ENGROSSED HOUSE
BILL NO. 1845

By: Worthen and Balkman of the House

and

Pruitt of the Senate

An Act relating to mental health; amending 43A O.S. 2001, Sections 1-103, as last amended by Section 2, Chapter 394, O.S.L. 2003, 1-104, 1-107, as last amended by Section 1, Chapter 113, O.S.L. 2004, 1-108, as amended by Section 2, Chapter 113, O.S.L. 2004, 1-109, as last amended by Section 6, Chapter 168, O.S.L. 2004, Section 1, Chapter 187, O.S.L. 2003, as amended by Section 4, Chapter 113, O.S.L. 2004, 2-101, 2-202, as last amended by Section 7, Chapter 113, O.S.L. 2004, 2-207, 2-219, as amended by Section 7, Chapter 46, O.S.L. 2003, 2-220, as amended by Section 8, Chapter 46, O.S.L. 2003, 2-303, 3-103, 3-108 and 3-109 (43A O.S. Supp. 2004, Sections 1-103, 1-107, 1-108, 1-109, 1-109.1, 2-202, 2-219 and 2-220), which relate to the Mental Health Law; updating language; deleting obsolete terms; amending 43A O.S. 2001, Section 3-316, which relates to the Unified Community Mental Health Services Act; updating language; amending 43A O.S. 2001, Sections 3-415, as amended by Section 24, Chapter 488, O.S.L. 2002, 3-416, 3-426, 3-428 and Section 12, Chapter 113, O.S.L. 2004 (43A O.S. Supp. 2004, Sections 3-415 and 3-453.1), which relate to the Oklahoma Alcohol and Drug Abuse Services Act; updating language; modifying requirement for certain standards; amending 43A O.S. 2001, Section 3-601, as last amended by Section 24, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 3-601), which relates to narcotic treatment programs; updating language; amending Section 21, Chapter 3, O.S.L. 2002, as last amended by Section 27, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 3-701a), which relates to inmates of correctional facilities; updating language; amending 43A O.S. 2001, Sections 4-102, 4-103.1, as amended by Section 14, Chapter 113, O.S.L. 2004, 4-104, 4-105, as amended by Section 29, Chapter 46, O.S.L. 2003, 4-106, as amended by Section 30, Chapter 46, O.S.L. 2003 and 4-108, as amended by Section 30, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2004, Sections 4-103.1, 4-105, 4-106 and 4-108), which relate to care and treatment of consumers; updating language; amending 43A O.S. 2001, Sections 4-201, 4-203, as amended by Section 31, Chapter 46, O.S.L. 2003, 4-204, as amended by Section 32, Chapter 46, O.S.L. 2003, 4-205, as amended by Section 33, Chapter 46, O.S.L. 2003, and 4-206, as amended by Section 34, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Sections 4-203, 4-204, 4-205 and 4-206), which relate to expenses of care and treatment; updating language; amending 43A O.S. 2001, Section 5-102, which relates to admission to facilities; updating language;

amending 43A O.S. 2001, Sections 5-203 and 5-204, which relate to rights of detained or confined persons; updating language; amending 43A O.S. 2001, Section 5-208, as last amended by Section 36, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 5-208), which relates to emergency detention and protective custody; updating language; amending 43A O.S. 2001, Sections 5-302, 5-303, 5-304, as amended by Section 35, Chapter 488, O.S.L. 2002, 5-305, as amended by Section 36, Chapter 488, O.S.L. 2002, 5-306, as amended by Section 38, Chapter 46, O.S.L. 2003, 5-307, 5-308, 5-309 and 5-310 (43A O.S. Supp. 2004, Sections 5-304, 5-305 and 5-306), which relate to the Mental Hospital Voluntary Admission Procedures Act; updating language; amending 43A O.S. 2001, Sections 5-415, as amended by Section 42, Chapter 488, O.S.L. 2002, and 5-416, as amended by Section 43, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2004, Sections 5-415 and 5-416), which relate to involuntary commitment procedure; updating language; amending 43A O.S. 2001, Section 5-501, as last amended by Section 1, Chapter 130, O.S.L. 2003 (43A O.S. Supp. 2004, Section 5-501), which relates to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act; updating language; amending 43A O.S. 2001, Sections 6-101, 6-102 and 6-104, which relate to the transfer and release of consumers; updating language; amending 43A O.S. 2001, Section 6-201, which relates to the Interstate Compact on Mental Health; updating language; amending 43A O.S. 2001, Sections 7-101, as amended by Section 39, Chapter 46, O.S.L. 2003, 7-102, as last amended by Section 40, Chapter 46, O.S.L. 2003, 7-103, 7-104, 7-105, 7-106, 7-107, 7-108 and 7-112 (43A O.S. Supp. 2004, Sections 7-101 and 7-102), which relate to discharge and release of patients; updating language; amending 43A O.S. 2001, Sections 8-104, 8-105, 8-106, 8-107 and 8-108, which relate to private hospitals and institutions; updating language; amending 43A O.S. 2001, Sections 9-101, as amended by Section 47, Chapter 488, O.S.L. 2002, 9-102, as amended by Section 48, Chapter 488, O.S.L. 2002, and 9-103, as amended by Section 49, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2004, Sections 9-101, 9-102 and 9-103), which relate to the commitment of alcohol- or drug-dependent persons; updating language; amending 43A O.S. 2001, Sections 11-105, 11-108 and 11-110, which relate to the Advance Directives for Mental Health Treatment Act; updating language; repealing 43A O.S. 2001, Sections 3-104, which relates to certain petty cash fund; 4-109, which relates to transfer of certain patients, and 8-102, which relates to definitions; and declaring an emergency.

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

SECTION 1. AMENDATORY 43A O.S. 2001, Section 1-103, as last amended by Section 2, Chapter 394, O.S.L. 2003 (43A O.S. Supp. 2004, 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. "Mental illness" means 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 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~~ facilities; provided that facility shall not mean a child guidance center operated by the State Department of Health;

8. "~~Patient~~ Consumer" means a person under care or treatment in a facility pursuant to 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 person;

10. Whenever in this law or in any other law, or in any rule or order made or promulgated pursuant to this law or to any other law, or in the printed forms prepared for the admission of ~~patients~~ consumers or for statistical reports, the words "insane", "insanity", "lunacy", "mentally sick", "mental disease" or "mental disorder" are used, such terms shall have equal significance to the words "mental illness";

11. "Licensed mental health professional" means:

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

b. a physician licensed pursuant to Chapter 11 or Chapter 14 of Title 59 of the Oklahoma Statutes who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions,

c. a clinical psychologist who is duly licensed to practice by the State Board of Examiners of Psychologists,

d. a professional counselor licensed pursuant to Chapter 44 of Title 59 of the Oklahoma Statutes,

e. a person licensed as a clinical social worker pursuant to the provisions of the Licensed Social Workers Act,

f. a licensed marital and family therapist as defined in Chapter 44A of Title 59 of the Oklahoma Statutes,

g. a licensed behavioral practitioner as defined in Chapter 44B of Title 59 of the Oklahoma Statutes, or

h. an advanced practice nurse as defined in Chapter 12 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:

(1) a person who because of a mental illness of the person represents a risk of harm to self or others,

(2) a person who is a drug- or alcohol-dependent person and who as a result of dependency represents a risk of harm to self or others, or

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

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

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

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

b. Person requiring treatment shall not mean:

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

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

(3) a person with seizure disorder, or

(4) a person with a traumatic brain injury, unless the person also meets the criteria set forth in subparagraph a of 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~~ facility" means any general hospital maintaining a neuro-psychiatric unit or ward, or any private hospital or facility for care and treatment of a person having a mental illness, which is not supported by the state or federal government~~, except that the term shall include the Oklahoma Memorial Hospital Neuro-psychiatric Unit~~. The term "private hospital" or "~~institution~~ facility" shall not include nursing homes or other facilities maintained primarily for the care of elderly and disabled persons;

17. "Individualized treatment plan" means a proposal developed during the stay of an individual in a facility, under the provisions of this title, which is specifically tailored to the treatment needs of the individual. 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 involvement by the individual receiving treatment and, if applicable, the accordance of the individual with the treatment plan, and

e. a statement attesting that the 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 home community of the individual; and

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

a. a substantial risk of physical harm to 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 basic physical needs of the person and that appropriate provision for those needs cannot be made immediately available in the community.

SECTION 2. AMENDATORY 43A O.S. 2001, Section 1-104, is amended to read as follows:

Section 1-104. The Oklahoma Legislature hereby declares that the public policy of this state is to assure adequate treatment of persons alleged to be in need of mental health treatment or treatment for drug or alcohol abuse, to establish behavioral standards for determination of dangerousness of persons in need of such treatment, to allow for the use of the least restrictive alternative in the determination of the method of treatment, to provide orderly and reliable procedures for commitment of persons alleged to be in need of treatment consistent with due process of law, and to protect the rights of ~~patients~~ consumers hospitalized pursuant to law.

SECTION 3. AMENDATORY 43A O.S. 2001, Section 1-107, as last amended by Section 1, Chapter 113, O.S.L. 2004 (43A O.S. Supp. 2004, 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 following counties:

1. The person's county of residence;

2. The county where the person 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~~ consumer.

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 secure video to the judge. A secure video 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 1-108, as amended by Section 2, Chapter 113, O.S.L. 2004 (43A O.S. Supp. 2004, Section 1-108), is amended to read as follows:

Section 1-108. A. Anyone in custody as a person in need of treatment or a ~~child~~ minor in need of mental health treatment, pursuant to the provisions of this title, is entitled to a writ of habeas corpus, upon a proper application made by such person or some relative or friend in the person's behalf pursuant to the provisions of Sections 1331 through 1355 of Title 12 of the Oklahoma Statutes.

B. Upon the return of ~~such~~ a writ of habeas corpus, ~~the fact of the person's mental illness~~ whether the person is a person requiring treatment as defined by Section 1-103 of this title or whether the

minor is a minor requiring treatment as defined by Section 5-502 of this title shall be inquired into and determined.

C. Notice of hearing on the writ must be given to the guardian of ~~such patient~~ the consumer, if one has been appointed, to the person who applied for the original commitment and to such other persons as the court may direct.

D. The medical or other history of the ~~patient~~ consumer, as it appears in the ~~institutional~~ facility record, shall be given in evidence, and the executive director of the ~~institution~~ facility wherein ~~such person~~ the consumer is held in custody~~, and any proper person,~~ shall ~~be sworn touching~~ testify as to the condition of ~~such person~~ the consumer.

E. The executive director shall make available for examination by physicians selected by the person seeking the writ, the ~~patient~~ consumer whose freedom is sought by writ of habeas corpus.

F. Any evidence, including evidence adduced in any previous habeas corpus proceedings, touching upon the mental condition of the ~~patient~~ consumer shall be admitted in evidence.

SECTION 5. AMENDATORY 43A O.S. 2001, Section 1-109, as last amended by Section 6, Chapter 168, O.S.L. 2004 (43A O.S. Supp. 2004, 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 or not recorded, and all communications between a physician or psychotherapist and a ~~patient~~ consumer 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 actively engaged in the treatment of the ~~patient~~ consumer 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.

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

a. communications to law enforcement officers that are directly related to a commission of a crime by a ~~patient~~ consumer 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~~ consumer 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,

b. reporting under state law of incidents of suspected child abuse and neglect to the appropriate authorities,

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

d. disclosure of information when the ~~patient~~ consumer is an inmate in the custody of the Department of Corrections or a private prison or facility under contract with the Department of Corrections and the

information is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and the information is released to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat, and

e. disclosure of ~~patient~~ consumer-identifying information when it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody and the release is to a law enforcement authority for the purpose of identification and apprehension.

