fails to adhere to the program's guidelines as promulgated by the Board.

C. The Board is authorized to promulgate such rules as are necessary to implement this act.

SECTION 27. AMENDATORY Section 21, Chapter 3, O.S.L. 2002, as amended by Section 2, Chapter 384, O.S.L. 2002 (43A O.S. Supp. 2002, Section 3-701a), is amended to read as follows:

~~Section 3-701a. A. Until February 1, 2002, it shall be the responsibility of the Department of Mental Health and Substance Abuse Services, within facilities and professional capabilities, to provide at Griffin Memorial Hospital, Norman, Oklahoma, such medical and surgical inpatient and outpatient care as may be required by inmates from the several correctional institutions that are properly referred to the hospital by the Department of Corrections. The Department of Mental Health and Substance Abuse Services may refer to the University Hospitals, and University Hospitals shall accept those inmate patients who need services beyond the facilities and professional capability of Griffin Memorial Hospital.~~

~~B. 1.~~ 1. On and after February 1, 2002, it shall be the responsibility of the Department of Corrections or the primary medical contract provider of the Department of Corrections to provide such medical and surgical inpatient and outpatient care as may be required by inmates of the Department of Corrections. The Department or the primary medical contract provider of the Department may refer to the University Hospitals, and the University Hospitals shall accept, those inmate patients who need services, as determined by the Department of Corrections to be beyond the professional capabilities of the Department of Corrections or the primary medical contract provider of the Department of Corrections.

2. The primary medical contract provider shall be a hospital as defined in Section 1-701 of Title 63 of the Oklahoma Statutes, and shall be the source of initial referrals, and diagnosis and treatment where appropriate for inmate care from the Department of Corrections. The Director of the Department of Corrections shall

designate the primary medical contract provider for the Department of Corrections.

~~E.~~ B. The Department of Corrections shall be responsible for transporting to, from, and between hospitals and for providing such physical security of inmate patients as may be required beyond that security normal to hospital operation. The Department of Corrections shall immediately remove from the hospital those inmate patients as each is discharged by the hospital.

~~D.~~ C. The hospital services provided by Griffin Memorial Hospital ~~and the University Hospitals~~ shall be without cost to the Department of Corrections.

SECTION 28. AMENDATORY 43A O.S. 2001, Section 3-702, is amended to read as follows:

Section 3-702. When a person confined in a penal or correctional institution or reformatory of this state is evaluated as provided by law by ~~either the Department of Mental Health and Substance Abuse Services or the Department of Corrections~~ a licensed mental health professional to be ~~mentally ill and the inmate is in need of observation and treatment on account of mental illness, and that such observation and treatment cannot be properly carried out by the Department of Corrections~~ a person requiring treatment as defined in Section 1-103 of this title, the district court may ~~then~~ order the inmate's transfer to a facility, or unit within the Department of Corrections and make a determination of whether the inmate is capable of consenting to or refusing treatment that is ordered including, but not limited to, the right to refuse medication, pursuant to the laws governing involuntary commitment, where the inmate shall remain until the ~~executive director~~ person in charge of the facility correctional institution or unit, or the physician which received the inmate determines that the inmate has improved to the point that the inmate may be ~~returned to the penal institution from which the inmate came without special jeopardy to~~

~~the mental health of the inmate or the discipline and conduct of that institution~~ discharged pursuant to the laws of this title governing discharge. ~~The costs incurred in transferring and treating the prisoner shall be borne by the penal institution.~~ If the sentence expires during the time of a prisoner's ~~stay in the mental institution~~ involuntary commitment at the correctional institution, and the prisoner is still ~~mentally ill and a fit subject for commitment to a facility~~ a person requiring treatment, the ~~executive director~~ person in charge of the correctional institution shall immediately instigate proceedings for commitment to the custody of the Department of Mental Health and Substance Abuse Services or to a private facility willing to accept the person for treatment under ~~one of~~ the procedures provided in this title.

