STATE OF OKLAHOMA
Department of Mental Health and Substance Abuse Services

Title 43A
Mental Health Law

November 1, 2013 thru
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For additional copies of this publication contact
ODMHSAS Resource Center
Shepherd Mall – Suite 82
2401 NW 23rd Street
Oklahoma City, Oklahoma 73107
(405) 522-3810
or
www.odmhsas.org

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2013
TITLE 43A
MENTAL HEALTH LAW

SHORT TITLE, PURPOSE, DEFINITIONS AND POLICY

§ 1-101. Mental Health Law

This act shall be known as the Mental Health Law.

§ 1-102. Purpose

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

1. Are mentally ill; or
2. Require treatment for drug or alcohol abuse

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

§ 1-103. Definitions

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 the Mental Health 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 an individual with mental illness, or drug or alcohol dependency, gambling addiction, eating disorders, an opioid substitution treatment program, including, but not limited to, public or private hospitals, community mental health centers, clinics, satellites or facilities; provided that facility shall not mean a child guidance center operated by the State Department of Health;
8. "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 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 the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act or the Oklahoma Osteopathic Medicine Act,
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 the Licensed Professional Counselors Act,
e. a person licensed as a clinical social worker pursuant to the provisions of the Social Worker's Licensing Act,
f. a licensed marital and family therapist as defined in the Marital and Family Therapist Licensure Act,
g. a licensed behavioral practitioner as defined in the Licensed Behavioral Practitioner Act,
h. an advanced practice nurse as defined in the Oklahoma Nursing Practice Act specializing in mental health,
i. a physician's assistant who is licensed in good standing in this state and has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions, or
j. a licensed drug and alcohol counselor/mental health ("LADC/MH") as defined in the Licensed Alcohol and Drug Counselors Act;
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 a person who because of his or her mental illness or drug or alcohol dependency:
(1) poses a substantial risk of immediate physical harm to self as manifested by evidence or serious threats of or attempts at suicide or other significant self-inflicted bodily harm,
(2) poses a substantial risk of immediate physical harm to another person or persons as manifested by evidence of violent behavior directed toward another person or persons,
(3) has 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 and immediate threats,
(4) is in a condition of severe deterioration such that, without immediate intervention, there exists a substantial risk that severe impairment or injury will result to the person, or
(5) poses a substantial risk of immediate serious physical injury to self or death as manifested by evidence that the person is unable to provide for and is not providing for his or her basic physical needs.
b. The mental health or substance abuse history of the person may be used as part of the evidence to determine whether the person is a person requiring treatment. The mental health or substance abuse history of the person shall not be the sole basis for this determination.
c. Unless a person also meets the criteria established in subparagraph a of this paragraph, person requiring treatment shall not mean:
(1) a person whose mental processes have been weakened or impaired by reason of advanced years, dementia, or Alzheimer's disease,

(2) a mentally retarded or developmentally disabled person as defined in Title 10 of the Oklahoma Statutes,
(3) a person with seizure disorder,
(4) a person with a traumatic brain injury, or
(5) a person who is homeless.
d. A person who meets the criteria established in this section, but who is medically unstable, or the facility holding the person is unable to treat the additional medical conditions of that person should be discharged and transported in accordance with Section 1-110 of this title;
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 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. The term "private hospital" or "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;
18. "Telemedicine" means the practice of health care delivery, diagnosis, consultation, evaluation, treatment, transfer of medical data, or exchange of medical education information by means of audio, video, or data communications. Telemedicine uses audio and video multimedia telecommunication equipment which permits two-way real-time communication between a health care practitioner and a patient who are not in the same physical location. Telemedicine shall not include consultation provided by telephone or facsimile machine; and
19. "Recovery and recovery support" means nonclinical services that assist individuals and families to recover from alcohol or drug problems. They include social support, linkage to and coordination among allied service

providers, including but not limited to transportation to and from treatment or employment, employment services and job training, case management and individual services coordination, life skills education, relapse prevention, housing assistance, child care, and substance abuse education.

§ 1-104. Public Policy

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 consumers hospitalized pursuant to law.

§ 1-105. Mental or Legal Incompetence – Presumptions

No person admitted to any facility shall be considered or presumed to be mentally or legally incompetent except those persons who have been determined to be mentally or legally incompetent in separate and independent proceedings of an appropriate district court.

§ 1-106. District Attorney to Represent State in Proceedings for Involuntary Admissions

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

§ 1-107. Venue

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. If a civil action for involuntary commitment can be brought in more than one county pursuant to the provisions of subsection A of this section, the action may be filed in any of such counties. No court shall refuse any case solely because the action may have been brought in another county.

C. 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 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.

D. 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.

E. 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.

F. 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.

§1-108. Habeas Corpus

A. Anyone in custody as a person in need of treatment or a 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 a writ of habeas corpus, 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 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 consumer, as it appears in the facility record, shall be given in evidence, and the executive director of the facility wherein the consumer is held in custody shall testify as to the condition of the consumer.

E. The executive director shall make available for examination by physicians selected by the person seeking the writ, the 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 consumer shall be admitted in evidence.

§ 1-109. Privileged, Confidential Nature of Medical Records and Physician/Client Communications

A. 1. All mental health and drug or alcohol abuse treatment information, whether or not recorded, and all communications between a physician or licensed mental health professional as defined in Section 1-103 of this title, or a licensed alcohol and drug counselor as defined in Section 1871 of Title 59 of the Oklahoma Statutes, and a 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 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. Except as otherwise provided in this section, such information shall not be disclosed to anyone not involved in the treatment of the patient or related administrative work.

B. A person who is or has been a consumer of a physician, a licensed mental health professional as defined in Section 1-103 of this title, a licensed alcohol and drug counselor as defined in Section 1871 of Title 59 of the Oklahoma Statutes, a mental health facility, a drug or alcohol abuse treatment facility or service, or other agency for the purpose of mental health or drug or alcohol abuse care and treatment, or such person's treatment advocate as defined in Section 1-109.1 of this title, shall be entitled to personal access to his or her mental health or drug or alcohol abuse treatment information, except the following:

1. Information contained in notes recorded in any medium by a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint or family counseling session, and that is separated from the rest of the patient's medical record;

2. Information compiled in reasonable anticipation of or for use in a civil, criminal or administrative action or proceeding;

3. Information that is otherwise privileged or prohibited from disclosure by law;

4. Information the person in charge of the care and treatment of the patient determines to be reasonably likely to endanger the life or physical safety of the patient or another person;

5. Information created or obtained as part of research that includes treatment; provided, the patient consented to the temporary suspension of access while the research is ongoing. The patient's right of access shall resume upon completion of the research;

6. Information requested by an inmate that a correctional institution has determined may jeopardize the health, safety, security, custody or rehabilitation of the inmate or other person; and

7. Information obtained under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.

C. 1. A valid written release for disclosure of mental health or drug or alcohol abuse treatment information shall have, at a minimum, the following elements:

a. the specific name or general designation of the program or person permitted to make the disclosure,

b. the name or title of the individual or the name of the organization to which disclosure is to be made,

c. the name of the consumer whose records are to be released,

d. the purpose of the disclosure,

e. a description of the information to be disclosed,

f. the dated signature of the consumer or authorized representative or both when required,

g. a statement of the right of the consumer to revoke the release in writing and a description of how the consumer may do so,

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

i. if the release is signed by a person authorized to act for a consumer, a description of the authority of such person to act.