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~~ consumer 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 be entitled to personal access to ~~such~~ the person's mental health or drug or alcohol abuse treatment information unless ~~such~~ access is reasonably likely to endanger the life or physical safety of the ~~patient~~ consumer 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~~ consumer-identifying information related to the cause of death of a ~~patient~~ consumer under laws requiring the collection of death or other vital statistics or permitting inquiry into the cause of death.

2. Any other disclosure regarding a deceased ~~patient~~ consumer shall require either a court order or a written release of:

a. an executor, administrator, or personal representative appointed by the court, ~~or~~

b. if there is no such appointment, by the spouse of the ~~patient~~ consumer, or~~,~~

c. if none, by any responsible member of the family of the ~~patient~~ consumer.

~~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~~ consumer 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~~ consumer or authorized representative or both when required;

7. A statement of the right of the ~~patient~~ consumer to revoke the release in writing and a description of how the ~~patient~~ consumer 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. If the release is signed by a person authorized to act for a ~~patient~~ consumer, a description of the authority of such person to act.

F. "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 consumer as verified by the physician, psychologist or other person responsible for the care and treatment of such person.

SECTION 6. AMENDATORY Section 1, Chapter 187, O.S.L. 2003, as amended by Section 4, Chapter 113, O.S.L. 2004 (43A O.S. Supp. 2004, Section 1-109.1), is amended to read as follows:

Section 1-109.1 A. 1. Every adult having a mental illness as defined in Section 1-103 of this title who is under the care of a licensed mental health professional shall be informed by the licensed mental health professional or the mental health treatment facility that the ~~patient~~ consumer has the right to designate a family member or other concerned individual as a treatment advocate.

2. The individual ~~so~~ designated as a treatment advocate shall act at all times in the best interests of the ~~patient~~ consumer.

3. The patient may change or revoke the designation of a treatment advocate at any time and for any reason.

4. The treatment advocate may participate in the treatment planning and discharge planning of the ~~patient~~ consumer to the extent consented to by the ~~patient~~ consumer and as permitted by law.

B. 1. The Board of Mental Health and Substance Abuse Services shall promulgate rules for all facilities certified by the Department of Mental Health and Substance Abuse Services as to the design, contents, and maintenance of a treatment advocate consent form.

2. The contents of the consent form, at a minimum, shall include a statement indicating that the treatment advocate understands that all mental health treatment information is

confidential and that the treatment advocate agrees to maintain confidentiality.

C. This section shall not apply to inmates of the Oklahoma Department of Corrections.

SECTION 7. AMENDATORY 43A O.S. 2001, Section 2-101, is amended to read as follows:

Section 2-101. A. 1. There is hereby established in this state a Department of Mental Health and Substance Abuse Services.

2. This Department's governing board shall be the Board of Mental Health and Substance Abuse Services, and its chief executive officer shall be the Commissioner of Mental Health and Substance Abuse Services.

3. The Department of Mental Health and Substance Abuse Services shall exercise all functions of the state in relation to the administration and operation of all state ~~institutions~~ facilities for the care and treatment of the mentally ill and drug- or alcohol-dependent persons.

B. All references in the Oklahoma Statutes to the Department of Mental Health or the Board of Mental Health shall be construed to refer to the Department of Mental Health and Substance Abuse Services or the Board of Mental Health and Substance Abuse Services, respectively.

SECTION 8. AMENDATORY 43A O.S. 2001, Section 2-202, as last amended by Section 7, Chapter 113, O.S.L. 2004 (43A O.S. Supp. 2004, Section 2-202), is amended to read as follows:

Section 2-202. A. 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.

B. The Commissioner may appoint necessary personnel to carry on the work of the Department, prescribe their titles and duties, and fix their compensation.

C. The Commissioner may prescribe policies for the operation of the Department. ~~In addition, the~~ The Commissioner shall have the following additional 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; to counsel with the various executive directors about facility needs and budget requests; and 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~~ consumers within the facility. The purpose of ~~such~~ the visits to the facility 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~~ These persons shall have the same power to inspect the facility and its records and to interview personnel and ~~patients~~ consumers as the Commissioner;

8. To designate the type of ~~patient~~ consumer 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.

a. The Commissioner or a designee of the Commissioner may establish specific hours for ~~patient~~ consumer admissions at each facility.

b. The Commissioner or a designee of the Commissioner may delay inpatient admissions when such admissions would cause facilities to exceed their authorized capacity. ~~Patients~~

c. Consumers 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.

d. Permanent transfer of a ~~patient~~ consumer may be made when it is apparent that the ~~patient's~~ general welfare, care, and treatment of the consumer can be more effectively provided at another facility, provided the parents or guardian are notified as soon as possible of the transfer.

e. Temporary transfer of a ~~patient~~ consumer may be made in order that a ~~patient~~ consumer may have the advantage of special services not available at the facility of ~~such patient's~~ the present residence of the consumer.

f. Requests for transfer shall be initiated by the executive director of the facility in which the ~~patient~~ consumer resides.

g. Sufficient supporting information from the ~~patient's~~ records of the consumer 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~~ 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~~ consumer, and to examine any ~~patient~~ consumer when the executive director of any facility concludes that a ~~patient~~ consumer within such facility is subject to discharge but

such executive director is unwilling to discharge the ~~patient~~ consumer as provided in the Mental Health Law.

a. The Board of Psychiatric Examiners shall be composed of the Commissioner and two members selected by the Board. ~~Such members~~ Members of the Board of Psychiatric Examiners shall be selected from persons who are qualified examiners according to the Mental Health Law.

b. 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.

a. The Commissioner shall not prevail upon relatives or friends of such mentally ill person or any other person to defray ~~such~~ transfer expenses.

b. 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.

c. 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~~

d. Consumers 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 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~~ The 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~~ consumers 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~~ consumers,

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.

a. The authority of designated employees ~~so designated~~ shall be limited to:

(1) maintaining custody of ~~patients~~ consumers in facilities,

(2) 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,

(3) preventing attempted escapes, and

(4) pursuing and returning court committed ~~patients~~ consumers and Department of Corrections inmates who have escaped from Department facilities.

b. The powers and duties of ~~such~~ peace officers may be exercised for the purpose of maintaining custody of any ~~patient~~ consumer being transported within the state and outside the State of Oklahoma pursuant to the authority of the Interstate Compact on Mental Health.

c. 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;

17. To establish a Forensics Review Board to annually review the case of every ~~patient~~ consumer ordered to the custody of the Department through a "not guilty by reason of insanity" verdict. The Forensics Review Board shall be composed of three (3) licensed mental health professionals, at least one of whom is licensed as a Doctor of Medicine, a Doctor of Osteopathy, or a licensed clinical psychologist, who shall be selected by the Commissioner; and

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

SECTION 9. AMENDATORY 43A O.S. 2001, Section 2-207, is amended to read as follows:

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

SECTION 10. AMENDATORY 43A O.S. 2001, Section 2-219, as amended by Section 7, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 2-219), is amended to read as follows:

Section 2-219. Any officer or employee of a facility who maliciously assaults, beats, batters, abuses, or uses mechanical restraints, or willfully aids, abets, advises or permits any ~~patient~~ consumer confined therein to be maliciously assaulted, beaten, battered, abused, or 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 ~~such~~ fine and imprisonment.

SECTION 11. AMENDATORY 43A O.S. 2001, Section 2-220, as amended by Section 8, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 2-220), is amended to read as follows:

Section 2-220. An executive director of a facility who fails to report to the district attorney of the county in which 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 aids, abets, advises or permits any ~~patient~~ consumer confined in the facility to be subjected to such conduct shall be guilty of a misdemeanor.

SECTION 12. AMENDATORY 43A O.S. 2001, Section 2-303, is amended to read as follows:

Section 2-303. A. 1. There is hereby created in the State Treasury a revolving fund for the Department of Mental Health and Substance Abuse Services to be designated the "Department of Mental Health and Substance Abuse Services Revolving Fund".

2. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received by each facility and office of the Department as:

a. reimbursements from persons and agencies for the care of ~~patients;~~ consumers,

b. reimbursements from other state agencies and entities of government~~;~~,

c. all reimbursements received by the Department from the United States government or pursuant to proceedings in district court to enforce claims for the cost of care and treatment of ~~patients;~~ consumers,

d. proceeds from enrollment fees for alcohol and drug substance abuse courses~~;~~,

e. earnings and proceeds in the conduct and management of the dairy, farm, truck, garden, livestock and any industries of said facilities~~;~~,

f. receipts from sale of excess byproducts, excess property and salvage items~~;~~,

g. certification fees~~;~~,

h. gifts, donations and bequests~~;~~, and

i. receipts from other ancillary services, not otherwise provided by law.

B. 1. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department of Mental Health and Substance Abuse Services for the general operating expenses of facilities and offices of the Department of Mental Health and Substance Abuse Services. ~~No additions~~

2. Additions to the existing buildings or construction of any new buildings shall not be paid for from the fund, unless provided for by law.

3. Expenditures from said the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 13. AMENDATORY 43A O.S. 2001, Section 3-103, is amended to read as follows:

Section 3-103. A. The Central Oklahoma Community Mental Health and Substance Abuse Services Center, Norman, Oklahoma, is hereby designated ~~an institution~~ 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. The Department of Mental Health and Substance Abuse Services is authorized to effect the transfer of property, records, equipment, supplies and funds to include, if appropriate, revolving

funds, and encumbrances from ~~Central State~~ Griffin Memorial Hospital to the ~~institution~~ facility designated in subsection A above.

C. There is hereby created a petty cash fund at the Central Oklahoma Community Mental Health and Substance Abuse Services Center, Norman, Oklahoma. The Director of State Finance and the Commissioner of the Department of Mental Health and Substance Abuse Services are authorized to fix the maximum amount of the 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 3-108, is amended to read as follows:

Section 3-108. The Commissioner of Mental Health and Substance Abuse Services is hereby authorized and directed to establish an appropriate room or ward for proper treatment and rehabilitation of minor addicts of regulated narcotic drugs, with special emphasis to the rehabilitation of a ~~patient~~ consumer during treatment and provide an adequate program for reestablishment into society upon release.

SECTION 15. AMENDATORY 43A O.S. 2001, Section 3-109, is amended to read as follows:

Section 3-109. There may be established and maintained at each of the ~~institutions~~ facilities within the department a canteen. Any profits from ~~an institution's~~ the canteen of a facility shall be used for the benefit of the ~~patients~~ consumers of the ~~institution~~ facility.

SECTION 16. AMENDATORY 43A O.S. 2001, Section 3-316, is amended to read as follows:

Section 3-316. The Department of Mental Health and Substance Abuse Services shall establish within an existing state mental health hospital or hospitals a program for the care of violent ~~patients~~ consumers who are unable to function outside of a secure and structured environment.

SECTION 17. AMENDATORY 43A O.S. 2001, Section 3-415, as amended by Section 24, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2004, Section 3-415), is amended to read as follows:

Section 3-415. A. 1. The Board of Mental Health and Substance Abuse Services shall promulgate rules and standards for certification for private facilities and organizations which provide treatment, counseling and rehabilitation 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 and rehabilitation.

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

B. 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 Department of Mental Health and Substance Abuse Services on prescribed forms.

C. The 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 rules and standards promulgated by the Board, pending state or federal investigations, or verified complaints concerning matters affecting the proper operation or ownership of the facility, the Board may postpone, deny renewal of, revoke, or suspend the certification of the facility.