SECTION 29. AMENDATORY 43A O.S. 2001, Section 4-105, is amended to read as follows:

Section 4-105. Any citation, order or process required by law to be served on ~~an inmate~~ a patient of ~~the hospitals~~ a facility within the Department of Mental Health and Substance Abuse Services shall be served only by the ~~superintendent~~ executive director in charge thereof or by someone designated by ~~him~~ the executive director. Return thereof to the court from which the same issued shall be made by the person making such service, and such service and return shall have the same force and effect as if it had been made by the sheriff of the county.

SECTION 30. AMENDATORY 43A O.S. 2001, Section 4-106, is amended to read as follows:

Section 4-106. Mechanical restraints shall not be applied to a patient unless it is determined by ~~the superintendent of the institution or~~ a physician ~~designated by him~~ to be required by the medical needs of the patient. No mechanical restraint shall be continued for longer than is absolutely necessary under the circumstances. Every use of a mechanical restraint, the reasons and

length of time therefor, shall be made a part of the clinical record of the patient under the signature of the ~~superintendent or his designee~~ physician.

SECTION 31. AMENDATORY 43A O.S. 2001, Section 4-203, is amended to read as follows:

Section 4-203. A. ~~The Commissioner, with the approval of the Board may issue regulations~~ promulgate rules authorizing the ~~superintendent~~ executive director or designee of an ~~institution in a facility within the Department at~~ which a patient is ~~held~~ being treated to charge on a sliding scale or waive the liability of the patient and ~~his~~ the estate of the patient for ~~his~~ the care and treatment of the patient, if it is determined that ~~he~~ the patient is unable to pay the full amount for such care and treatment, or that ~~he~~ the patient is an indigent person as defined in this title.

B. Before any charge for care and treatment is placed on a sliding scale or waived there must be a written ~~report which indicates the assets, liabilities and~~ application and documentation demonstrating the patient's income and the number of dependents of the patient, and a statement of any charges to be placed on the sliding scale or waiver of a patient's indebtedness for care and treatment, and the reasons for the placement on the sliding scale or waiver. ~~It~~ The statement must be signed by the ~~person designated by the superintendent~~ executive director or designee granting such placement on the sliding scale or waiver. ~~It~~ The statement must also be filed with the patient's records at the ~~institution~~ facility.

C. For the purpose of determining the financial status or ability to pay of a patient, ~~his~~ the estate of the patient, or persons liable for the patient's care and treatment, the Oklahoma Tax Commission is directed to furnish to the Commissioner, or ~~some person designated by him~~ designee, upon request, such information as

may be of record in the Commission relative to patients, and their estates.

SECTION 32. AMENDATORY 43A O.S. 2001, Section 4-204, is amended to read as follows:

Section 4-204. The cost of a patient's care and treatment shall be paid monthly unless the Commissioner of the Department of Mental Health and Substance Abuse Services and any person agreeing to make ~~said~~ the payments may arrange for quarterly or semiannual payments. The ~~superintendent~~ executive director of ~~the institution~~ a facility within the Department of Mental Health and Substance Abuse Services in which a patient is held shall issue a statement of the sum that is due to all persons who are liable for the patient's care and treatment, but failure to send or receive this statement shall not affect the liability of a person who is otherwise liable for the patient's care and treatment.

SECTION 33. AMENDATORY 43A O.S. 2001, Section 4-205, is amended to read as follows:

Section 4-205. If a guardian has been appointed for the estate of a patient in ~~an institution~~ a facility within ~~this~~ the Department of Mental Health and Substance Abuse Services, the court shall order the guardian to pay the amount of the state's claim for care and treatment. If no guardian has been appointed, the claim of the state against a patient for his care and treatment may be collected by suit or other proceedings against the patient brought in the name of the state by the district attorney of the county from which said patient was sent or any county in which the patient may have property. The claim of the state against a husband, wife, the parents and the children of any patient for his care and treatment may be collected by suit or other proceedings in the name of the state against the husband, the wife, a parent, a child, or any two or more of them. ~~The action must be brought by the district attorney of any county in which one or more of the defendants~~

~~reside. Such suits or proceedings shall be instituted upon the written request of the superintendent of the institution in which the patient is held, or the Commissioner, accompanied by his certificate as to the amount due, which amount shall be determined as provided by Sections 4-202 and 4-203 of the Mental Health Law, to the proper district attorney. If the claim for care and treatment is not paid within ninety (90) days after it is due and payable, the superintendent or Commissioner must request the appropriate district attorney or attorneys to institute a suit in accordance with the provisions of this section or suit must be instituted in accordance with Section 2-207 of the Mental Health Law.~~