2. A release is not valid if the document submitted has any of the following defects:
a. the expiration date has passed or the expiration event or condition is known to have occurred or to exist,
b. the release has not been filled out completely with respect to an element described in paragraph 1 of this section,
c. the release is known to have been revoked, or
d. any material information in the release is known to be false.
3. A revocation of a release as provided in this section shall be in writing and may be made at any time, except when:
a. information has already been released in reliance thereon,
b. the authorization was obtained as a condition of obtaining insurance coverage and other law provides the insurer with the right to contest a claim under the policy or the policy itself, or
c. the release was executed as part of a criminal justice referral.
4. Disclosure regarding a deceased consumer shall require either a court order or a written release of an executor, administrator or personal representative appointed by the court, or if there is no such appointment, by the spouse of the consumer or, if none, by any responsible member of the family of the consumer. As used in this paragraph, "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 patient as verified by the physician, psychologist or other person responsible for the care and treatment of such person.
D. Except as otherwise permitted, mental health and alcohol or substance abuse treatment information may not be disclosed without valid patient authorization or a valid court order issued by a court of competent jurisdiction. For purposes of this section, a subpoena by itself is not sufficient to authorize disclosure of mental health and alcohol or substance abuse treatment information.
E. An authorization shall not be required for the following uses and disclosures, but information disclosed pursuant to one of these exceptions must be limited to the minimum amount of information necessary:
1. Disclosure by a health care provider of mental health information necessary to carry out another provider's own treatment, payment, or health care operations. Such disclosures shall be limited to mental health information and shall not include substance abuse information;
2. Communications to law enforcement officers regarding information directly related to the commission of a crime on the premises of a facility or against facility personnel, or a threat to commit such a crime. Such communications involving persons with substance abuse disorders shall be limited to the circumstances surrounding the incident, consumer status, name and address of that individual and the last-known whereabouts of that individual;
3. A review preparatory to research, research on decedents information or research conducted when a waiver of authorization has been approved by either an institutional review board or privacy board;
4. Communications pursuant to a business associate agreement, qualified service organization agreement or a qualified service organization/business associate agreement. As used in this paragraph:

a. "business associate agreement" means a written signed agreement between a health care provider and an outside entity which performs or assists in the performance of a function or activity involving the use or disclosure of individually identifiable health information on behalf of the health care provider,
b. "qualified service organization agreement" means a written, signed agreement between a health care provider and an outside entity which provides services to the health care provider's consumers that are different from the services provided by the health care provider, that allows the health care provider to communicate consumer information necessary for the outside entity to provide services to the health care provider's consumers without the need for an authorization signed by a consumer and in which the outside entity acknowledges that in receiving, storing, processing or otherwise dealing with any consumer information from the health care provider it is fully bound by the provisions of 42 C.F.R., Part 2 and, if necessary, will resist any efforts in judicial proceedings to obtain access to consumer information, except as permitted by 42 C.F.R., Part 2, and
c. "qualified service organization/business agreement" means a written, signed agreement between a health care provider and an outside entity which provides services to the health care provider's consumers that are different from the services provided by the health care provider, that allows the health care provider to communicate consumer information necessary for the outside entity to provide services to the health care provider's consumers without the need for an authorization signed by a consumer, and in which the outside entity acknowledges that in receiving, storing, processing or otherwise dealing with any consumer information from the health care provider it is fully bound by the provisions 42 C.F.R., Part 2 and, if necessary, will resist any efforts in judicial proceedings to obtain access to consumer information, except as permitted by 42 C.F.R., Part 2. The agreement must also contain elements required by federal privacy regulations in 45 C.F.R., Parts 160 & 164;
5. Reporting under state law incidents of suspected child abuse or neglect to the appropriate authorities; provided, however, for disclosures involving an individual with a substance abuse disorder, this exception does not allow for follow-up communications;
6. Disclosure of consumer-identifying information to medical personnel who have a need for information about a 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;
7. Communications necessary for audit and evaluation activities;
8. When a program or facility director determines that an adult person with a substance abuse disorder has a medical condition which prevents the person from "knowing or effective action on his or her own behalf", the program or facility director may authorize disclosures for the sole purpose of obtaining payment for services. If the person has been adjudicated incompetent, the facility must seek permission to disclose information for payment from the legal guardian;
9. Reporting of such information as otherwise required by law; provided, however, such disclosure may not identify the person directly or indirectly

as a person with a substance abuse disorder;
10. Communications to coroners, medical examiners and funeral directors for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law and as necessary to carry out their duties; provided, however, such disclosure may not identify the person directly or indirectly as a person with a substance abuse disorder;
11. Communications to organ procurement organizations or other entities engaged in procurement, banking, or transplantation of cadaveric organs, eyes or tissue for the purpose of facilitating organ, eye or tissue donation and transplantation; provided, however, such disclosure may not identify the person directly or indirectly as a person with a substance abuse disorder;
12. Disclosure to professional licensure boards investigating alleged unethical behavior towards a patient; provided, however, such disclosure may not identify the person directly or indirectly as a person with a substance abuse disorder;
13. Disclosure to the parent of a minor for the purpose of notifying the parent of the location of his or her child; provided, however, such disclosure may not identify the person directly or indirectly as a person with a substance abuse disorder;
14. Mental health records may be disclosed to parties in a judicial or administrative proceeding in cases involving a claim for personal injury or death against any practitioner of the healing arts, a licensed hospital, or a nursing facility or nursing home licensed pursuant to Section 1-1903 of Title 63 of the Oklahoma Statutes arising out of patient care, where any person has placed the physical or mental condition of that person in issue by the commencement of any action, proceeding, or suit for damages, or where any person has placed in issue the physical or mental condition of any other person or deceased person by or through whom the person rightfully claims;
15. Disclosure of 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. Such disclosures shall be limited to mental health information and shall not include substance abuse information; and
16. When failure to disclose the information presents a serious threat to the health and safety of a person or the public; provided, however, such disclosure may not identify the person directly or indirectly as a person with a substance abuse disorder.

§ 1-109.1. Designation of Family Member as Treatment Advocate – Treatment Advocate Consent Form

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 consumer has the right to designate a family member or other concerned individual as a treatment advocate.
2. The individual designated as a treatment advocate shall act at all times in the best interests of the 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 consumer to the extent consented to by the consumer and as permitted by law.
5. A person holding the powers vested in a guardianship of the person, a grant of general health care decision-making authority or designation of health care proxy contained in an advance directive for health care, or a durable power of attorney with health care decision-making authority shall be the treatment advocate for the patient by operation of 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.

§ 1-110. Reimbursement of Sheriffs from Department of Mental Health and Substance Abuse Services

A. Sheriffs and peace officers shall be responsible for transporting individuals to and from designated sites or facilities for the purpose of examination, emergency detention, protective custody and inpatient services.

B. A municipal law enforcement agency shall be responsible for any individual found within such municipality's jurisdiction. The county sheriff shall be responsible for any individual found outside of a municipality's jurisdiction, but within the county.

C. The law enforcement agency transporting an individual to and from designated sites or facilities pursuant to the provisions of this section shall maintain responsibility for the transportation of such individual pending completion of the examination, emergency detention, protective custody and inpatient services.

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

E. Any transportation provided by a sheriff or deputy sheriff or a peace officer on behalf of any county, city, town or municipality of this state, to or from any facility for the purpose of examination, admission, interfacility transfer, medical treatment or court appearance shall be reimbursed in accordance with the provisions of the State Travel Reimbursement Act.

F. Nothing in this section shall prohibit a law enforcement agency from entering into a lawful agreement with any other law enforcement agency to fulfill the requirements established by this section.