E. ~~Licensed~~ <u>The following are exempt from the provisions of the Oklahoma Alcohol and Drug Abuse Services Act:</u>

1. Individual persons in private practice as: 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~~. The exemption shall apply only to individual professional persons in their private practice and not to any treatment facility operated by ~~such~~ the person. The activities and services of a person in the employ of a private, nonprofit behavioral services provider contracting with the state to provide behavioral services with the state shall be exempt from licensure as a licensed alcohol and drug counselor if such activities and services are part of the official duties of such person with the nonprofit agency;

2. Properly licensed hospitals~~, programs~~;

3. Programs or facilities operated by a state agency~~, programs~~;

4. Programs conducted and facilities operated by Alcoholics Anonymous~~,~~; or

5. Programs conducted and facilities operated by the Salvation Army ~~are also exempt from the provisions of the Oklahoma Alcohol and Drug Abuse Services Act~~.

F. Certified services for the alcohol- or drug-dependent person shall comply with standards adopted by the 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. The Council on Accreditation (COA); or

~~3.~~ 4. Approved medical and professional standards as determined by the Board.

G. 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 Board.

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~~ consumer count and success rates, shall be documented and verifiable by the Board.

I. The 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.

J. Any materials or information received by the Department from an applicant regarding the applicant's financial status shall not be construed to be open records pursuant to the Oklahoma Open Records Act.

SECTION 18. AMENDATORY 43A O.S. 2001, Section 3-416, is amended to read as follows:

Section 3-416. In establishing standards for treatment services and rules of operation, the Authority and approved treatment facilities shall be guided by the following standards:

1. If possible a ~~patient~~ consumer shall be treated on a voluntary rather than an involuntary basis.

2. A ~~patient~~ consumer shall be initially referred to outpatient treatment or intermediate care unless he is found to require inpatient treatment.

3. A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

4. No person shall be refused treatment because of sex or age unless the approved treatment facility which refuses treatment refers the person to another approved treatment facility with which

it has a written referral agreement and which provides services appropriate to the person's sex or age group.

5. Restrictions on acceptance of persons by an approved treatment facility shall be published by the facility and made available to the public.

6. An individualized treatment plan shall be prepared and maintained on a current basis for each ~~patient~~ consumer.

7. Family members of the ~~patient~~ consumer shall be included in the treatment services when possible and appropriate.

8. Community-based treatment shall be encouraged and emphasized to make treatment available to persons in their home communities.

9. ~~Patients~~ Consumers shall be encouraged to agree to such further diagnosis and treatment as will be of benefit to them.

SECTION 19. AMENDATORY 43A O.S. 2001, Section 3-426, is amended to read as follows:

Section 3-426. A. If treatment is provided by an approved treatment facility to a ~~patient~~ consumer admitted under the provisions of this act and the ~~patient~~ consumer has not paid the fees charged for such treatment, the approved treatment facility is entitled to any payment received:

1. By the ~~patient~~ consumer to which he is entitled because of the services rendered; and

2. From any public or private source available to the facility because of the treatment provided to the ~~patient~~ consumer.

B. A ~~patient~~ consumer admitted to an approved treatment facility under the provisions of this act, the estate of the ~~patient~~ consumer or a person obligated by law to pay for the treatment of the ~~patient~~ consumer, and financially able to do so, is liable to the approved treatment facility for the cost of maintenance and treatment of the ~~patient~~ consumer in the facility in accordance with the published rates.

C. The administrator of the facility shall adopt rules governing financial ability to pay for maintenance and treatment which take into consideration the income, savings and other personal and real property of the person required to pay, and any support being furnished by him to any person he is required by law to support. Rates shall be published by the facility in accordance with regulations of the Authority adopted under the provisions of the Administrative Procedures Act.

SECTION 20. AMENDATORY 43A O.S. 2001, Section 3-428, is amended to read as follows:

Section 3-428. A. An intoxicated person in a public place as defined in Section 8 of Title 37 of the Oklahoma Statutes, who appears to be in need of help, if he consents to the offered help, may be assisted ~~to his~~:

1. To their home~~, to~~;

2. To an alternative facility pursuant to the provisions of this section; or ~~to~~

3. To an approved treatment facility by a peace officer or an emergency service patrol.

B. 1. A person who appears to be intoxicated, and as a result of such intoxication is unconscious in a public place or reasonably appears to be in danger of harming ~~himself~~ themselves or others, may be taken into protective custody by a peace officer or an emergency service patrol and immediately brought to an approved treatment facility for medical or nonmedical detoxification.

2. The peace officer or the emergency service patrol, in detaining the person and taking ~~him~~ the person to an approved treatment facility, is taking ~~him~~ the person into protective custody and shall make every reasonable effort to protect ~~his~~ the person's health and safety.

3. In taking the person into protective custody, the detaining officer may take reasonable steps ~~to protect himself~~ for self-

protection. No record shall be made which indicates that the person has been arrested or charged with a crime.

C. 1. If the Department of Mental Health and Substance Abuse Services, or the governing body of any municipality, has approved a program alternative to statutory or municipal requirements of prosecution and imprisonment of such person, until the capacity to accommodate intoxicated persons has been exceeded in the facility wherein such alternative program is located, the arresting officer and other public officials involved in an arrest pursuant to this section shall utilize such alternative treatment program upon the voluntary approval of the intoxicated person and the receiving facility rather than proceed under the statutory or municipal laws pertaining to prosecution and imprisonment of intoxicated persons.

2. A facility in which the program is located may make application to the Department of Mental Health and Substance Abuse Services for approval, but no such program or facility wherein such program is located shall claim or advertise to be a certified treatment facility unless duly certified as such by the Department of Mental Health and Substance Abuse Services.

3. All facilities acquiring ~~such~~ the approval of an alternative program shall establish their own capacity for the number of persons to be accommodated in the program.

4. It shall be the duty of the Department of Health to investigate all complaints concerning general sanitation made in the form of a sworn affidavit against such municipally approved alternative facilities.

5. In event the complaints are found to be true, the State Commissioner of Health shall have the power to order improvements or closure.

D. A person who is brought to an alternative facility or an approved treatment facility may be admitted as a ~~patient~~ consumer by

the administrator in charge of the facility or referred to another treatment facility.

E. 1. A person may not be detained at the approved treatment facility when ~~he~~ the person either is no longer unconscious, or no longer appears likely to harm ~~himself~~ themselves or others.

2. If ~~he~~ the person remains unconscious or likely to harm ~~himself~~ themselves or others, ~~he~~ the person may be detained for no more than twelve (12) hours, excluding weekends and legal holidays, after admission unless a petition for an order directing ~~his~~ the commitment of the person to an approved treatment facility has been filed according to the Mental Health Law provisions and procedures for commitment ~~of said persons~~. The person may consent to remain in the facility as long as the administrator or physician in charge believes appropriate.

F. If a person is admitted to an approved treatment facility under this section, ~~he~~ the person may notify ~~his~~ relatives of ~~his~~ the admission or another person may, with the consent of the admittee, notify ~~his~~ relatives of ~~his~~ the admission.

SECTION 21. AMENDATORY Section 12, Chapter 113, O.S.L. 2004 (43A O.S. Supp. 2004, Section 3-453.1), is amended to read as follows:

Section 3-453.1 A. The Attorney General, the Department of Mental Health and Substance Abuse Services, or the district attorney of the appropriate district court may bring an action in a court of competent jurisdiction for an injunction against any individual for operating an alcohol and drug substance course without the appropriate certification by the Department of Mental Health and Substance Abuse Services or for a violation of any ~~other~~ order or determination of the Department.

B. ~~In~~ Any findings of the Department, after hearing and due process, in any action for an injunction brought pursuant to this

section, ~~any findings of the Department, after hearing and due process,~~ shall be prima facie evidence of the facts ~~found therein~~.

C. The district court for the county where the facility is located has jurisdiction to determine the action, to grant the necessary injunctive relief and to award attorney's fees to the prevailing party.

SECTION 22. AMENDATORY 43A O.S. 2001, Section 3-601, as last amended by Section 24, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, 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 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~~:

1. In treating persons with a history of addiction for two (2) years or more~~, or~~;

2. In treating persons with a one-year history, as defined by the Code of Federal Regulations, and documentation of attempting another type of treatment~~,~~; or ~~if~~

3. If clinically appropriate, the program physician may waive the requirement of a one-year history of opioid addiction for ~~patients~~ consumers within six (6) months of release from a penal institution, for ~~patients~~ consumers with a pregnancy verified by the program physician, ~~and~~ or for ~~patients~~ consumers 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, "opioid substitution treatment program" means a person, private physician, or organization that administers or dispenses 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~~. A private physician who administers buprenorphine with a waiver from the Drug Enforcement Administration shall not be considered an opioid substitution treatment program. 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 an opioid drug to treat narcotic addiction.

D. 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 23. AMENDATORY Section 21, Chapter 3, O.S.L. 2002, as last amended by Section 27, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 3-701a), is amended to read as follows:

Section 3-701a. A. 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~~ consumers 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.

B. The Department of Corrections shall be responsible for transporting to, from, and between hospitals and for providing such physical security of inmate ~~patients~~ consumers 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~~ consumers when discharged by the hospital.

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

SECTION 24. AMENDATORY 43A O.S. 2001, Section 4-102, is amended to read as follows:

Section 4-102. There shall be developed during a person's stay in a mental health facility, an individualized treatment plan which shall be specifically tailored to such person's treatment needs. Each plan shall clearly include the following:

1. A statement of treatment goals or objectives, based upon and related to a proper evaluation, which can be reasonably achieved within a designated time interval;

2. Treatment methods and procedures to be used to obtain these goals, which methods and procedures are related to these goals and which include specific prognosis for achieving each of these goals;

3. Identification of the types of professional personnel who shall 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;

4. Documentation of ~~patient~~ consumer involvement and, if applicable, the ~~patient's~~ accordance with the treatment plan of the consumer; and

5. A statement attesting that the person in charge of the facility or clinical director has made a reasonable effort to meet the ~~plan's~~ individualized treatment goals of the plan in the least restrictive environment possible closest to the ~~patient's~~ home community of the consumer.

SECTION 25. AMENDATORY 43A O.S. 2001, Section 4-103.1, as amended by Section 14, Chapter 113, O.S.L. 2004 (43A O.S. Supp. 2004, Section 4-103.1), is amended to read as follows:

Section 4-103.1 The executive director of any ~~institution~~ facility within the Department of Mental Health and Substance Abuse Services shall have custody and control of a ~~patient~~ consumer within the ~~institution~~ facility during the period of time the ~~patient~~ consumer is detained for observation or treatment or both, and shall be responsible for the care and treatment of the ~~patient~~ consumer during the time the ~~patient~~ consumer remains in the ~~institution~~ facility.

SECTION 26. AMENDATORY 43A O.S. 2001, Section 4-104, is amended to read as follows:

Section 4-104. Before proceeding with any major operation which in the judgment of the ~~superintendent~~ executive director of the ~~institution~~ facility is advisable or necessary, the ~~superintendent~~ executive director shall notify or cause to be notified the spouse, parent or guardian or one of the next of kin residing in Oklahoma, if ~~such~~ the information is shown by the records on file with the ~~superintendent and a~~ executive director. A copy of ~~said~~ the notice shall be filed in the ~~patient's~~ records~~;~~ of the consumer, except ~~that~~ in cases of grave emergency where the medical staff feels that surgical or other intervention is necessary to prevent serious

consequences or death, authority is hereby given to proceed with such measure.

SECTION 27. AMENDATORY 43A O.S. 2001, Section 4-105, as amended by Section 29, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 4-105), is amended to read as follows:

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

SECTION 28. AMENDATORY 43A O.S. 2001, Section 4-106, as amended by Section 30, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 4-106), is amended to read as follows:

Section 4-106. Mechanical restraints shall not be applied to a ~~patient~~ consumer unless it is determined by a physician to be required by the medical needs of the ~~patient~~ consumer. 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~~ consumer under the signature of the physician.