SECTION 34. AMENDATORY 43A O.S. 2001, Section 4-206, is amended to read as follows:

Section 4-206. In all suits or proceedings instituted in accordance with Sections 4-205 and 2-207 of ~~the Mental Health Law this title~~, the ~~superintendent~~ executive director of the facility shall furnish proof of the indebtedness of ~~such a~~ patient and the amount due the state for ~~his~~ the care and treatment of the patient. All monies so collected shall be paid to the ~~superintendent of the institution~~ executive director of the facility and ~~by him~~ deposited with the State Treasurer who shall place the same to the credit of ~~that institution's~~ the Department of Mental Health and Substance Abuse Services revolving fund.

SECTION 35. AMENDATORY 43A O.S. 2001, Section 5-207, as amended by Section 33, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, 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 as defined in Section 1-103 of this title shall take 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~~ statement 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 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 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 36. AMENDATORY 43A O.S. 2001, Section 5-208, as amended by Section 34, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, Section 5-208), is amended to read as follows:

Section 5-208. A. 1. An individual in protective custody as provided by Section 5-207 of this title shall be 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 individual is warranted.

~~1.~~ 2. If, upon examination, the licensed mental health professional determines that the individual is not a person requiring treatment or that the condition of the individual is such that emergency detention is not warranted, the individual shall be returned by an officer immediately to the point where the individual was taken into protective custody and released or the individual may be taken to the home or residence of that individual or to an alternative facility. If the home or residence of the individual is a residential care home, nursing home or group home, such home shall not refuse the return of the individual to his or her residence.

~~2.~~ 3. If, upon examination, the licensed mental health professional determines that the individual is a person requiring treatment to a degree that emergency detention is warranted, the licensed mental health professional shall immediately prepare a

statement describing the findings of the examination and stating the basis for the determination, and 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.~~

4. During the emergency detention period:

- a. ~~prepare a statement describing the findings of the examination and stating the basis for the determination,~~
- b. ~~provide for~~ a full examination and evaluation of the person shall be conducted by two licensed mental health professionals and, if the person appears to have a 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
- e. ~~make~~
- b. reasonable efforts shall be made to determine whether the 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 executive director or person in charge of a hospital, or the ~~administrator~~ executive director or person in charge 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 person requiring treatment to a degree that emergency action is necessary, the ~~administrator~~ hospital or facility 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 individual has refused to consent or has withdrawn consent to voluntary treatment;

2. The individual has been examined by a licensed mental health professional who has determined that the individual is a 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~~ executive director or person in charge 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 person requiring treatment, the completion of a certificate of evaluation.

C. Whenever it appears that an individual detained as provided by this section is no longer a person requiring treatment and will not require treatment beyond the period of detention, the individual shall be discharged and returned by an officer to the point where the individual was taken into protective custody, or if the individual had not been in protective custody, the individual may be taken to the home or residence of that individual or to an alternative facility. If the home or residence of the individual is a residential care home, nursing home or group home, it shall not refuse the return of the individual to his or her residence.

D. 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~~ executive director of the facility in which the person is being detained, or the designee of the ~~administrator~~ executive director, 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 37. AMENDATORY 43A O.S. 2001, Section 5-209, is amended to read as follows:

Section 5-209. A. A person may be detained in emergency detention more than seventy-two (72) hours, excluding weekends and holidays, only if the facility in which the person being detained is presented with a copy of an order of the district court authorizing further detention. Such order may be entered by the court only after a petition has been filed seeking involuntary commitment or treatment pursuant to the provisions of Section 5-410 or 9-102 of this title.

B. If a copy of an order for further detention is not delivered to the facility by the end of the period of emergency detention, the person alleged to be a mentally ill person, an alcohol-dependent person, or a drug-dependent person and a person requiring treatment shall be discharged from the facility in which detained unless said person has applied for voluntary treatment.