DEPARTMENT AND BOARD OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

§ 2-101. Department of Mental Health and Substance Abuse Services

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 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.

§ 2-102. Charge and Control of Institutions in Department

Unless otherwise specified by law, the Department of Mental Health and Substance Abuse Services shall have charge and control of any and all state institutions established for the care of the

mentally ill and drug- or alcohol-dependent person.

§ 2-103. Board of Mental Health – Members – Meetings – Official Duties – Travel Expenses – Members' Service on Board of Medical Licensure and Supervision

A. The Board of Mental Health and Substance Abuse Services shall be composed of eleven (11) members, appointed by the Governor, with the advice and consent of the Senate. Each term is for a seven-year period and members may be reappointed to subsequent terms. Board members shall meet the following criteria:

1. One member, who shall be a physician licensed to practice in this state, and one member, who shall be a psychiatrist certified as a diplomate of the American Board of Psychiatry and Neurology, shall both be appointed from a list containing the names of not less than three physicians and not less than three psychiatrists submitted to the Governor by the Oklahoma State Medical Association;

2. One member, who shall be an attorney licensed to practice in this state and shall be appointed from a list of not less than three names submitted to the Governor by the Board of Governors of the Oklahoma Bar Association;

3. One member, who shall be a psychologist, licensed to practice in this state, who shall be appointed from a list of not less than three names submitted to the Governor by the Oklahoma State Psychological Association;

4. Three members, qualified by education and experience in the area of substance abuse recovery, who shall be appointed from a list of not less than ten names submitted to the Governor by a state association of substance abuse recovery programs or organizations; and

5. Four members who shall be citizens of this state, at least one of whom shall be either a current or former consumer of mental health services.

B. No person shall be appointed a member of the Board who has been a member of the Legislature of this state within the preceding five (5) years.

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

D. All regularly scheduled meetings of the Board shall be held at the Central Office of the Department of Mental Health and Substance Abuse Services, Oklahoma City, Oklahoma, unless otherwise scheduled. Six members shall constitute a quorum at any meeting, and all action may be taken by an affirmative vote of the majority of the members present at any such meeting.

E. The action taken by the Board on any matter, or any document passed by the Board, shall be considered official when such action is placed in writing and signed by the chair or vice-chair.

F. The duties of the Board shall pertain to the care, treatment, and hospitalization of persons with mental illness, or alcohol- or drug-dependent persons.

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

H. Members of the Board of Mental Health and Substance Abuse Services shall be allowed to serve on the State Board of Medical Licensure and Supervision during members' terms on the Board of Mental Health and Substance Abuse Services.

§ 2-104. Surplus Equipment – Purchasing Agent – Authorization to Spend Funds on Recreational Facilities

A. The Department of Mental Health and Substance Abuse Services may declare equipment which is surplus to the needs of the Department to the Office of Management and Enterprise Services. The Office of Management and Enterprise Services shall dispose of the surpluses as provided by law.

B. The Office of Management and Enterprise Services shall be the purchasing agency for all facilities for which appropriations are made in the Mental Health Law, but shall not have authority to determine the propriety of purchases of institutions over which the Office of Management and Enterprise Services is not the controlling entity.

C. The Department is authorized to spend funds for the development of recreational facilities on state-owned land outside the facility grounds.

§ 2-105. Board as Mental Health and Substance Abuse Services as Mental Health and Substance Abuse Services Authority

On and after July 1, 1967, the Board of Mental Health and Substance Abuse Services shall be the Mental Health and Substance Abuse Services Authority of the State of Oklahoma.

§ 2-106. Donations, Grants, Devises, and Bequests – Investment of Funds – Lease or Sale of Property – Annual Account to State Auditor and Inspector

A. 1. The Board of Mental Health and Substance Abuse Services, the Commissioner of Mental Health and Substance Abuse Services or any employee of the Department of Mental Health and Substance Abuse Services designated by the Commissioner may solicit and receive contributions, gifts and donations for use by the Department of Mental Health and Substance Abuse Services, or to any institution therein. The Board of Mental Health and Substance Abuse Services shall accept, hold in trust and authorize the use of any grant or devise of land, or any donation or bequest of money, or other personal property made to the Department of Mental Health and Substance Abuse Services, or to any institution therein, so long as the terms of the grant, donation, bequest, gift, or will are carried out.

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

B. The Board may lease any property owned or held in trust to any other state agency, political subdivision, federal agency, county, municipality or a nonprofit organization for a period not to exceed fifty (50) years.

C. The Department must annually account to the State Auditor and Inspector for all monies or property received or expended by virtue of this section. The account shall state:

1. The source of the monies or property received with the actual date of its receipt;

2. The particular use or place for which it was expended; and

3. The balance on hand showing the place of deposit of the unexpended balance.

§ 2-107. Approval of Easements, Leases, etc. – Deposit of Monies

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 "Capital Outlay Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of income as provided in this section and any monies transferred by the Department into the fund.

2. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department for the purposes described in this section and for improvements to real property owned by the Department or held in the Department's trust as authorized by Section 2-111 of this title. Expenditures from 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.

B. On and after July 1, 1988, no easement, right-of-way, oil and gas lease or surface lease on any land used or occupied by any institution, under the jurisdiction of the Board of Mental Health and Substance Abuse Services, shall be granted or conveyed without the approval of the Board. All monies hereafter received or derived from such easements, rights-of-way and leases, including, but not limited to, rentals and royalties for leases and from sale of equipment, shall be deposited in the Capital Outlay Fund of the Department of Mental Health and Substance Abuse Services and used by the Board for capital improvement at any Department of Mental Health and Substance Abuse Services facility and for improvements to real property owned by the Department or held in the Department's trust as authorized by Section 2-111 of this title, except as otherwise provided by the Legislature.

§ 2-108. Investigation into Care and Treatment of the Mentally Ill – Resolution of Complaints – Confidentiality of Records

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

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

C. Except as otherwise specifically provided in this section and as otherwise provided by state or federal laws, the information, records, materials, and reports related to investigations by the Department into allegations of consumer abuse, neglect, or mistreatment shall be confidential and contain privileged information. Accordingly, such records, materials, and reports shall not be open to public inspection nor their contents disclosed, nor shall a subpoena or subpoena duces tecum purporting to compel disclosure of such information be valid.

1. An order of the court authorizing the inspection, release, or disclosure of information, records, materials, and reports related to investigations by the Department shall be entered by a court

only after a review of the records and a determination, with due regard for the confidentiality of the information and records and the privilege of the persons identified in the records, that a compelling reason exists, any applicable privilege has been waived, and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.
2. This section shall not be construed to prohibit the Department from summarizing the allegation or allegations made, facts and evidence gathered, and any findings of an investigation pursuant to this section. The summary may be provided to the following individuals and entities, provided the individuals or entities agree to protect the summary from disclosure:
a. the person suspected of abuse, neglect or improper treatment,
b. the person subject to the alleged abuse, neglect or improper treatment,
c. the person who reported the allegation,
d. the state and federal oversight, licensing or accrediting agency,
e. the administrator of a facility certified by or under contract with the Department at which the alleged abuse, neglect or improper treatment occurred,
f. any persons necessary to implement appropriate personnel action against the person suspected of abuse, neglect or mistreatment if evidence is found to support the allegation, and
g. the appropriate law enforcement agency, district attorney's office or any other entities as required by state and federal law.