SECTION 29. AMENDATORY 43A O.S. 2001, Section 4-108, as amended by Section 30, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2004, Section 4-108), is amended to read as follows:

Section 4-108. A. A 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:

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

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

3. The amount of time or effort necessary to perform the labor would not be excessive;

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

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

B. The provisions of this section shall not apply to bona fide "work therapy" which is a part of the treatment program.

Work therapy shall be:

1. In the best interests of the person;

2. Therapeutic in nature and purpose;

3. Part of the treatment plan of the person;

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.

C. Subsections A and B of this section shall not apply to ~~matters of~~ personal housekeeping, personal maintenance, or communal living, ~~nor~~ or tasks oriented to improving life skills. These activities shall not primarily benefit the facility.

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

SECTION 30. AMENDATORY 43A O.S. 2001, Section 4-201, is amended to read as follows:

Section 4-201. A ~~patient~~ consumer at ~~an institution~~ a facility within the Department is liable for ~~his~~ the care and treatment of the consumer. This claim of the state for such care and treatment shall constitute a valid indebtedness against any such ~~patient~~ consumer and ~~his~~ the estate of the consumer and shall not be barred by any statute of limitations. At the death of the ~~patient~~ consumer this claim shall be allowed and paid as other lawful claims against the estate. Provided, further that no admission or detention of a ~~patient~~ consumer in a state ~~hospital~~ facility shall be limited or conditioned in any manner by the financial status or ability to pay of a ~~patient~~ consumer, ~~his~~ the estate of the consumer, or any relative of the consumer.

SECTION 31. AMENDATORY 43A O.S. 2001, Section 4-203, as amended by Section 31, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 4-203), is amended to read as follows:

Section 4-203. A. The Board may promulgate rules authorizing the executive director or designee of a facility within the Department at which a ~~patient~~ consumer is being treated to charge on a sliding scale or waive the liability of the ~~patient~~ consumer and estate of the ~~patient~~ consumer for the care and treatment of the ~~patient~~ consumer, if it is determined that the ~~patient~~ consumer is unable to pay the full amount for such care and treatment, or that the ~~patient~~ consumer 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~~:

1. A written application and documentation demonstrating the ~~patient's~~ income ~~and the~~ of the consumer;

2. The number of dependents of the ~~patient, and a~~ consumer;

3. A statement of any charges to be placed on the sliding scale or waiver of ~~a patient's~~ indebtedness of the consumer for care and treatment~~,~~; and ~~the~~

4. The reasons for the placement on the sliding scale or waiver. The statement must be signed by the executive director or designee granting such placement on the sliding scale or waiver. The statement must also be filed with the ~~patient's~~ records of the consumer at the facility.

C. For the purpose of determining the financial status or ability to pay of a ~~patient~~ consumer, the estate of the ~~patient~~ consumer, or persons liable for the ~~patient's~~ care and treatment of the consumer, the Oklahoma Tax Commission is directed to furnish to the Commissioner, or designee, upon request, such information as may be of record in the Commission relative to ~~patients~~ consumers, and their estates.

SECTION 32. AMENDATORY 43A O.S. 2001, Section 4-204, as amended by Section 32, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 4-204), is amended to read as follows:

Section 4-204. The cost of ~~a patient's~~ the care and treatment of the consumer shall be paid monthly unless the Commissioner of the Department of Mental Health and Substance Abuse Services and any person agreeing to make the payments may arrange for quarterly or semiannual payments. The executive director of a facility within the Department of Mental Health and Substance Abuse Services in which a ~~patient~~ consumer 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 of the consumer, 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 of the consumer.

SECTION 33. AMENDATORY 43A O.S. 2001, Section 4-205, as amended by Section 33, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 4-205), is amended to read as follows:

Section 4-205. A. If a guardian has been appointed for the estate of a ~~patient~~ consumer in a facility within 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.

B. If no guardian has been appointed, the claim of the state against a ~~patient~~ consumer for ~~his~~ the care and treatment of the consumer may be collected by suit or other proceedings against the ~~patient~~ consumer brought in the name of the state by the district attorney of the county from which said ~~patient~~ consumer was sent or any county in which the ~~patient~~ consumer may have property.

C. The claim of the state against a husband, wife, the parents and the children of any ~~patient~~ consumer for ~~his~~ care and treatment of the consumer 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.

SECTION 34. AMENDATORY 43A O.S. 2001, Section 4-206, as amended by Section 34, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, 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 this title, the executive director of the facility shall furnish proof of the indebtedness of a ~~patient~~ consumer and the amount due the state for the care and treatment of the ~~patient~~ consumer. All collected monies ~~so collected~~ shall be paid to the executive director of the facility and deposited with the State Treasurer who shall place the same to the credit of the Department of Mental Health and Substance Abuse Services revolving fund.

SECTION 35. AMENDATORY 43A O.S. 2001, Section 5-102, is amended to read as follows:

Section 5-102. No person shall be accepted into any ~~institution~~ facility without the use of the properly executed official forms ~~properly executed~~. The properly executed order to hospitalize or the order of admission ~~when properly executed~~ shall be full and sufficient authority and protection to the ~~superintendent~~ executive director or the person acting as such in ~~his~~ the absence of the executive director for receiving and detaining in the hospital the person named ~~therein~~ on the form.

SECTION 36. AMENDATORY 43A O.S. 2001, Section 5-203, is amended to read as follows:

Section 5-203. A. Upon receiving an order from a district court to convey a mentally ill, alcohol-dependent, or drug-dependent female to ~~an institution~~ a facility, the sheriff of such county shall procure a suitable female to assist in conveying the female to the ~~institution~~ facility if the sheriff or deputy who will be conveying the female is male.

B. If a female attendant is not available, a male sheriff or male deputy may convey the mentally ill, alcohol-dependent or drug-dependent female without a female attendant if the sheriff or deputy conveying the female notifies the dispatcher of the specific mileage from the collection point to the destination point, the time of departure and the estimated time of arrival.

C. The sheriff may procure ~~such~~ assistance, and certify the same to the county clerk as a part of the expense of ~~so doing, and no~~ the conveyance. No bill for the expense of such conveyance shall be allowed by the commissioners of any county unless it is accompanied by a certificate of the ~~superintendent~~ executive director of ~~said institution~~ the facility, showing that ~~such~~ the person has been duly conveyed to the ~~institution~~ facility by, or

accompanied by a female attendant or as otherwise authorized by this section.

D. Whenever a female ~~patient~~ consumer is transferred from one ~~institution~~ facility to another within the Department or from ~~an institution~~ a facility within the Department to another ~~institution~~ facility of like nature elsewhere, ~~she~~ the female must be accompanied by a female employee of the Department or a suitable relative of ~~said~~ the female ~~patient~~ consumer.

SECTION 37. AMENDATORY 43A O.S. 2001, Section 5-204, is amended to read as follows:

Section 5-204. A. ~~During~~ 1. Appropriate treatment and medication, including psychotropic medication, may be administered to a consenting individual:

1. During the detention periods authorized by the Mental Health and Substance Abuse Services Law~~, Section 1-101 et seq. of this title, or during~~;

2. During the time set forth in the Mental Health and Substance Abuse Services Law for the precommitment screening examination~~,~~; or ~~while~~

3. While in the custody of the Department of Corrections ~~appropriate treatment and medication, including psychotropic medication, may be administered to a consenting individual~~.

B. Treatment and medication may be administered to a nonconsenting individual upon the written order of ~~a~~ the physician who ~~has~~:

1. Has personally examined the ~~patient and who finds such~~ consumer;

2. Finds the medication or treatment is necessary to protect the ~~patient~~ consumer, the facility or others from serious bodily harm~~,~~; and ~~who so notes~~

3. Notes in the ~~individual's~~ medication record of the individual, with an explanation of the facts leading up to the

decision to administer treatment and medication including psychotropic medication.

C. Any physician who orders medication in good faith and any employee of the facility who administers medication in good faith pursuant to the written order of a physician, under the provision of this section, shall be immune from civil suits for damages that occur from ~~such~~ the administration of medication.

D. Seclusion or restraint may be administered to a nonconsenting individual upon the written order of a physician who ~~has personally~~:

1. Personally examined the ~~patient~~ consumer; and ~~who finds~~

2. Finds that seclusion or restraint is necessary to protect the ~~patient~~ consumer, the facility, or other persons. The physician shall note in the chart of the ~~patient~~ consumer an explanation of the decision to administer seclusion or restraint, including administration of psychotropic medication. This shall not prohibit emergency seclusion or restraint pending notification of a physician.

E. If the individual is under the influence of psychotropic medication during any court hearing held pursuant to Section 5-401 of this title, the court, and the jury, if any, shall be advised by the district attorney at the beginning of ~~such~~ the hearing that ~~such~~:

1. The individual is under the influence of psychotropic medication~~, the~~;

2. The purpose of the medication~~,~~; and ~~the~~

3. The effect which such medication may have on the individual's actions, demeanor and participation at the hearing.

F. If an inmate in the custody of the Department of Corrections has been properly assigned and committed to the Special Care Unit at the State Penitentiary the provisions of this section shall apply.

SECTION 38. AMENDATORY 43A O.S. 2001, Section 5-208, as last amended by Section 36, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, 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.

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 either 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 nursing home or group home, such home shall not refuse the return of the individual to ~~his or her~~ their residence.

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.

4. During the emergency detention period:

a. 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

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~~ the responsibility by the executive director or person in charge of a hospital, or the 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~~ consumer to be a person requiring treatment to a degree that emergency action is necessary, the 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 executive director or person in charge or the designee shall provide for a full examination and evaluation of the ~~patient~~ consumer 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~~ shall 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 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 executive director of the facility in which the person is being detained, or the designee of the 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 39. AMENDATORY 43A O.S. 2001, Section 5-302, is amended to read as follows:

Section 5-302. A. Any person may be admitted to a state mental hospital or state-operated community mental health center on a voluntary basis as an informal ~~patient~~ consumer when there are available accommodations and in the judgment of the person in charge of the facility or his designee such person may require treatment therein. Such person may be admitted as an informal ~~patient~~ consumer without making formal or written application therefor and any such informal ~~patient~~ consumer shall be free to leave such

facility on any day between the hours of 9:00 a.m. and 5:00 p.m. and at such other times as the person in charge of the facility may determine.

B. No person shall be admitted as an informal ~~patient~~ consumer pursuant to the provisions of this section to any state mental hospital or state-operated community mental health center unless the person in charge of the facility or his designee has informed such person in writing of the following:

1. The rules and procedures of the facility relating to the discharge of informal ~~patients~~ consumers;

2. The legal rights of an informal ~~patient~~ consumer receiving treatment from the facility; and

3. The types of treatment which are available to the informal ~~patient~~ consumer at the facility.

SECTION 40. AMENDATORY 43A O.S. 2001, Section 5-303, is amended to read as follows:

Section 5-303. ~~Neither the~~ The state ~~nor any of~~ and its agents ~~is under~~ do not have a legal duty to admit a person as an informal ~~patient~~ consumer, and refusal to admit a person as an informal ~~patient~~ consumer, if made in good faith, shall not give rise to a cause of action by anyone damaged as a result of ~~such~~ the refusal.

SECTION 41. AMENDATORY 43A O.S. 2001, Section 5-304, as amended by Section 35, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2004, Section 5-304), is amended to read as follows:

Section 5-304. A. The Board of Mental Health and Substance Abuse Services shall ~~make~~ promulgate rules ~~and regulations~~ for the reception and retention of voluntary ~~patients~~ consumers by state facilities.

B. The executive director in charge of any state facility or licensed private hospital for care and treatment of the mentally ill may at ~~his~~ their discretion receive and retain therein as a ~~patient any~~ consumer:

1. Any person eighteen (18) years of age or over, suitable for care and treatment, who voluntarily makes written application ~~therefor, or any~~;

2. 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.

