

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 2686 By: West (Rick) and Waldron of
3 the House
4 and
5 Burns of the Senate
6
7

8 An Act relating to mental health; amending 43A O.S.
9 2021, Section 3-601, which relates to opioid
10 substitution treatment programs and addicted
persons; mandating drug screens; and providing an
effective date.

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13 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
14 entire bill and insert

15 "An Act relating to substance abuse services;
16 creating the Hannah McKenzie Act of 2023; providing
short title; amending 43A O.S. 2021, Section 3-601,
17 which relates to opioid substitution treatment
programs; requiring opioid substitution treatment
18 programs to comply with certain federal requirements;
requiring drug abuse testing to be directly observed;
19 broadening grounds for certain penalties; amending 59
O.S. 2021, Section 478.1, which relates to
20 establishment of physician-patient relationship
through telemedicine; adding exception to certain
21 restriction; providing for noncodification; and
declaring an emergency.

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23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
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SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Hannah McKenzie
Act of 2023".

SECTION 2. AMENDATORY 43A O.S. 2021, 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:

1. In treating persons with a history of addiction;

2. In treating persons with a one-year history of opioid
addiction to or physiologic dependence on controlled dangerous
substances, as defined by the Code of Federal Regulations, and
documentation of attempting another type of treatment; or

3. If clinically appropriate, the program physician may waive
the requirement of a one-year history of opioid addiction for
consumers within six (6) months of release from a penal institution,
for consumers with a pregnancy verified by the program physician, or
for consumers having previously received treatment for opioid
addiction and within two (2) years of discharge from that treatment
episode.

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

4 C. For the purposes of this section, "opioid substitution
5 treatment program" means a person, private physician, or
6 organization that administers or dispenses an opioid drug to a
7 narcotic addict for the purposes of detoxification or maintenance
8 treatment or provides, when necessary and appropriate, comprehensive
9 medical and rehabilitation services. A private physician who
10 administers buprenorphine with a waiver from the Drug Enforcement
11 Administration shall not be considered an opioid substitution
12 treatment program.

13 D. An opioid substitution treatment program shall be certified
14 by the Board of Mental Health and Substance Abuse Services, or the
15 Commissioner of Mental Health and Substance Abuse Services upon
16 delegation by the Board, and registered with the federal Drug
17 Enforcement Administration for the use of an opioid drug to treat
18 narcotic addiction.

19 ~~D.~~ E. The Board of Mental Health and Substance Abuse Services
20 shall promulgate rules and standards for the certification of all
21 programs, private facilities, and organizations which provide opioid
22 substitution treatment directed to those physiologically dependent
23 on or addicted to opioids. These facilities and organizations shall
24 be known as "Opioid Substitution Treatment Programs". Only

1 certified facilities may receive and assist opioid-dependent and
2 addicted persons by providing Class II controlled substances in
3 opioid substitution treatment and rehabilitation.

4 ~~F.~~ F. The Board of Mental Health and Substance Abuse Services
5 shall promulgate rules and standards regulating the treatment and
6 services provided by opioid substitution treatment programs.

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

10 ~~F.~~ G. An opioid substitution treatment program shall comply
11 with all federal requirements for opioid treatment programs provided
12 by 42 C.F.R., Subpart C including but not limited to the requirement
13 to provide drug abuse testing services provided by 42 C.F.R.,
14 Section 8.12(f) (6). Drug abuse testing shall be directly observed
15 by an employee or contractor of the opioid substitution treatment
16 program.

17 H. Opioid substitution treatment programs shall notify the
18 Department of Mental Health and Substance Abuse Services of plans to
19 close or relocate within a minimum of thirty (30) days prior to
20 closure or relocation.

21 ~~G.~~ I. Failure to comply with rules and standards promulgated by
22 the Board of Mental Health and Substance Abuse Services pursuant to
23 this section or failure to comply with the requirements of 42
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1 C.F.R., Subpart C shall be grounds for reprimand, suspension,
2 revocation or nonrenewal of certification.

3 SECTION 3. AMENDATORY 59 O.S. 2021, Section 478.1, is
4 amended to read as follows:

5 Section 478.1. A. Unless otherwise prohibited by law, a valid
6 physician-patient relationship may be established by an allopathic
7 or osteopathic physician with a patient located in this state
8 through telemedicine, provided that the physician:

- 9 1. Holds a license to practice medicine in this state;
10 2. Confirms with the patient the patient's identity and
11 physical location; and

12 3. Provides the patient with the treating physician's identity
13 and professional credentials.

14 B. Telemedicine encounters shall comply with the Health
15 Insurance Portability and Accountability Act of 1996 and ensure that
16 all patient communications and records are secure and confidential.