§ 2-109. Office of Consumer Advocacy – Duties of Advocate General – Confidentiality – Disclosure

A. The Department of Mental Health and Substance Abuse Services is authorized and directed to establish the Office of Consumer Advocacy within the Department of Mental Health and Substance Abuse Services and to employ such personnel as may be necessary to carry out the purposes of this section. The Office of Consumer Advocacy shall have access to facilities operated by, subject to certification by or under contract with the Department and the records of such facilities, including but not limited to, records of individuals receiving services. Records that are confidential under state and federal law shall be maintained as confidential and not be redisclosed.
B. The Advocate General and the staff of the Office of Consumer Advocacy shall not act as attorneys on behalf of individuals receiving services from facilities operated by, subject to certification by or under contract with the Department, except that they shall have the authority to file habeas corpus actions on behalf of such individuals and appear on their behalf in civil commitment and criminal post-commitment proceedings, and also appear on behalf of Department consumers in proceedings for writs of mandamus.
C. Except as otherwise specifically provided in this section and as otherwise provided by state or federal laws, the information, records, materials and reports related to investigations by the Office of Consumer Advocacy are confidential and contain privileged information. Accordingly, such records, materials and reports shall not be open to public inspection nor their contents

disclosed, nor shall a subpoena or subpoena duces tecum purporting to compel disclosure of such information be valid.

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

§ 2-110. Citizen Advisory Group

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

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

§ 2-111. Creation of Real Property Trust

A. 1. The Board of Mental Health and Substance Abuse Services is hereby authorized and directed to create a trust into which all real property held by or for the benefit of the Department of Mental Health and Substance Abuse Services shall be transferred.

2. The trust shall provide that:

a. the property placed into the trust may never be sold but shall be held in perpetuity for the sole benefit of the Department, and

b. the property held by the trust which is not needed for use by the Department may be leased or rented to others and all income received from such leases or rentals shall be payable to the Department for use by the Department to fulfill the purposes of the Department.

B. Upon the creation of the trust authorized in subsection A of this section, the Office of Management and Enterprise Services is directed to provide all necessary assistance to the Department of Mental Health and Substance Abuse Services to identify and transfer all property held by or for the benefit of the Department of Mental Health and Substance Abuse Services to the trust. Except as provided in subsection C of this section, the Office of Management and Enterprise Services is authorized and directed to provide all requested assistance to the Department of Mental Health and Substance Abuse Services in leasing property placed in such trust.

C. The Commissioners of the Land Office are authorized and directed to provide all requested assistance to the Department of Mental Health and Substance Abuse Services in leasing mineral interests placed in such trust.

§§ 2-150 to 2-152. Repealed

COMMISSIONER, EXECUTIVE DIRECTORS, OFFICERS, EMPLOYEES, COUNSEL

§ 2-201. Qualifications and Salary of Commissioner of Mental Health and Substance Abuse Services

A. A Commissioner of Mental Health and Substance Abuse Services shall be appointed by the Board of Mental Health and Substance Abuse Services. The Commissioner may only be removed by the Board for cause. The Commissioner shall meet at least one of the following qualifications:

1. Possession of a Doctor of Medicine Degree and a license to practice medicine in this state;
2. Possession of an Osteopathic Medicine Degree and a license to practice medicine in this state;
3. Possession of a Doctor of Public Health Degree;
4. Possession of a Doctoral Degree in Psychology and a license to practice psychology in this state;
5. Possession of a Master of Public Health Degree and a minimum of five (5) years of supervisory experience in the administration of health services; or
6. Possession of a Master of Arts or Master's Degree in Business Administration, Social Science or a related field and a minimum of five (5) years of supervisory experience in the administration of health services.

B. The salary of the Commissioner shall be fixed by the Board.

§ 2-202. Repealed

§ 2-202.1. Powers and Duties Commissioner of Mental Health and Substance Abuse Services

A. The Commissioner of Mental Health and Substance Abuse Services shall have charge of the administration of the Department of Mental Health and Substance Abuse Services as directed by the Board of Mental Health and Substance Abuse Services and shall be charged with the duty of carrying out the provisions of the Mental Health Law. The duties of the Commissioner shall include, but not be limited to, the following:

1. Supervising the activities of the Department;
2. Prescribing rules and regulations, as approved by the Board of Mental Health and Substance Abuse Services, for the efficient, uniform, and professional operation of the Department, consistent with the mission of the Department, including the official forms used or described in this title;
3. Prescribing policies and procedures for the operation of the Department;
4. Employing necessary personnel to perform the duties of the Department, prescribing titles and duties, and fixing compensation, including the employment of attorneys to provide legal assistance to the Department;
5. Accepting, using, disbursing, and administering grants, allotments, gifts, devises, bequests, appropriations, and other monies and property offered or given to the Department, or any component or agency thereof, by an agency of the federal government or any corporation or individual for the use of the Department;
6. Making contracts and agreements with other departments of this state to carry out the provisions of this section;

7. Acting as the official agency of this state in all matters relating to mental health or substance abuse which require or authorize cooperation of this state with the federal government or any agency thereof; coordinating the activities of the Department with those of the federal government or any department or agency thereof, and with other states, on matters pertaining to mental health and substance abuse, and entering into agreements for such purpose;

8. Aiding, assisting, and cooperating with other state agencies, government entities, institutions of higher learning, public schools, and others interested in public education regarding the issues of mental health and substance abuse in the establishment of sound mental health and substance abuse programs in this state; and

9. Designating the type of consumer that will be cared for at each facility and designating hospital or community mental health center districts for the purpose of determining to which 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.

B. The Commissioner or designee may delay inpatient admissions when such admissions would cause facilities to exceed their authorized capacity.

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. The Commissioner shall have any other power necessary to implement the provisions of the Mental Health Law.

§ 2-203. Classifications of Employee Positions

The Commissioner of Mental Health and Substance Abuse Services shall classify as a part of the Merit System of Personnel Administration all positions for which there are established Merit System Classifications, except those positions unique to hospital and clinic functions, those positions held by employees of the Department of Mental Health and Substance Abuse Services who perform behavioral health services, those positions in facilities that were formerly privately operated but are now under the operational and management control of the Department, or those associated administrative and support employees whose salaries are paid from contractual agreements with managed care companies, health maintenance organizations, preferred provider organizations, hospital or health care networks, insurance plans, private business or other government agencies; provided, the employment of personnel whose salaries are paid from such contractual agreements shall be limited to the duration of the contracts or renewals thereof under which such personnel are employed. Provided further, no employee shall have the salary of that employee decreased as a result of the classification action herein directed.

§ 2-204. Repealed

§ 2-205. Internal Audit Program

The Department of Mental Health and Substance Abuse Services is hereby directed to employ one or more internal auditors to establish and perform an effective and comprehensive internal audit program. Such program shall include, but not be limited to, reviews of

accounting procedures, internal control, financial management and compliance with laws, regulations, policies and executive and legislative directives for the Department's administrative offices, institutions, community mental health centers and contractors. Internal audit final reports shall be made available to the Governor, the State Auditor and Inspector, the Legislative Service Bureau, the Board of Mental Health and Substance Abuse Services and the Commissioner of Mental Health and Substance Abuse Services.

§ 2-206. Legal services

The Department of Mental Health and Substance Abuse Services may provide for legal services, and the Commissioner may employ or contract with attorneys as needed and determine their salaries; provided, however, that the attorneys may appear for and represent the Commissioner, the Board of Mental Health and Substance Abuse Services, administrative supervisors of facilities and Department personnel in administrative hearings and other legal actions and proceedings. Provided, further, that the Attorney General shall continue to give his opinion to the Department and to prosecute and defend action therefor, if requested to do so.