C. A person ~~thus~~ received at any facility pursuant to this section shall not be detained for a period exceeding 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~~ facility.

D. 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 EXECUTIVE DIRECTOR OF THE FACILITY _____AT_____

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

Dated this ____ day of ____, 20__.

_____Applicant

_____Address

Subscribed and sworn to before me this ____ day of ____, 20__.

_____

Notary Public

E. The applicant, or someone ~~for him~~ on behalf of the applicant, must ~~give~~ pay 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 42. AMENDATORY 43A O.S. 2001, Section 5-305, as amended by Section 36, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2004, Section 5-305), is amended to read as follows:

Section 5-305. Any person desiring and needing psychiatric treatment in a state facility for the mentally ill as a voluntary ~~patient~~ consumer may present a written application to the judge of the district court ~~of~~:

1. Of the county in which the person resides~~,~~; or ~~of~~

2. Of the county in which a state hospital for the mentally ill is located~~, which~~. The application may be in substantially the following form:

IN THE DISTRICT COURT OF _____ COUNTY, OKLAHOMA

In the Matter of the Mental Health of No._____

on the Mental Health ~~Patient~~ Consumer Docket

APPLICATION FOR VOLUNTARY ADMISSION TO MENTAL FACILITY

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 Facility at ____, Oklahoma, as a voluntary ~~patient~~ consumer under the provisions of the Mental Hospital Voluntary Admission Procedures Act. I understand that if admitted to this facility I may be detained in this facility until the executive director of this facility concludes that it is proper for me to be released, not exceeding, however, a period of seventy-two (72) hours after I give written notification to the executive director or a designee of my desire to leave the 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 _____, 20__.

_____

(Signature)

SECTION 43. AMENDATORY 43A O.S. 2001, Section 5-306, as amended by Section 38, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, 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~~ their 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~~ the estate of the person being examined. This certificate may be substantially in the following form:

CERTIFICATE OF PHYSICIAN

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

I further certify that I have explained to said person that if he/she is admitted to a facility for the mentally ill as a voluntary ~~patient~~ consumer, 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~~ consumer desires to continue that treatment for the length of time that the attending physicians believe is likely to give adequate benefit to the ~~patient~~ consumer;

and I have also explained that it may become necessary to give treatment which may temporarily weaken the ~~patient's~~ system of the consumer so that it would be injurious to his/her health to release him/her immediately upon his/her request; and that therefore the executive director or designee of the facility has authority under the law to detain the ~~patient~~ consumer in the hospital for as long as seventy-two (72) hours after said ~~patient~~ consumer gives written notice to the ~~superintendent~~ executive director 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~~ the estate of the person being examined.

_____

(Signature of doctor of medicine

or osteopathic physician)

SECTION 44. AMENDATORY 43A O.S. 2001, Section 5-307, is amended to read as follows:

Section 5-307. When the applicant appears in person before the judge of the district court and presents the application and the certificate of the examining doctor of medicine or osteopathic physician, the judge of the district court shall fully question the applicant~~, and if~~. If the judge of the district court is satisfied that the applicant fully understands the nature of the application and the consequences which the law will impose in the event

applicant is admitted to the hospital as a ~~patient therein~~ consumer and that the application is voluntarily made, the judge of the district court shall forthwith make an order authorizing the ~~superintendent~~ executive director of the appropriate State Hospital for the mentally ill to admit the applicant as a ~~patient therein~~ consumer.

SECTION 45. AMENDATORY 43A O.S. 2001, Section 5-308, is amended to read as follows:

Section 5-308. The order of the judge of the district court authorizing the admission of an applicant as a voluntary ~~patient~~ consumer pursuant to the provisions of the Mental Hospital Voluntary Admission Procedures Act may be in substantially the following form:

IN THE COUNTY COURT OF _____ COUNTY, OKLAHOMA

In the Matter of the	
Mental Health of	No._____
_____	on the Mental Health
~~Patient~~ Consumer	Docket

ORDER AUTHORIZING ADMISSION TO MENTAL HOSPITAL

OF VOLUNTARY ~~PATIENT~~ CONSUMER

Now on this ____ day of ____, ~~19~~ 20__, the above named _____ having appeared before me as county judge of said county and state, with his/her application to be admitted as a voluntary ~~patient~~ consumer to the ____ Hospital, a state hospital for the mentally ill located at ____, together with a certificate signed by ____, a doctor of medicine or osteopathic physician, with offices at ____, Oklahoma, such certificate being in the form provided by the Mental Hospital Voluntary Admission Procedures Act.

And it appearing to me that said individual fully understands the nature of the application and the consequences which the law will impose in the event the applicant is admitted to a mental

hospital as a ~~patient~~ consumer therein, and that the application is voluntarily made.

It is therefore ORDERED that said ____ should be and he/she is hereby ORDERED to be admitted to the ____ State Hospital at ____, Oklahoma, and a certified copy of this order shall be sufficient authority for the ~~superintendent~~ executive director of said ~~institution~~ facility to detain said ~~patient is~~ consumer in accordance with the Mental Hospital Voluntary Admission Procedures Act.

The Sheriff of ____ County, Oklahoma, is authorized and directed, on the request of the ~~patient~~ consumer herein named, to cause said ~~patient~~ consumer to be transmitted to ____ State Hospital at ____, Oklahoma, and to deliver to the ~~superintendent~~ executive director of said hospital one certified copy of this order and to make return as provided by law.

_____

Judge of the District Court

SECTION 46. AMENDATORY 43A O.S. 2001, Section 5-309, is amended to read as follows:

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

SECTION 47. AMENDATORY 43A O.S. 2001, Section 5-310, is amended to read as follows:

Section 5-310. Unless otherwise provided by law, the provisions of the Mental Health Law shall be applicable to ~~patients~~ consumers admitted to state mental hospitals under the provisions of the Mental Hospital Voluntary Admission Procedures Act.

SECTION 48. AMENDATORY 43A O.S. 2001, Section 5-415, as amended by Section 42, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2004, Section 5-415), is amended to read as follows:

Section 5-415. A. Upon receiving a petition alleging a person to 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 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 title.

B. If the court deems it necessary, or if the person alleged to have a mental illness and to be a person requiring treatment ~~shall so demand~~ demands, 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 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~~ consumer’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 person requiring treatment may also be called as a witness and cross-examined.

D. ~~When, after~~ After the hearing, when the court determines that the person does not have a mental illness and is not a 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~~ After the hearing, when the court determines the person to have a mental illness and to be a 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.

2. If the court finds that a program other than hospitalization is appropriate to meet the ~~individual's~~ treatment needs of the individual 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 set by the court, during which time the court shall continue

its jurisdiction over the individual as a 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.

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 49. AMENDATORY 43A O.S. 2001, Section 5-416, as amended by Section 43, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2004, 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~~ or without addressing the ~~patient's~~ competency of the consumer to consent to or refuse the treatment that is ordered including, but not limited to, the ~~patient's~~ rights of the consumer:

1. To be heard concerning the ~~patient's~~ treatment of the consumer; 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 of the individual 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~~. During this 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 committed to inpatient treatment and, if the individual refuses to comply with this order of 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.

5. A hearing on the application or petition filed pursuant to paragraph 4 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 inpatient treatment of an individual, the court shall inquire into the adequacy of treatment to be provided to the individual by the facility, and 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. Nothing in this section shall prohibit the Department of Mental Health and Substance Abuse Services or 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 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 within forty-eight (48) hours after discharge.

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

SECTION 50. AMENDATORY 43A O.S. 2001, Section 5-501, as last amended by Section 1, Chapter 130, O.S.L. 2003 (43A O.S. Supp. 2004, Section 5-501), is amended to read as follows:

Section 5-501. A. Sections 5-501 through 5-513 of this title shall be known and may be cited as the "Inpatient Mental Health and Substance Abuse Treatment of Minors Act".

B. The Oklahoma Legislature hereby declares that the public policy of this state is ~~to~~:

1. To assure adequate treatment of minors needing mental health treatment or treatment for drug or alcohol abuse~~, to~~;

2. To establish behavioral standards for determination of dangerousness of persons in need of such treatment~~, to~~;

3. To require the use of the least restrictive alternative in the determination of the method of treatment~~, to~~;

4. To provide orderly and reliable procedures for admission or commitment of minors alleged to be in need of inpatient mental health treatment or treatment for drug or alcohol abuse consistent with due process of law~~,~~; and ~~to~~

5. To protect the rights of ~~patients~~ consumers hospitalized pursuant to law.

C. It is the intent of the Legislature that:

1. Mental health and substance abuse treatment services shall be provided in the manner most likely to preserve, support and strengthen the family of the minor and to assist the minor and the family of the minor;

2. Minors needing mental health services or substance abuse treatment shall, to the maximum extent possible, receive those services on an outpatient basis; and

3. Inpatient evaluation and treatment services shall be utilized only as necessary to preserve the health or safety of the minor or for the protection of others in the case of a minor who, as a result of a demonstrable mental illness or drug or alcohol dependence, can be expected to intentionally or unintentionally seriously and physically injure another person.

SECTION 51. AMENDATORY 43A O.S. 2001, Section 6-101, is amended to read as follows:

Section 6-101. Nonresidents who have been admitted as ~~patients~~ consumers to ~~an institution~~ a facility within the department in accordance with the provisions of this title may be transferred by the Commissioner to similar institutions within the state where they reside. The Commissioner shall make arrangements with the appropriate agency in other states to facilitate the orderly transfer of nonresidents to the state in which they reside.

SECTION 52. AMENDATORY 43A O.S. 2001, Section 6-102, is amended to read as follows:

Section 6-102. A. 1. Upon receipt of a certificate of the United States Public Health Service or any agency of the United States Government or a veterans center in the state that facilities are available for the care or treatment of any person who has been admitted to a facility within the Department in accordance with the provisions of this title and that such person is eligible for care or treatment, the Commissioner, upon recommendation by the person in charge of the facility in which the ~~patient~~ consumer is located, may transfer the ~~patient~~ consumer to:

a. the United States Public Health Service or other agency of the United States Government, or

b. a veterans center in the state or other agency of the state for care and treatment.

2. If the ~~patient~~ consumer has been admitted under involuntary court-ordered commitment proceedings, the Commissioner shall notify the committing court of any transfer when it has been effected.

3. Any ~~patient~~ consumer transferred as provided in this section shall be deemed to be committed to the United States Public Health Service or other agency of the United States Government or a veterans center in the state or other agency of the state pursuant

to the original commitment the same as if ~~he~~ the person had been originally committed.

B. 1. In the event that a ~~patient~~ consumer transferred under provisions of this section subsequently becomes ineligible for continued services ~~of~~, or if required services cannot be provided by the entity or ~~institution wherein~~ facility where the ~~patient~~ consumer is ~~then~~ committed and residing, the Commissioner shall upon notification accept the return of the ~~patient~~ consumer to the appropriate ~~institution~~ facility of the Department.

2. If the ~~patient~~ consumer has been admitted under this title, the Commissioner shall notify the committing court of the transfer when it has been effected.

3. Any ~~patient~~ consumer transferred as provided in this section shall be deemed to be committed to the Department pursuant to the original commitment the same as if ~~he~~ the person had been originally committed.

SECTION 53. AMENDATORY 43A O.S. 2001, Section 6-104, is amended to read as follows:

Section 6-104. Any person who knowingly brings or causes to be brought, a poor or indigent person from out of the state into this state and keeps or leaves ~~him~~ such person, or attempts to keep or leave ~~him~~ such person, within the state for the purpose of placing ~~him~~ the person or requiring ~~his placing~~ the placement of the person as a ~~patient~~ consumer in any state ~~institution~~ facility within the Department for care or treatment therein at the expense of the state, shall be guilty of a misdemeanor.