C. The person being held in protective custody or emergency detention shall be asked to designate any person whom such person wishes informed regarding the detention. If the person being ~~detained~~ held in protective custody is incapable of making such designation, the ~~administrator of the hospital or facility where the person is being held~~ peace officer holding the person in protective custody ~~or emergency detention~~ shall notify within twenty-four (24) hours of taking the person into protective custody, other than the person initiating the request for protective custody, the attorney, parent, spouse, guardian, brother, sister, or child who is at least eighteen (18) years of age of the person. ~~If none of the persons designated for notification in this subsection can be located, the~~

~~administrator of the facility shall notify the sheriff of the county where the person was taken into protective custody. The sheriff shall notify one of the persons required to be notified as provided in this subsection.~~ Failure of the sheriff to find such person shall within a reasonable time be reported to the administrator of the facility. Such fact shall be made a part of the records of the facility for the person being detained.

SECTION 38. AMENDATORY 43A O.S. 2001, Section 5-306, is amended to read as follows:

Section 5-306. The application described in Section 5-305 of this title shall be accompanied by a certificate in duplicate signed by a licensed doctor of medicine or osteopathic physician who is duly licensed to practice his profession by the Oklahoma State Board of Medical Licensure and Supervision 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. This certificate may be substantially in the following form:

CERTIFICATE OF PHYSICIAN

I do hereby certify that on the ____ day of ____, ~~19~~ 20, I examined ____ and I am of the opinion that ~~said~~ the person ~~is~~ mentally ill has a mental illness, and for his/her own welfare ought to be admitted to ____ ~~Hospital~~ at ____, Oklahoma, as a patient therein.

I further certify that I have explained to said person that if he/she is admitted to a ~~state hospital~~ facility for the mentally ill as a voluntary patient, the medical staff may find it necessary or desirable to give a course of treatment requiring an extended period of time, and that it is not the legislative policy of the state to authorize the expenditure of public funds for the commencement of an expensive treatment unless the patient desires to continue that treatment for the length of time that the attending physicians believe is likely to give adequate benefit to the patient; and I

have also explained that it may become necessary to give treatment which may temporarily weaken the patient's system so that it would be injurious to his/her health to release him/her immediately upon his/her request; and that therefore the ~~superintendent~~ executive director or designee of the ~~hospital~~ facility has authority under the law to detain the patient in the hospital for as long as ~~sixty days~~ seventy-two (72) hours after said patient gives written notice to the superintendent of his/her desire to leave the hospital pursuant to Section 5-208 of Title 43A of the Oklahoma Statutes.

I further certify that in my opinion said person has sufficient mental capacity to and does understand and comprehend the matters set out in the preceding paragraph.

I do further certify that I am a licensed doctor of medicine duly licensed as such by the Oklahoma State Board of Medical Licensure and Supervision (or that I am an osteopathic physician duly licensed as such by the Oklahoma Board of Osteopathic Examiners) and that I am not related by blood or marriage to the person being examined and that I have no interest in his/her estate.

(Signature of doctor of medicine
or osteopathic physician)

SECTION 39. AMENDATORY 43A O.S. 2001, Section 7-101, is amended to read as follows:

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

B. The person in charge shall discharge a patient:

1. Who is ~~not dangerous~~ no longer a risk to self or others as defined in Section 1-103 of this title; and

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

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

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

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

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

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

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

1. The party removing the patient from the facility; or
2. The Department. When it becomes necessary for the patient to be returned from the county where the patient happens to be, the Department shall reimburse the county pursuant to the provisions of the State Travel Reimbursement Act.

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

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

SECTION 40. AMENDATORY 43A O.S. 2001, Section 7-102, as amended by Section 46, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, 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; and
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. 1. 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 assignment of a case manager 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.

C. ~~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.~~ D. If a determination is made that an order for alternative treatment is necessary, the ~~administrator~~ executive director or person in charge 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 5-410 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 5-419 of this title.

SECTION 41. REPEALER 43A O.S. 2001, Sections 3-101.1, 3-101.6, 3-110, 3-250, 3-403, as amended by Section 17, Chapter 230, O.S.L. 2002 and 3-703 (43A O.S. Supp. 2002, Section 3-403), are hereby repealed.

SECTION 42. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

49-1-5644 KSM 01/16/03