§ 2-207. Authority of Commissioner to Employ Personnel and Counsel

The Commissioner of Mental Health and Substance Abuse Services may employ persons to assist in collecting the amount due the state for the care and treatment of consumers, and may employ counsel to institute such actions or proceedings as the Commissioner may deem proper to enforce the claim of the state for the care and treatment of a consumer against the consumer.

§§ 2-208 to 2-212. Repealed

§ 2-213. Chaplain

Each institution within the Department may have a chaplain. The duties of the chaplain shall be established by the Commissioner.

§ 2-214. Training Schools or Facilities for Personnel

The Commissioner of Mental Health and Substance Abuse Services is authorized to establish training schools within the Department or within any of the institutions operated by the Department, for the training of necessary personnel for the institutions, or may arrange for the training of employees or prospective employees in any public or private school or institution within this state or elsewhere having available facilities for that purpose. Funds of the Department and/or institutions under its control may be used to pay salaries to employees, or to pay tuition and subsistence for employees or prospective employees, while receiving such training. Any employee or prospective employee who is paid a salary, or for whom tuition and subsistence are furnished, while receiving such training, shall be required to enter into a contract prior to receiving such training, that unless he continues in the employ of the Department for at least a period equivalent to the training, he will reimburse to the Department the sum paid to or for him by the Department during the period of his training.

§§ 2-215 to 2-217. Repealed

§ 2-218. Misuse or Misappropriation of Funds a Misdemeanor – Punishment

Any officer or employee within the Department who shall misuse or misappropriate any funds or other property of a canteen established at an institution within the Department shall be guilty of a misdemeanor and, upon conviction, shall be fined not to exceed One Thousand Dollars ($1,000.00) or confined in the county jail for not more than one (1) year, or both such fine and imprisonment.

§ 2-219. Abuse to Consumers a Felony – Punishment

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 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 fine and imprisonment.

§ 2-220. Failure of Superintendent to Report Abuse to County Officers a Misdemeanor

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 consumer confined in the facility to be subjected to such conduct shall be guilty of a misdemeanor.

§ 2-221. Services of Other State Agencies – Contracts with Employees of Other State Agencies

A. The Department of Mental Health and Substance Abuse Services may utilize the services of other state agencies, boards and commissions pursuant to the State Personnel Interchange Program, Section 840.26 et seq. of Title 74 of the Oklahoma Statutes.

B. The Department may employ and may enter into contracts with employees of other state agencies, boards and commissions, provided:

1. The work hours of employment would not be contemporaneous; and

2. No conflict of interest would result.

§§ 2-222 and 2-223. Repealed

§ 2-224. Authority to Collect Information

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

B. The individual forms, computer tapes and other forms of data collected by and furnished to the Department shall be confidential and shall not be public records as defined in the Oklahoma Open Records Act.

Except as otherwise provided by state and federal confidentiality laws, identifying information shall not be disclosed and shall not be used for any public purpose other than the creation

and maintenance of anonymous datasets for statistical reporting and data analysis.

OFFICES, RECORDS, FUNDS, INSURANCE, PURCHASING

§ 2-301. Office, Records and Files

The principal office of the Department, with all records and files of same, shall be maintained in Oklahoma City, Oklahoma and shall be designated the central office. Names of all personnel employed in each institution in the Department; all essential and important data; statistical information and correspondence relative to the Department and its institutions shall be filed in the office of the Commissioner and by his supervision.

§ 2-302. Petty Cash Fund at Central Office

There is hereby created a petty cash fund at the Central Office. The Director of the Office of Management and Enterprise Services and the Commissioner of Mental Health and Substance Abuse Services are authorized to fix the maximum amount of these petty cash funds and the Director of The Office of Management and Enterprise Services shall prescribe the rules and procedures for the administration of these petty cash funds.

§ 2-303. Department of Mental Health and Substance Abuse Services Revolving Fund

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 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 consumers,

d. earnings and proceeds in the conduct and management of the dairy, farm, truck, garden, livestock and any industries of such facilities,

e. receipts from sale of excess byproducts, excess property and salvage items,

f. certification fees,

g. gifts, donations and bequests, and

h. 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.

2. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

§ 2-304. Malpractice Insurance for Certain Employees

The Department of Mental Health and Substance Abuse Services may

purchase, with public funds, insurance to protect against malpractice and other liability on the part of professional staff and other employees, administrators and members of the Board of Mental Health and Substance Abuse Services. This section shall not be construed to make the state, the Board, or any division of the Department of Mental Health and Substance Abuse Services liable for damages from any cause.

§ 2-305. Authorization to Purchase

Facilities within the Department of Mental Health and Substance Abuse Services are hereby authorized to purchase ambulances, handicapped-equipped transportation vehicles, buses and fire fighting equipment, including fire trucks, from funds available for the operating expenses of the institutions.

§ 2-306. State Board of Public Affairs Purchasing Agent

A. The Office of Management and Enterprise Services shall be the purchasing agent for each institution in the Department of Mental Health and Substance Abuse Services, but in other matters has no governing power or control of the institutions. In other matters, the Department of Mental Health and Substance Abuse Services has sole and exclusive control of institutions of the Department when such institutions deal with the care and treatment of mentally ill persons.

B. The Office of Management and Enterprise Services shall provide all necessary assistance to the Department of Mental Health and Substance Abuse Services in transferring property to a trust created pursuant to Section 1 of this act.

§ 2-307. Trust for Benefit of Any Insane Person or Persons

Any will or conveyance by which any real or personal estate may be directed to be sold or converted into money, and the proceeds paid over to the state, or the Treasurer thereof, in trust for any insane person, and any will bequeathing or deed conveying any money to this state or the people thereof, in trust for any insane person or poor person, is hereby declared to be legal and valid, as to such trust, and the trust so reposed and declared shall be accepted subject to the conditions, restrictions and limitations contained in this act. No trust shall be accepted under this act unless the monies so bequeathed, or the proceeds of sale of real or personal estate so devised, bequeathed or conveyed shall amount to at least One Hundred Dollars ($100.00).

§§ 2-308 and 2-309. Repealed

§ 2-310. Creation of Intra-agency Reimbursement Revolving Fund

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 "Intra-agency Reimbursement Revolving Fund". The fund shall be a continuing fund not subject to fiscal year limitations. Revenues to the fund shall consist only of intra-agency payments from the allocation of operating costs among budgeted activities. 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 operating expenses of the Department of Mental Health and Substance Abuse Services. Expenditures

from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

§ 2-311. Community-based Substance Abuse Revolving Fund

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 Community-based Substance Abuse Revolving Fund. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department of Mental Health and Substance Abuse Services from low-point beer permits pursuant to Section 163.7 of Title 37 of the Oklahoma Statutes, enrollment fees for alcohol and drug substance abuse courses pursuant to the provisions of Section 3-453 of this title, and fees from certification of assessment agencies and assessment personnel pursuant to the provisions of Section 3-460 of this title. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department of Mental Health and Substance Abuse Services for the purpose of providing training and administrative services pursuant to the provisions of Sections 3-453 and 3-460 of this title, contracting with private facilities, organizations and tribal programs to provide treatment, counseling, rehabilitation, and other related services directed toward alcohol- and drug-dependent persons, and contracting with statewide substance abuse organizations to provide training and to establish and maintain a collaborative network of providers to maintain and improve the continuum of care between agencies that provide substance abuse prevention, treatment, and advocacy programs using best practices and innovative programs that focus on substance abuse services and co-occurring disorders. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

§ 2-400. Repealed

DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES INSTITUTIONS

§ 3-101. Institutions Maintained for Residents

The facilities within the Department of Mental Health and Substance Abuse Services, which may be maintained for residents of the state, are:

1. Griffin Memorial Hospital, Norman;
2. Oklahoma Forensic Center, Vinita;
3. Children's Recovery Center of Oklahoma, Norman;
4. Tulsa Center for Behavioral Health, Tulsa;
5. Carl Albert Community Mental Health Center, McAlester;
6. Jim Taliaferro Community Mental Health Center, Lawton;
7. Central Oklahoma Community Mental Health Center, Norman;
8. Bill Willis Community Mental Health and Substance Abuse Services Center, Tahlequah;
9. Northwest Center for Behavioral Health, Woodward;
10. Oklahoma County Crisis Intervention Center, Oklahoma City;

11. Norman Alcohol and Drug
Treatment Center, Norman; and
12. Rose Rock Recovery Center, Vinita.

§§ 3-101.1 to 3-101.6. Repealed

§ 3-102. The Carl Albert Community Mental Health Center – Jim Taliaferro Community Mental Health Center

A. The Carl Albert Community Mental Health and Substance Abuse Services Center, McAlester, Oklahoma, and the Jim Taliaferro Community Mental Health and Substance Abuse Services Center, Lawton, Oklahoma, are hereby designated as institutions 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 Griffin Memorial Hospital to the appropriate institution designated in subsection A above.

C. There is hereby created a petty cash fund at the Carl Albert Community Mental Health and Substance Abuse Services Center and at the Jim Taliaferro Community Mental Health and Substance Abuse Services Center. The Director of The Office of Management and Enterprise Servicesand the Commissioner of Mental Health and Substance Abuse Services are authorized to fix the maximum amount of these petty cash funds and the Director of The Office of Management and Enterprise Servicesshall prescribe the rules and procedures for the administration of these petty cash funds.

§ 3-103. Central Oklahoma Community Mental Health and Substance Abuse Services Center

A. The Central Oklahoma Community Mental Health and Substance Abuse Services Center, Norman, Oklahoma, is hereby designated 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 Griffin Memorial Hospital to the 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 The Office of Management and Enterprise Servicesand the Commissioner of Mental Health and Substance Abuse Services are authorized to fix the maximum amount of the petty cash fund and the Director of The Office of Management and Enterprise Servicesshall prescribe the rules and procedures for the administration of the petty cash fund.

§ 3-104. Repealed

§ 3-105. Children's Recovery Center of Oklahoma, Norman, Oklahoma

A. The Children’s Recovery Center of Oklahoma, Norman, Oklahoma, is hereby created and designated a facility within the Department and shall be operated under the supervision of the Department. The Children’s Recovery Center of Oklahoma shall consist of:

1. The Adolescent Unit, a building constructed pursuant to the provisions of Section 10, Chapter 341, O.S.L. 1981, Section 20, Chapter 374, O.S.L. 1982, Section 32, Chapter 326, O.S.L. 1983 and Section 114, Chapter 296, O.S.L. 1984; and

2. The Leland Wolf Unit, formerly known and designated as the Leland Wolf Rehabilitation Center of Central State Griffin Memorial Hospital.

B. There is hereby created a petty cash fund for the Children's Recovery Center of Oklahoma. The Director of The Office of Management and Enterprise Servicesand Commissioner of Mental Health and Substance Abuse Services are authorized to fix the maximum amount of this petty cash fund and the Director of The Office of Management and Enterprise Servicesshall prescribe the rules and procedures for the administration of this petty cash fund.

§ 3-106. Authority to Establish Community Mental Health Services

A. The Commissioner of Mental Health and Substance Abuse Services is hereby authorized to establish a community mental health service area to include the counties of Cherokee, Adair, Sequoyah, Wagoner, and any other counties deemed appropriate by the Commissioner of Mental Health and Substance Abuse Services.

B. There is hereby created within the Department of Mental Health and Substance Abuse Services a designated community mental health facility to serve the service area provided for in subsection A of this section that shall be operated under the supervision of the Department of Mental Health and Substance Abuse Services. Said facility shall be named the Bill Willis Community Mental Health and Substance Abuse Services Center and shall be located at Tahlequah.

C. The Department of Mental Health and Substance Abuse Services is authorized to effect the transfer of property, personnel, records, equipment, supplies, and funds to include, if appropriate, revolving funds and encumbrances from other facilities of the Department of Mental Health and Substance Abuse Services, to the Bill Willis Community Mental Health and Substance Abuse Services Center.

D. There is hereby created a petty cash fund for the Bill Willis Community Mental Health and Substance Abuse Services Center. The Director of The Office of Management and Enterprise Servicesand the Commissioner of Mental Health and Substance Abuse Services are authorized to fix the maximum amount of these petty cash funds and the Director of The Office of Management and Enterprise Servicesshall prescribe the rules and procedures for the administration of these petty cash funds.

§ 3-107. Drug and Alcohol Treatment Centers – Petty Cash Funds – Authority to Transfer Property, Records, Supplies, Funds, etc.

A. There are hereby created and designated as facilities within the Department of Mental Health and Substance Abuse Services, the Norman Alcohol and Drug Treatment Center at Norman and the Rose Rock Recovery Center at Vinita. The facilities shall be operated under the supervision and administration of the Commissioner of Mental Health and Substance Abuse Services. It is the intent of the Legislature that the centers in Norman

and Vinita utilize and receive business management, support services and medical ancillary services of the respective state facility where the center is located.

B. There are hereby created separate petty cash funds for the Alcohol and Drug Treatment Centers at Norman and Vinita. The Director of The Office of Management and Enterprise Servicesand the Commissioner of Mental Health and Substance Abuse Services are authorized to fix the maximum amount of each petty cash fund. The Director of The Office of Management and Enterprise Servicesshall prescribe the rules and procedures for the administration of each petty cash fund.

C. The Department of Mental Health and Substance Abuse Services is authorized to effect the transfer of property, records, equipment, supplies, funds, and encumbrances from Griffin Memorial Hospital to or from the Norman Alcohol and Drug Treatment Center; and to effect the transfer of property, records, equipment, supplies, funds, and encumbrances from the Oklahoma Forensic Center to or from the Rose Rock Recovery Center.

§ 3-107a. Creation of Western State Psychiatric Center at Fort Supply

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

1. Western State Hospital, Fort Supply;

2. Northwest Oklahoma Community Mental Health and Substance Abuse Services Center;

3. Fort Supply Alcohol and Drug Treatment Center at Fort Supply; and

4. Western State Psychiatric Center, Fort Supply.

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

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

§ 3-107b. Tulsa Center for Behavioral Health

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

B. There is hereby created a petty cash fund for the Tulsa Center for Behavioral Health. The Director of The Office of Management and Enterprise Servicesand Commissioner of Mental

Health and Substance Abuse Services are authorized to fix the maximum amount of this petty cash fund and the Director of The Office of Management and Enterprise Servicesshall prescribe the rules and procedures for the administration of the petty cash fund.

§ 3-108. Treatment and Rehabilitation of Minor Drug Addicts

The Commissioner of Mental Health and Substance Abuse Services is hereby authorized and directed to establish an appropriate room or ward for alcohol and other drug treatment services for adolescents, with special emphasis on the rehabilitation of a consumer during treatment, and to provide an adequate program for reestablishment into society upon release.

§ 3-109. Canteens

There may be established and maintained at each of the facilities within the Department of Mental Health and Substance Abuse Services a canteen. Any profits from the canteen of a facility shall be used for the benefit of the consumers of the facility.