SECTION 54. AMENDATORY 43A O.S. 2001, Section 6-201, is amended to read as follows:

Section 6-201. The Interstate Compact on Mental Health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows: the contracting states solemnly agree that:

ARTICLE I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the ~~patients~~ consumers, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the ~~patient~~ consumer but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of ~~patient~~ consumer welfare and to establish the responsibilities of the party states in terms of such welfare.

ARTICLE II

As used in this compact:

(a) "Sending state" shall mean a party state from which a ~~patient~~ consumer is transported pursuant to the provisions of the compact or from which it is contemplated that a ~~patient~~ consumer may be so sent.

(b) "Receiving state" shall mean a party state to which a ~~patient~~ consumer is transported pursuant to the provisions of the compact or to which it is contemplated that a ~~patient~~ consumer may be so sent.

(c) "~~Institution~~ Facility" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

(d) "~~Patient~~ Consumer" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

(e) "After-care" shall mean care, treatment and services provided a ~~patient~~ consumer, as defined herein, on convalescent status or conditional release.

(f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for ~~his own~~ the welfare of the person, or the welfare of others, or of the community.

(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that ~~a person~~ persons so afflicted ~~is~~ are incapable of managing ~~himself~~ themselves and ~~his~~ their affairs, but shall not include mental illness as defined herein.

(h) "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE III

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, ~~he~~ the person shall be eligible for care and treatment in an institution in that state irrespective of ~~his~~ the residence of the person, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any ~~patient~~ consumer may be transferred to ~~an institution~~ a facility in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said ~~patient~~ consumer would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions

thereof. The factors referred to in this paragraph shall include the ~~patient's~~ full record of the consumer with due regard for the location of the ~~patient's~~ family of the consumer, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any ~~patient~~ consumer pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the ~~patient~~ consumer; furnished all available medical and other pertinent records concerning the ~~patient~~ consumer; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the ~~patient~~ consumer if said authorities so wish; and unless the receiving state shall agree to accept the ~~patient~~ consumer.

(d) In the event that the laws of the receiving state establish a system of priorities for the admission of ~~patients~~ consumers, an interstate ~~patient~~ consumer under this compact shall receive the same priority as a local ~~patient~~ consumer and shall be taken in the same order and at the same time that he would be taken if he were a local ~~patient~~ consumer.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a ~~patient~~ consumer may be reviewed at any time and such further transfer of the ~~patient~~ consumer may be made as seems likely to be in the best interest of the ~~patient~~ consumer.

ARTICLE IV

(a) Whenever, pursuant to the laws of the state in which a ~~patient~~ consumer is physically present, it shall be determined that the ~~patient~~ consumer should receive aftercare or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the ~~patient~~ consumer in

the sending state shall have reason to believe that aftercare in another state would be in the best interest of the ~~patient~~ consumer and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the ~~patient~~ consumer such aftercare in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the ~~patient's~~ intended place of residence of the consumer and the identity of the person in whose charge it is proposed to place the ~~patient~~ consumer, the complete medical history of the ~~patient~~ consumer, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the ~~patient~~ consumer in the sending state and the appropriate authorities in the receiving state find that the best interest of the ~~patient~~ consumer would be served thereby, and if the public safety would not be jeopardized thereby, the ~~patient~~ consumer may receive aftercare or supervision in the receiving state.

(c) In supervising, treating, or caring for a ~~patient~~ consumer on aftercare, pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local ~~patients~~ consumers.

ARTICLE V

Whenever a dangerous or potentially dangerous ~~patient~~ consumer escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous ~~patient~~ consumer, ~~he~~ the consumer shall be

detained in the state where found pending disposition in accordance with law.

ARTICLE VI

The duly-accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the ~~patient~~ consumer, shall be permitted to transport any ~~patient~~ consumer being moved pursuant to this compact through any and all states party to this compact, without interference.

ARTICLE VII

(a) No person shall be deemed a ~~patient~~ consumer of more than one ~~institution~~ facility at any given time. Completion of transfer of any ~~patient~~ consumer to ~~an institution~~ a facility in a receiving state shall have the effect of making the person a ~~patient~~ consumer of the ~~institution~~ facility in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any ~~patient~~ consumer pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a nonparty state relating to institutionalization, care or treatment of the mentally

ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

ARTICLE VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any ~~patient's~~ guardian of the consumer on ~~his own~~ behalf of the guardian or in respect of any patient for whom ~~he~~ the guardian may serve, except that where the transfer of any ~~patient~~ consumer to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; provided, however, that in the case of any ~~patient~~ consumer having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a ~~patient~~ consumer.

ARTICLE IX

(a) No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no ~~patient~~ consumer shall be placed or detained in any prison, jail or lockup, but such ~~patient~~ consumer shall, with all expedition, be taken to a suitable ~~institutional~~ facility for mental illness or mental deficiency.

ARTICLE X

(a) Each party state shall appoint a "compact administrator" who, on behalf of ~~his~~ the state of the compact administrator, shall act as general coordinator of activities under the compact in ~~his~~ the state of the compact administrator and who shall receive copies of all reports, correspondence, and other documents relating to any ~~patient~~ consumer processed under the compact by ~~his~~ the state of the compact administrator either in the capacity of sending or receiving state. The compact administrator or ~~his~~ a duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any ~~patient~~ consumer processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states

concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

ARTICLE XII

This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

ARTICLE XIII

(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one (1) year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any ~~patient~~ consumer who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by Article VII(b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

ARTICLE XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the

constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

SECTION 55. AMENDATORY 43A O.S. 2001, Section 7-101, as amended by Section 39, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, 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~~ consumer or permit the ~~patient~~ consumer to leave the facility as provided ~~herein~~ in this section.

B. The person in charge shall discharge a ~~patient~~ consumer:

1. Who is 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~~ consumer in accordance with policies prescribed by the Commissioner. The facility granting a convalescent leave or visiting status to a ~~patient~~ consumer has no responsibility in returning the ~~patient~~ consumer 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 of the consumer can be determined only by permitting the ~~patient~~ consumer to leave the facility. The person in charge shall discharge a ~~patient~~ consumer 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 visiting status must be on a voluntary basis.

D. In accordance with policies prescribed by the Commissioner, a person in charge may transfer a ~~patient~~ consumer 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~~ consumer and the necessary treatment may be continued on that basis; provided however, that before transferring the ~~patient~~ consumer, the person in charge shall ensure that appropriate financial resources and appropriate services are available to receive and care for such ~~patient~~ consumer after such transfer.

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

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

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

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

G. In the event authorization is necessary to accomplish the return of the ~~patient~~ consumer to the facility, such authority is hereby vested in the judge of the district court in the county where the ~~patient~~ consumer is located. Upon receipt of notice that the ~~patient~~ consumer needs to be returned to the facility, the judge shall cause the ~~patient~~ consumer to be brought before the court by issuance of a citation directed to the ~~patient~~ consumer to appear and show cause why the ~~patient~~ consumer should not be returned to the facility. The judge shall, if clear and convincing evidence is presented by testimony under oath that the ~~patient~~ consumer should be returned to the facility, enter an order returning the ~~patient~~

consumer. If there is a lack of clear and convincing evidence showing the necessity of such return, the ~~patient~~ consumer shall immediately be released. Law enforcement officers are authorized to take into custody, detain and transport a ~~patient~~ consumer pursuant to a citation or an order of the judge of the district court.

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

SECTION 56. AMENDATORY 43A O.S. 2001, Section 7-102, as last amended by Section 40, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, 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.

B. 1. A discharge plan shall be completed for 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.

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~~ consumer 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~~ consumer 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~~ consumer and shall be kept in the permanent files of the ~~patient~~ consumer. A copy of the signed discharge plan shall be furnished the person being discharged.

C. The 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.

D. If a determination is made that an order for alternative treatment is necessary, the 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~~ the order; or

2. Request the court to modify an existing order for involuntary commitment as provided by Section 5-419 of this title.

SECTION 57. AMENDATORY 43A O.S. 2001, Section 7-103, is amended to read as follows:

Section 7-103. No ~~patient~~ consumer shall be discharged or granted convalescent leave status from a state hospital without suitable clothing adapted to the season in which ~~he~~ the consumer is discharged or granted convalescent leave status; and if it cannot be otherwise obtained, the business manager of the ~~institution~~ facility shall, upon the order of the ~~superintendent~~ executive director, furnish the same, and reasonable transportation costs and money not to exceed Twenty-five Dollars ($25.00), to defray ~~his~~ the expenses of the consumer until ~~he~~ the consumer can reach ~~his~~ relatives or friends, or find employment to earn a subsistence.

SECTION 58. AMENDATORY 43A O.S. 2001, Section 7-104, is amended to read as follows:

Section 7-104. A. In the case of a ~~patient~~ consumer who has substantially impaired ability to provide adequate self care or custody and who has no home or relatives or friends able and willing to care for the ~~patient~~ consumer, the ~~superintendent~~ executive director prior to discharge from the facility shall make a reasonable effort to arrange an appropriate placement and necessary services for the ~~patient~~ consumer.

B. When necessary, the ~~superintendent~~ executive director shall refer to other public or voluntary agencies for assistance; provided, nothing in this section or Section 7-102 of this title

shall be construed as restricting the right of an adult ~~patient~~ consumer, when such ~~patient~~ consumer has not been found by a court to be incompetent, to determine the placement or residence of such ~~patient~~ consumer upon discharge from a facility.

SECTION 59. AMENDATORY 43A O.S. 2001, Section 7-105, is amended to read as follows:

Section 7-105. It shall be the duty of the ~~superintendent~~ executive director of such ~~institution~~ facility to deliver all personal funds in ~~his hands~~ the possession of the executive director for the benefit of a ~~patient~~ consumer to said ~~patient~~ consumer at the time ~~said patient~~ the consumer is discharged.

SECTION 60. AMENDATORY 43A O.S. 2001, Section 7-106, is amended to read as follows:

Section 7-106. When any ~~patient~~ consumer in any state ~~institution~~ facility subject to the jurisdiction of the Department of Mental Health and Substance Abuse Services dies or leaves such ~~institution~~ facility, all property, including money, belonging to said ~~patient~~ consumer shall be immediately delivered ~~to~~:

1. To the ~~patient~~ consumer, if leaving~~,~~; or ~~to his~~

2. To the guardian or next of kin of the consumer, if the ~~patient~~ consumer has died~~; provided that if~~. If the ~~patient~~ consumer has died and no person is available for such delivery, the ~~institution~~ facility shall notify the guardian or next of kin of such death and the description of the property on hand by certified mail at the last-known address of such guardian or next of kin~~, and that if said~~. If the property is not claimed within one (1) year from the date of such notice, then ~~such~~ the property shall become the property of the state, and all ~~such~~ monies shall be credited to the revolving fund of the ~~institution~~ facility.

SECTION 61. AMENDATORY 43A O.S. 2001, Section 7-107, is amended to read as follows:

Section 7-107. A. When ~~an institution~~ a facility within the department has a ~~patient~~ consumer leave without permission, or escape, the ~~superintendent~~ executive director of the ~~institution~~ facility shall ~~so~~ notify ~~some~~ a relative of the ~~patient~~ consumer, or, in the event the ~~patient~~ consumer has been admitted in accordance with ~~the~~ a court order, the judge of the court ordering the ~~patient~~ consumer to the hospital.

B. Should a ~~patient~~ consumer, other than one admitted in accordance with a court order, absent from the hospital without permission, not cause trouble in the community to which he goes, ~~he~~ the consumer may be discharged or given convalescent leave at the discretion of~~, and by,~~ the ~~superintendent~~ executive director of the hospital.