17 C. Telemedicine encounters in this state shall not be used to
18 establish a valid physician-patient relationship for the purpose of
19 prescribing opiates, synthetic opiates, semisynthetic opiates,
20 benzodiazepine or carisprodol, ~~but may be~~ unless the encounter is
21 used to prescribe ~~opioid~~ opioid:

- 22 1. Opioid antagonists or partial agonists pursuant to Sections
23 1-2506.1 and 1-2506.2 of Title 63 of the Oklahoma Statutes; or

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2. A Schedule III, IV, or V controlled dangerous substance
approved by the United States Food and Drug Administration for
medication assisted treatment or detoxification treatment for
substance use disorder.

D. A physician-patient relationship shall not be created solely based on the receipt of patient health information by a physician. The duties and obligations created by a physician-patient relationship shall not apply until the physician affirmatively:

1. Undertakes to diagnose and treat the patient; or

2. Participates in the diagnosis and treatment of the patient.

SECTION 4. It being immediately necessary for the preservation of the public peace, health or 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 Senate the 26th day of April, 2023.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2023.

Presiding Officer of the House
of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 2686

By: West (Rick) and Waldron of
the House

3 and

4 Burns of the Senate
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7 An Act relating to mental health; amending 43A O.S.
8 2021, Section 3-601, which relates to opioid
9 substitution treatment programs and addicted
persons; mandating drug screens; and providing an
effective date.
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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 5. AMENDATORY 43A O.S. 2021, Section 3-601, is
14 amended to read as follows:

15 Section 3-601. A. Any Class II controlled dangerous substance,
16 when used in this state by an opioid substitution treatment program
17 for persons with a history of opioid addiction to or physiologic
18 dependence on controlled dangerous substances, shall only be used:

- 19 1. In treating persons with a history of addiction;
- 20 2. In treating persons with a one-year history of opioid
21 addiction to or physiologic dependence on controlled dangerous
22 substances, as defined by the Code of Federal Regulations, and
23 documentation of attempting another type of treatment; or
24

1 3. If clinically appropriate, the program physician may waive
2 the requirement of a one-year history of opioid addiction for
3 consumers within six (6) months of release from a penal institution,
4 for consumers with a pregnancy verified by the program physician, or
5 for consumers having previously received treatment for opioid
6 addiction and within two (2) years of discharge from that treatment
7 episode.

8 Provided, however, that persons who are participating in the
9 opioid substitution treatment program, pursuant to this subsection,
10 shall be administered a minimum of eight random, witnessed, urine
11 drug screens annually.

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

15 C. For the purposes of this section, "opioid substitution
16 treatment program" means a person, private physician, or
17 organization that administers or dispenses an opioid drug to a
18 narcotic addict for the purposes of detoxification or maintenance
19 treatment or provides, when necessary and appropriate, comprehensive
20 medical and rehabilitation services. A private physician who
21 administers buprenorphine with a waiver from the Drug Enforcement
22 Administration shall not be considered an opioid substitution
23 treatment program. An opioid substitution treatment program shall
24 be certified by the Board of Mental Health and Substance Abuse

1 Services, or the Commissioner of Mental Health and Substance Abuse
2 Services upon delegation by the Board, and registered with the
3 federal Drug Enforcement Administration for the use of an opioid
4 drug to treat narcotic addiction.

5 D. The Board of Mental Health and Substance Abuse Services
6 shall promulgate rules and standards for the certification of all
7 programs, private facilities, and organizations which provide opioid
8 substitution treatment directed to those physiologically dependent
9 on or addicted to opioids. These facilities and organizations shall
10 be known as "Opioid Substitution Treatment Programs". Only
11 certified facilities may receive and assist opioid-dependent and
12 addicted persons by providing Class II controlled substances in
13 opioid substitution treatment and rehabilitation.

14 E. The Board of Mental Health and Substance Abuse Services
15 shall promulgate rules and standards regulating the treatment and
16 services provided by opioid substitution treatment programs.
17 Failure to comply with rules and standards promulgated by the Board
18 shall be grounds for revocation, suspension or nonrenewal of
19 certification.

20 F. Opioid substitution treatment programs shall notify the
21 Department of Mental Health and Substance Abuse Services of plans to
22 close or relocate within a minimum of thirty (30) days prior to
23 closure or relocation.

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1 G. Failure to comply with rules and standards promulgated by
2 the Board of Mental Health and Substance Abuse Services pursuant to
3 this section shall be grounds for reprimand, suspension, revocation
4 or nonrenewal of certification.

5 SECTION 6. This act shall become effective November 1, 2023.

6 Passed the House of Representatives the 23rd day of March, 2023.

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8 _____
9 Presiding Officer of the House
of Representatives

10 Passed the Senate the ____ day of _____, 2023.

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13 _____
14 Presiding Officer of the Senate
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