§ 3-110. Repealed

§ 3-111. Land, Buildings, and Equipment – Cooperative Agreements to Provide Certain Services – Records

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

B. Except as provided in subsection C of this section, the land, and all buildings and equipment attached thereto, at Northwest Center for Behavioral Health at Fort Supply, Oklahoma, shall be transferred from the Department of Mental Health and Substance Abuse Services to the Department of Corrections. The transfer shall be of surface rights only and all interest in mineral rights shall be retained by the Department of Mental Health and Substance Abuse Services. The transferred land shall be used for a correctional institution to incarcerate prisoners of minimum security classification.

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

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

1. Security personnel;
2. Utilities;
3. Water;

4. Sewage;
5. Maintenance of grounds;
6. Electrical maintenance and repair;
7. Carpentry;
8. Printing;
9. Caustic storage;
10. Warehouse facilities;
11. Food service;
12. Laundry service;
13. Sewing;
14. Dental services;
15. Switchboard services;
16. Use of motor pool;
17. Cost and statistics;
18. Supplies, other than pharmaceuticals and laboratory supplies;
19. Inpatient infirmary services;
20. Pharmacy;
21. Professional services for treatment alternatives for drinking drivers; and
22. Professional services for the Youthful Offender Program.

E. The Department of Mental Health and Substance Abuse Services and the Department of Corrections jointly shall provide fire fighting services for Northwest Center for Behavioral Health, the correctional institution at Fort Supply, Oklahoma, and the surrounding community.

F. All official records pertaining to the operation of Northwest Center for Behavioral Health shall be retained by the Department of Mental Health and Substance Abuse Services. All inventory not needed for the operation of Northwest Center for Behavioral Health shall be transferred to the Department of Corrections.

§ 3-112. Permission for Department to Become Members of Public or Private Behavioral Health Consortiums

The Department of Mental Health and Substance Abuse Services and its operating facilities may become members of public or private behavioral health consortiums, health maintenance organizations, preferred provider organizations, and hospital or other health care networks to provide behavioral health services. The Department and its operating facilities may pay dues or fees assessed for such membership and are hereby authorized to enter into contracts with such entities for the purpose of providing mental health or substance abuse services.

§§ 3-113 and 3-113.1. Repealed

§ 3-113.1. Task Force on Behavioral Health

A. There is hereby re-created until July 1, 2004, the Task Force on Behavioral Health.

B. The Task Force shall be composed of twenty-four (24) members as follows:

1. The Director of the Department of Human Services, or a designee;
2. The Director of the Department of Corrections, or a designee;
3. The Commissioner of the Department of Mental Health and Substance Abuse Services, or a designee;
4. The State Commissioner of Health, or a designee;
5. The Executive Director of the Office of Juvenile Affairs, or a designee;
6. The Administrator of the Oklahoma Health Care Authority, or a designee;
7. The State Superintendent of Public Instruction, or a designee;
8. A medical doctor certified as an addiction specialist, appointed by the Speaker of the House of Representatives;

9. A licensed behavioral health provider, appointed by the President Pro Tempore of the Senate;

10. Three persons appointed by the Governor, representing the following groups:

a. a family member of a child consumer of behavioral health services,

b. a not-for-profit youth and family services provider, and

c. a consumer of domestic violence services;

11. Three persons appointed by the President Pro Tempore of the Senate, representing the following groups:

a. a for-profit behavioral health provider,

b. a not-for-profit substance abuse treatment provider, and

c. a consumer of mental health services;

12. Three persons appointed by the Speaker of the House of Representatives, representing the following groups:

a. a not-for-profit community mental health provider,

b. a not-for-profit domestic violence services provider, and

c. a consumer of substance abuse services;

13. Three members of the Oklahoma House of Representatives appointed by the Speaker of the House of Representatives; and

14. Three members of the Oklahoma State Senate appointed by the President Pro Tempore of the Senate.

C. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each name a cochair of the Task Force from among the legislative members appointed to the Task Force. The members of the Task Force shall elect any other officers during the first meeting and upon a vacancy in any office. The Task Force shall meet as often as necessary. Task Force members employed by the state shall be reimbursed travel expenses related to their service on the Task Force by their respective agencies pursuant to the provisions of the State Travel Reimbursement Act. Legislative members of the Task Force shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes. Remaining Task Force members shall be reimbursed travel expenses related to their service on the Task Force by their appointing authorities pursuant to the provisions of the State Travel Reimbursement Act.

D. Administrative support for the Task Force, including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the Task Force, shall be provided by the staff of the House of Representatives and the Senate. All participating state agencies may provide for any administrative support through interagency agreements with other state agencies represented on the Task Force, pursuant to the provisions of the Interlocal Cooperation Act.

E. The Task Force shall:

1. Make recommendations regarding the cooperative and coordinated delivery of behavioral health services by state agencies responsible for providing such services. In making such recommendations, the Task Force shall conduct a review which includes, but is not limited to:

a. identification of all services currently offered and persons actually served,

b. identification of barriers to services,

c. assessment of the quality of services offered and recommendations to improve the quality of services offered,

d. the extent of duplication of effort between state agencies and recommendations for integration and appropriate streamlining of service delivery,

e. assessment of oversight of providers of behavioral health services to determine whether the type of oversight is appropriate to the services offered and is adequate to ensure quality, and whether oversight services are duplicated by more than one agency,

f. assessment of performance outcomes, and recommendations for improvement of performance outcomes,

g. cost analysis of provided services,

h. analysis of how to fund adequate services while ensuring quality,

i. identification of the nature and requirements of available grants and the ability of state agencies and their contractors to obtain available grants,

j. identification of any other problem area related to delivery of behavioral health services,

k. recommendations for development of a behavioral health system of care for children,

l. recommendations for an integrated and comprehensive behavioral health system of care for adults needing substance abuse treatment or other behavioral health services,

m. review of professional qualifications of providers of behavioral health services, and

n. examination of the privatization of services provided to the population served by state agencies and recommendations regarding privatization of services; and

2. Submit any legislative proposals necessary to implement the findings of the Task Force on or before December 1 of each year.

F. The Task Force shall submit an annual report to each agency affected by the report, the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the appropriate committees of the State Senate and the House of Representatives.

§ 3-201. Statewide System of Precare and Aftercare Services

The Commissioner may establish a statewide system of precare and aftercare services, to include receiving hospital services and halfway houses, in relation to the admission and discharge of patients from state mental hospitals. Physical facilities for these services may be leased, purchased, or constructed by the State of Oklahoma or donated to the Department of Mental Health and Substance Abuse Services. Contracts for such services may be negotiated with professional persons, privately owned facilities, or publicly operated facilities. These services may be operated separately or in connection with existing state mental hospitals. These services shall be used for the care and treatment of the mentally ill, especially for those whose condition makes it likely that hospitalization will be necessary and for those patients discharged from state mental hospitals who require periodic outpatient supervision and treatment. Such services shall operate in accordance with the regulations established by the Commissioner.

§ 3-250. Repealed

UNIFIED COMMUNITY MENTAL HEALTH SERVICES ACT

§ 3-301. Short Title

Sections 3-301 through 3-319 of this title shall be known as the "Unified Community Mental Health Services Act".