C. Any other ~~patient~~ consumer, escaped or absent without permission, who has to be returned to the hospital shall be returned by the relatives or friends or, in the event of their failure to return the escaped individual, it shall be the responsibility and duty of officers of the county wherein the individual is present to apprehend ~~said~~ the individual and return the ~~patient~~ consumer to the appropriate ~~institution~~ facility. ~~In addition, it~~ It shall be the duty of any municipal law enforcement officer to directly return such ~~patient~~ consumer if the ~~institution~~ facility is located within the boundaries of the governmental entity employing the officer.

D. The governmental entity employing the law enforcement officers shall reimburse ~~said~~ the officers for necessary travel expense as provided by law.

SECTION 62. AMENDATORY 43A O.S. 2001, Section 7-108, is amended to read as follows:

Section 7-108. Any person who takes a ~~patient~~ consumer who has been lawfully admitted ~~thereto~~ from any ~~institution~~ facility within ~~this department~~ the Department of Mental Health and Substance Abuse Services without the consent of the ~~superintendent~~ executive

director, or who entices, assists or encourages any such ~~patient~~ consumer to escape therefrom shall be guilty of a misdemeanor and, upon conviction, shall be fined not to exceed One Thousand Dollars ($1,000.00) or confined in jail not to exceed one (1) year, or both.

SECTION 63. AMENDATORY 43A O.S. 2001, Section 7-112, is amended to read as follows:

Section 7-112. A. When any person shall have been adjudged legally mentally incompetent, a petition may be presented to the court or the judge thereof which made such adjudication or to the court or the judge of the county where the person resides, for a finding and order declaring ~~such~~ the person restored to soundness of mind.

1. If an order is entered restoring the person to soundness of mind, such order shall be forwarded to the court which made the order adjudging said incompetency, and shall be placed in the original file of the matter. ~~Said~~ The order shall not affect any guardianship proceedings pending so as to prevent the payment of any lawful claims against such guardianship estate.

2. If a person has been adjudged to be legally mentally incompetent in another state, the petition may be presented to the district court or the judge thereof where the ~~patient~~ consumer resides or where the ~~institution~~ facility in which the ~~patient~~ consumer is confined is located. ~~Such~~ The a petition may be presented by the person who has been declared to be incompetent, or by ~~his~~ the father, mother, husband, wife, brother, sister, child, or next of kin of the person, or ~~if in his opinion the patient has recovered,~~ by the ~~superintendent~~ executive director of the ~~institution~~ facility in which ~~he~~ the consumer is held, provided, the executive director is of the opinion that the consumer has recovered.

3. a. If the ~~superintendent~~ executive director of the ~~institution~~ facility where a person is confined files

a petition, in addition to requesting an adjudication as to the person's competency, the ~~superintendent~~ executive director may request the appointment of a temporary guardian to whom the mentally incompetent person may be released pending the hearing on the petition.

b. If ~~such~~ a request is made, the ~~superintendent~~ executive director must attach a verified affidavit to ~~his~~ the petition stating that the ~~patient~~ consumer no longer needs care and treatment and confinement is not necessary for ~~his~~ the safety of the consumer and the safety of others.

B. The district attorney of the county in which the petition is filed shall represent the ~~superintendent~~ executive director of the ~~institution~~ facility in which the ~~patient~~ consumer is kept and shall prepare the necessary pleadings for ~~him~~ the executive director.

C. Upon presentation of the petition to the court or the judge ~~thereof~~, the court or the judge ~~thereof,~~ shall ~~fix~~ set a time for hearing ~~thereon~~, and in case the application is made by the person adjudged mentally incompetent, shall ~~cause~~ issue notice of ~~such~~ the hearing to be given to the person who applied for such adjudication, if ~~he~~ the person be found in ~~said~~ the county, and may cause such further notice to be given as to the court or the judge ~~thereof~~ seems proper.

D. If, upon the hearing of ~~such~~ the petition the court or the judge ~~thereof~~ from the testimony given, shall find such person restored to soundness of mind, an order shall be entered declaring ~~him~~ the person mentally competent~~; provided, however, that the~~. The testimony of at least two qualified examiners establishing the sanity of such person, shall be required before the finding of the court or the judge ~~thereof~~ and entering ~~such~~ the order.

E. The provisions of this section must also be followed when determining the competency of a person who has legally been determined to be mentally incompetent although ~~they are~~ the person is not institutionalized.

SECTION 64. AMENDATORY 43A O.S. 2001, Section 8-104, is amended to read as follows:

Section 8-104. A. A ~~mentally ill~~ person who is a person requiring treatment may request voluntary admission to any private hospital or ~~institution~~ facility, as defined by ~~this act~~ Section 1-103 of this title, in the same manner and by the same procedure as any other type of ~~patient~~ consumer that is admitted to said ~~institution~~ facility or hospital.

B. Minor ~~patients~~ consumers may be admitted on application of parent, guardian, or the person having custody. ~~Patients~~

C. Consumers admitted voluntarily who give notice in writing of their desire or intention to leave said private hospital or ~~institution~~ facility must be released ~~forthwith; provided, that if~~ immediately.

D. If in the judgment of the attending physician the ~~patient's~~ release of the consumer would be injurious to the welfare of the ~~patient~~ consumer or the public, ~~such patient~~ the consumer may be detained for so long as is reasonably necessary to initiate the court certification proceedings provided by law~~; provided that the~~. The attending physician shall immediately notify the judge of the district court in which ~~said~~ the private hospital or ~~institution~~ facility is located by telephone or otherwise, confirmed by a written communication, that such ~~patient~~ consumer is so detained, and that such detention shall not exceed three (3) days.

SECTION 65. AMENDATORY 43A O.S. 2001, Section 8-105, is amended to read as follows:

Section 8-105. A. The procedure for court certification to a private hospital or ~~institution will~~ facility shall will be the same

as that pertaining to court certification of ~~patients~~ consumers to state mental hospitals in the Mental Health Law, except that before commitment to a private hospital or ~~institution~~ facility is made a written report will be submitted to the court containing the following information:

~~(A)~~ 1. The name of the petitioner, relative, or guardian requesting commitment to a private hospital or ~~institution~~ facility, and the name of the private hospital or ~~institution.~~ facility;

~~(B)~~ 2. The name of the physician who will be the attending physician during the period of the ~~patient's~~ hospitalization of the consumer in said private hospital or ~~institution~~ facility. The qualifications for the attending physician shall be the same as those set forth for a "qualified examiner" by the Mental Health Law~~.~~; and

~~(C)~~ 3. A statement by the person in charge of said private hospital or ~~institution~~ facility, or someone designated by ~~him~~ the person in charge, that the alleged mentally ill person will be admitted on presentation of a valid order for admission. This statement shall be dated no more than five (5) days prior to the date of the hearing.

B. A form for the filing of the information required herein shall be prescribed by the Director of Mental Health, shall be printed on eight and one-half-inch by eleven-inch paper, and shall be substantially in the following form:

REQUEST FOR COMMITMENT TO A

PRIVATE HOSPITAL OR

~~INSTITUTION~~ FACILITY

I, _____, bearing the relationship of _____ to _____, against whom a petition for commitment as a mentally ill person has been filed in the county court of _____ County, Oklahoma, do hereby request that, in the event said _____ is found to be mentally ill, she/he be committed as a ~~patient~~ consumer to the _____ at _____,

Oklahoma, a private hospital or ~~institution~~ facility as defined by law. I hereby agree to comply with the rules and regulations of said hospital or ~~institution~~ facility for the admission and support of said ~~patient~~ consumer. I further certify that upon admission of said ~~patient~~ consumer to said private hospital or ~~institution~~ facility, _____ will be the attending physician, until discharge or transfer of the ~~patient~~ consumer, or until further notice to this court by me or the attending physician.

Witness my hand this _____ day of _____, ~~19~~ 20__.

_____

Subscribed and sworn to before me this _____ day of _____, ~~19~~ 20__.

_____

Notary Public

STATEMENT OF ATTENDING

PHYSICIAN

I, _____, do hereby certify that I will faithfully perform the duties and responsibilities prescribed by law as the attending physician of _____, upon his/her commitment to the _____ until his/her discharge or transfer, or until further notice to this court by me or the above-named petitioner, relative, or guardian.

Witness my hand this _____ day of _____, ~~19~~ 20__.

_____

Attending Physician

STATEMENT OF PERSON IN CHARGE

OF PRIVATE HOSPITAL

OR ~~INSTITUTION~~ FACILITY

I, _____, the duly appointed _____ of the _____, a private hospital or ~~institution~~ facility containing beds for the reception, care and treatment of persons with neuropsychiatric illnesses, have discussed the rules and regulations of said hospital or ~~institution~~ facility governing admission and support of ~~patients~~ consumers with

_____, the _____ of _____, an alleged mentally ill person, and that if said person is committed to this hospital or ~~institution~~ facility on or before _____, ~~19~~ 20 , he will be admitted as a ~~patient~~ consumer.

SECTION 66. AMENDATORY 43A O.S. 2001, Section 8-106, is amended to read as follows:

Section 8-106. A. The responsibility for prescribing the treatment of any ~~patient~~ consumer admitted either voluntarily or by commitment, and for determining ~~his~~ the eligibility of the consumer for discharge, shall be that of the attending physician.

1. In the event the petitioner, relative, or guardian wishes to change the attending physician, a written statement releasing the attending physician of record and naming a new qualified attending physician must be submitted to the court, accompanied by a written statement from the new attending physician agreeing to assume the responsibilities provided by law.

2. In the event the attending physician wishes to withdraw from the case, ~~he~~ the physician shall notify the court and the petitioner, relative, or guardian in writing. The petitioner, relative, or guardian shall ~~forthwith~~ immediately appoint a new attending physician in the manner set forth above.

3. In the event the petitioner, relative, or guardian does not appoint a new attending physician within a reasonable length of time, then a new attending physician will be appointed by the judge of the committing court. The new attending physician must be a qualified staff member of the private hospital or institution wherein the ~~patient~~ consumer is hospitalized, and must file a written statement with the committing court agreeing to assume the responsibilities provided by law.

B. The attending physician may discharge a ~~patient~~ consumer or grant leave to a ~~patient~~ consumer only as provided in this act. The

attending physician may discharge a ~~patient~~ consumer at any time as follows:

~~(1)~~ 1. A ~~patient~~ consumer who, in the judgment of the attending physician, is recovered~~.~~; and

~~(2)~~ 2. A ~~patient~~ consumer who is not recovered but, in the judgment of the attending physician, will not benefit by further treatment in a private hospital or ~~institution~~ facility.

C. A visiting or convalescent leave status may be granted a ~~patient~~ consumer for a period not exceeding six (6) months to any ~~patient~~ consumer upon authorization of the attending physician. ~~Neither the~~

1. The attending physician ~~nor~~, the private hospital or ~~institution~~ facility shall not be responsible for the ~~patient~~ consumer or any act of the ~~patient~~ consumer, while on visiting or convalescent leave status.

2. If at the end of said six (6) months period the ~~patient~~ consumer has not returned as an inpatient to the private hospital or ~~institution~~ facility for further treatment, ~~he~~ the consumer shall be automatically discharged from the books of said private hospital or ~~institution~~ facility.

3. The committing court shall be notified by a written sealed communication of ~~said~~ the discharge.

SECTION 67. AMENDATORY 43A O.S. 2001, Section 8-107, is amended to read as follows:

Section 8-107. A. 1. When a private hospital or ~~institution~~ facility has a mentally ill person leave without permission, or ~~to escape~~ the person escapes, the person in charge of the private hospital or ~~institution~~ facility shall immediately notify the attending physician and, in the case of a committed ~~patient~~ consumer, the committing court.

2. In the case of a committed ~~patient~~ consumer, the attending physician shall in turn immediately notify the petitioner, relative

or guardian who obtained the commitment to the private hospital or ~~institution~~ facility.

B. It shall be the responsibility of the petitioner, relative, or guardian who obtained ~~his~~ the commitment of the consumer to return the ~~patient~~ consumer to the hospital or ~~institution~~ facility and, in the event of their failure to return the escaped ~~patient~~ consumer, then it shall be the responsibility and duty of the sheriff of the county wherein the ~~patient~~ consumer is present to apprehend ~~the patient~~ and return ~~him~~ the consumer to the private hospital or ~~institution~~ facility.

C. The county shall reimburse said officers for necessary travel expenses as provided by law.

SECTION 68. AMENDATORY 43A O.S. 2001, Section 8-108, is amended to read as follows:

Section 8-108. A. A ~~patient~~ consumer committed to a private hospital or ~~institution~~ facility under the provisions of ~~this act~~ the Mental Health Law may be transferred to a state or federal hospital for the mentally ill at any time prior to discharge.

1. The request for transfer shall be made to the ~~superintendent~~ executive director of the state hospital in the district serving the county of residence of the ~~patient~~ consumer.

2. The request for transfer may be made by the attending physician, the person in charge of the private hospital or ~~institution~~ facility, or the petitioner, relative, or guardian of the ~~patient~~ consumer.

B. All documents pertaining to the commitment of the ~~patient~~ consumer to the private hospital or ~~institution~~ facility, and an abstract of the clinical history of the ~~patient~~ consumer during treatment at the private hospital or ~~institution~~ facility, shall be forwarded with the ~~patient~~ consumer at the time of transfer.

C. 1. The sheriff of the county in which the ~~patient~~ consumer is hospitalized is authorized to transport the ~~patient~~ consumer to

the state hospital, and the expense of conveying the ~~patient~~ consumer will be borne whenever possible by the petitioner, relative, or guardian~~; otherwise, the~~. The sheriff or ~~his~~ deputy shall be reimbursed for necessary travel expenses and subsistence as provided by law for other official business.

2. A female attendant must accompany a sheriff transporting a female ~~patient~~ consumer.

SECTION 69. AMENDATORY 43A O.S. 2001, Section 9-101, as amended by Section 47, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2004, Section 9-101), is amended to read as follows:

Section 9-101. A. 1. An alcohol- ~~and/or~~ or drug-dependent person may apply for voluntary treatment directly to an approved treatment facility.

2. A minor may apply for voluntary treatment ~~subject~~ pursuant to the provisions of Section 2602 of Title 63 of the Oklahoma Statutes.

3. 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 the ~~minor's~~ parent, spouse or legal guardian of the minor.

B. 1. Subject to rules adopted by the 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.

2. When a person is refused admission to an approved treatment facility, the administrator, subject to rules adopted by the Board, shall refer the person to another approved treatment facility for treatment if possible and appropriate.

C. 1. When a ~~patient~~ consumer receiving inpatient care leaves an approved treatment facility, the ~~patient~~ consumer shall be

encouraged to consent to appropriate outpatient or intermediate treatment.

2. If it appears to the administrator in charge of the approved treatment facility that the ~~patient~~ consumer 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 the ~~patient~~ consumer 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 the minor was voluntarily admitted.

SECTION 70. AMENDATORY 43A O.S. 2001, Section 9-102, as amended by Section 48, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2004, Section 9-102), is amended to read as follows:

Section 9-102. A. The following persons may file or request that the district attorney file a petition in district court to determine whether an individual is alcohol- or drug-dependent and 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. 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 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.

C. Upon filing the petition, the court shall fix a date for a hearing no later than 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.

D. 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, the next of kin of the person other than the petitioner, a parent or legal guardian if the person is a minor, the administrator in charge of the approved public treatment facility to which 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.

E. 1. 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.

2. The person shall be present unless the court believes that presence of the person is likely to be injurious to the person, in which event the court shall appoint a guardian ad litem to represent the person throughout the proceeding.

3. The court shall examine the person in open court, or if advisable, shall examine the person out of court.

4. If the person has refused to be examined by a licensed physician, the person shall be given an opportunity to be examined by a court-appointed licensed physician.

5. If 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 the person to the approved treatment facility for a period of not more than five (5) days for purposes of a diagnostic examination.

F. 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 the person and the treatment is likely to be beneficial.

G. A person committed under this section shall be discharged 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 a designee of the executive director.

H. 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. 1. The court shall inform the person whose commitment is sought of the right to contest the application, be represented by counsel at every stage of any proceedings relating to his commitment and have counsel appointed by the court or provided by the court, if the person wants the assistance of counsel and is unable to obtain counsel.

2. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for the person regardless of the wishes of the person.

3. The person whose commitment is sought shall be informed of the right to be examined by a licensed physician chosen by the person.

4. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

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

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

SECTION 71. AMENDATORY 43A O.S. 2001, Section 9-103, as amended by Section 49, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2004, Section 9-103), is amended to read as follows:

Section 9-103. A. 1. After an initial period of observation and treatment, and subject to the rules and policies established by the Board of Mental Health and Substance Abuse Services, whenever a person committed pursuant to court order has recovered from addiction or imminent danger of addiction, to such an extent that in

the opinion of the physician or ~~superintendent~~ executive director in charge of the facility, release in outpatient status is warranted; the person shall be discharged to outpatient status.

2. Release of ~~such~~ the person in outpatient status shall be subject to all rules adopted by the Board, and subject to being retaken and returned to inpatient status as prescribed in such rules or conditions.

B. The rules for persons in outpatient status shall include, but not be limited to~~, close~~:

1. Close supervision of the person after release from the facility~~, periodic~~;

2. Periodic and unannounced testing for controlled dangerous substance use~~, counseling~~;

3. Counseling; and ~~return~~

4. Return to inpatient status at a suitable facility, 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 court concludes that it is in the best interests of the person and society that this be done.

SECTION 72. AMENDATORY 43A O.S. 2001, Section 11-105, is amended to read as follows:

Section 11-105. A. An advance directive for mental health treatment is valid only if it is signed by the declarant and two capable witnesses eighteen (18) years of age or older. The witnesses shall attest that the declarant:

1. Is known to them;

2. Signed the advance directive for mental health treatment in their presence;

3. Appears to be capable; and

4. Is not acting under duress, fraud or undue influence.

B. None of the following persons shall be eligible to serve as attorney-in-fact to the signing of an advance directive for mental health treatment:

1. The attending physician or psychologist or an employee of the physician or psychologist; or

2. An owner, operator or employee of a health care facility in which the declarant is a ~~patient~~ consumer or resident.

SECTION 73. AMENDATORY 43A O.S. 2001, Section 11-108, is amended to read as follows:

Section 11-108. A. It shall be the responsibility of the declarant to provide for delivery of the advance directive for mental health treatment to the attending physician or psychologist.

1. In the event the declarant is comatose, incompetent, or otherwise mentally or physically incapable after executing the advance directive for mental health treatment, any other person may deliver the advance directive for mental health treatment to the attending physician or psychologist.

2. Any person having possession of another person's advance directive for mental health treatment and who becomes aware that the declarant is in circumstances under which the terms of the advance directive for mental health treatment may become operative shall deliver the advance directive for mental health treatment to the declarant's attending physician, psychologist or to any health care facility in which the declarant is a ~~patient~~ consumer.

B. An attending physician, psychologist or health care facility notified of the advance directive for mental health treatment of a declarant shall promptly make the declaration a part of the medical records of the declarant.

C. An attending physician or other mental health treatment provider who has been notified of the existence of an advance directive for mental health treatment executed pursuant to this act

shall make all reasonable efforts to obtain the advance directive for mental health treatment.

SECTION 74. AMENDATORY 43A O.S. 2001, Section 11-110, is amended to read as follows:

Section 11-110. A. The attending physician or psychologist shall continue to obtain the declarant's informed consent to all mental health treatment decisions when the declarant is capable of providing informed consent or refusal.

B. A declarant appearing to require mental health treatment shall be examined by two persons, who shall be physicians or psychologists. If after the examination the declarant is determined to be incapable and is in need of mental health treatment, a written certification, substantially in the form provided by subsection E of this section, of the declarant's condition shall be made a part of the declarant's medical record.

C. The attending physician or psychologist is authorized to act in accordance with an operative advance directive for mental health treatment when the declarant has been determined to be incapable and mental health treatment is necessary. Except as otherwise provided by this act with regard to conflicting instructions in an advance directive for mental health treatment:

1. An attending physician or psychologist and any other physician or psychologist under the attending physician's or psychologist's direction or control, having possession of the ~~patient's~~ declaration <u>of the consumer</u> or having knowledge that the declaration is part of the ~~patient's~~ medical record <u>of the consumer</u>, shall follow as closely as possible the terms of the declaration.

2. An attending physician or psychologist and any other physician or psychologist under the attending physician's direction or control, having possession of the ~~patient's~~ appointment <u>of the consumer</u> of an attorney-in-fact or having knowledge of the

appointment of an attorney-in-fact, shall follow as closely as possible the instruction of the attorney-in-fact.

D. An attending physician or psychologist who is unable to comply with the terms of the ~~patient's~~ declaration of the consumer shall make the necessary arrangements to transfer the patient and the appropriate medical records without delay to another physician or psychologist.

1. A physician or psychologist who transfers the ~~patient~~ consumer without unreasonable delay, or who makes a good faith attempt to do so, shall not be subject to criminal prosecution or civil liability, and shall not be found to have committed an act of unprofessional conduct for refusal to comply with the terms of the declaration. Transfer under these circumstances shall not constitute abandonment.

2. The failure of an attending physician or psychologist to transfer in accordance with this subsection shall constitute professional misconduct.

E. The following certification of the examination of a declarant determining whether the declarant is in need of mental health treatment and whether the declarant is or is not incapable may be utilized by examiners:

EXAMINER'S CERTIFICATION

We, the undersigned, have made an examination of _____, and do hereby certify that we made a careful personal examination of the actual condition of the person and on such examination we find that _____:

1. (Is) (Is not) in need of mental health treatment; and

2. (Is) (Is not) incapable to participate in decisions about (her) (his) mental health treatment.

The facts and circumstances on which we base our opinions are stated in the following report of symptoms and history of case, which is hereby made a part hereof.

According to the advance directive for mental health treatment, (name of ~~patient~~ consumer) _____, wishes to receive mental health treatment in accordance with the preferences and instructions stated in the advance directive for mental health treatment.

We are duly licensed to practice in the State of Oklahoma, are not related to _____ by blood or marriage, and have no interest in her/his estate.

Witness our hands this _____ day of _____, ~~19~~ 20__

_____, M.D., D.O., Ph.D., Other

_____, M.D., D.O., Ph.D., Other

Subscribed and sworn to before me this _____ day of _____, ~~19~~ 20__

_____

Notary Public

REPORT OF SYMPTOMS AND HISTORY OF

CASE BY EXAMINERS

1. GENERAL

Complete name _____

Place of residence _____

Sex _____ Color _____

Age _____

Date of Birth _____

2. STATEMENT OF FACTS AND CIRCUMSTANCES

Our determination that the declarant (is) (is not) in need for mental health treatment is based on the following:_____

_____

Our determination that the declarant (is) (is not) incapable of participating in mental health treatment decisions is based on the following:_____

_____

3. NAME AND RELATIONSHIPS OF FAMILY MEMBERS/OTHERS TO BE NOTIFIED

Other data _____

Dated at _____, Oklahoma, this _____ day of

_____, ~~19~~ 20__

_____, M.D., D.O., Ph.D., Other

_____

Address

_____, M.D., D.O., Ph.D., Other

_____

Address

SECTION 75. REPEALER 43A O.S. 2001, Sections 3-104, 4-109 and 8-102, are hereby repealed.

SECTION 76. 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.

Passed the House of Representatives the 22nd day of February, 2005.

_____
Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2005.

_____
Presiding Officer of the Senate