§ 3-302. Definitions

As used in the Unified Community Mental Health Services Act:

1. "Certified behavioral health case manager" means any person who is certified by the Department of Mental Health and Substance Abuse Services to offer behavioral health case management services within the confines of a mental health facility, or services for alcohol and drug dependents, that is operated by the Department or contracts with the state to provide behavioral services;
2. "Case management" means the application of case management principles and practices of linking, advocacy and referral in partnership with the consumer to support the consumer in self-sufficiency and community tenure for consumers of mental health or substance abuse services;
3. "Catchment area or service area" means a geographic area established by the Department of Mental Health and Substance Abuse Services;
4. "Community mental health center" means a facility offering:
a. a comprehensive array of community-based mental health services, including, but not limited to, outpatient treatment, emergency evaluation and care, consultation, education, rehabilitation services, and aftercare, and
b. certain services at the option of the center, including, but not limited to, inpatient treatment, training programs, and research and evaluation programs;
5. "Community mental health services", in conformance with federal requirements, means services for the treatment of mental illness and co-occurring substance abuse disorders, and the prevention, diagnosis, or rehabilitation of such persons;
6. "Mental health facility" means:
a. a community mental health center,
b. an outpatient facility offering diagnostic and treatment services,
c. a day care facility offering a treatment program for children or adults suffering from mental or emotional problems, or
d. community residential mental health programs and facilities which provide supervised residential care, counseling, case management or other similar services to children or adults suffering from mental or emotional problems; and
7. "Program of assertive community treatment" means a facility, agency or organization that offers or provides a self-contained clinical team, under the medical supervision of a licensed psychiatrist, to provide needed treatment, rehabilitation, and support services to individuals with serious mental illness who have severe symptoms and impairments not effectively remedied by available treatments or to individuals who resist or avoid involvement in other needed mental health services.

§§ 3-303 to 3-305. Repealed

§ 3-306. Board of Mental Health and Substance Abuse Services – Responsibilities and Authority

A. The Board of Mental Health and Substance Abuse Services shall have the responsibility and authority to:

1. Promulgate rules governing eligibility of public agencies or mental health facilities to contract with the Department of Mental Health and Substance Abuse Services;

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

3. Ensure eligibility for community mental health services so that no person will be denied services on the basis of race, color or creed or inability to pay; and

4. Promulgate such other rules as may be necessary to carry out the provisions of the Unified Community Mental Health Services Act.

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

1. Provide technical assistance to community mental health facilities and boards;

2. Provide clinical, fiscal and management audit of services and facilities;

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

4. Assist mental health facilities in the recruitment of qualified personnel and in conducting in-service training programs.

§ 3-306.1. Rules and Standards for Certification as Community Mental Health Center

A. The Board of Mental Health and Substance Abuse Services shall promulgate rules and standards for certification of a facility or organization that desires to be certified as a community mental health center. No community mental health center shall operate or continue to operate unless the facility complies with the rules and standards promulgated by the Board and is certified as required by this section.

B. Applications for certification as a community mental health center shall be made to the Department of Mental Health and Substance Abuse Services on prescribed forms. The Board, or the Commissioner of Mental Health and Substance Abuse Services upon delegation by the Board, may certify the community mental health centers for a period of three (3) years subject to renewal as provided in the rules promulgated by the Board.

C. The Department of Mental Health and Substance Abuse Services is authorized to establish and collect certification and renewal fees for certification of community mental health centers as provided in Section 3-324 of this title.

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

1. The Joint Commission on Accreditation of Healthcare Organizations;

2. The Commission on Accreditation of Rehabilitation Facilities; or

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

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

§§ 3-307 to 3-309. Repealed

§ 3-310. Contracting Nonprofit Private Agencies to Submit Budget, Salary and Employee Benefits Information to Department

Any nonprofit private agency providing services pursuant to a contract or subcontract with the Department of Mental Health and Substance Abuse Services, the Board of Mental Health

and Substance Abuse Services or any facility of the Department of Mental Health and Substance Abuse Services and receiving funds disbursed thereof shall submit information on operating budgets and employee salaries and benefits to the Department of Mental Health and Substance Abuse Services.

§ 3-311. Funds

The funds appropriated to the Department of Mental Health and Substance Abuse Services for the support of private nonprofit organizations and state-operated centers shall be administered pursuant to the provisions of the Unified Community Mental Health Services Act. Funds for the support of private nonprofit organizations shall be authorized by the Department of Mental Health and Substance Abuse Services only on the basis of performance contracts or fee-for-service contracts. Said funds may be reduced or withheld by the Commissioner in amounts necessary to require compliance with the provisions of the Unified Community Mental Health Services Act. Expenditures of said funds by public and private nonprofit organizations shall be subject to audit by the Department of Mental Health and Substance Abuse Services, which shall utilize audit procedures sufficient to ascertain the proper use of state monies by each recipient.

§§ 3-312 to 3-314.2. Repealed

§ 3-315. Minimum Standards for Program Certification for Community Residential Mental Health Programs – Classification – Termination – Fees – Compliance

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

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

C. The Department shall terminate the contract of any home that fails to meet contract provisions regarding financial statements.

D. The Department of Mental Health and Substance Abuse Services is authorized to establish and collect certification and renewal fees for certification of community residential mental health facilities and programs as provided in Section 3-324 of this title.

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

§ 3-315.1. Development and Implementation of Procedures that Offer Residential Care Facilities

The Department of Mental Health and Substance Abuse Services shall, with funds appropriated for community residential mental health facilities, develop and implement procedures that offer all residential care facilities that meet licensure requirements the opportunity to become certified and to contract for socialization or other supportive assistance services to residents authorized by the Department of Mental Health and Substance Abuse Services as needing those services. The funds provided for each client for supportive assistance or socialization shall follow the client in any residential setting.

§ 3-315.2. Repealed

§ 3-315.2a. Action for Injunction

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 substance abuse facility believed to be in violation of the Oklahoma Alcohol and Drug Act or any order or determination of the Department.

B. 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 fees to the prevailing party.

§ 3-316. Repealed

§ 3-317. Community-Based Structured Crisis Center – Certification – Operation – Compliance

A. The Board of Mental Health and Substance Abuse Services, or the Commissioner of Mental Health and Substance Abuse Services upon delegation by the Board, shall certify community-based structured crisis centers for the provision of nonhospital emergency services for mental health and substance abuse crisis intervention. The Board shall promulgate rules for the certification of community-based structured crisis centers.

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

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

D. The Department of Mental Health and Substance Abuse Services is authorized to establish and collect certification and renewal fees for certification of community-based structured crisis centers as provided in Section 3-324 of this title.

E. Certified community-based structured crisis centers shall comply with standards adopted by the Board. Such standards shall be in compliance with:
1. The Joint Commission on Accreditation of Healthcare Organizations;
2. The Commission on Accreditation of Rehabilitation Facilities;
3. The Council on Accreditation (COA); or
4. Approved medical and professional standards as determined by the Board.

§ 3-318. Rules and Standards for Certification of Behavioral Health Case Managers – Application for Certification – Fee – Titles – Compliance

A. The Board of Mental Health and Substance Abuse Services shall promulgate rules and standards for certification of behavioral health case managers who are employed by the state or by behavioral services providers contracting with the state to provide behavioral health services. Such rules and standards shall address criteria for certification and renewal, including minimum education requirements, examination and supervision requirements, continuing education requirements, and rules of professional conduct.
B. Application for certification as a behavioral health case manager shall be made to the Department of Mental Health and Substance Abuse Services on prescribed forms. The Board, or the Commissioner of Mental Health and Substance Abuse Services upon delegation by the Board, may certify the behavioral health case manager for a period of two (2) years subject to renewal as provided in the rules promulgated by the Board.
C. The Board is authorized to establish an application and renewal fee of no more than One Hundred Dollars ($100.00) to defray the costs incurred in the certification process.
D. Behavioral health case managers certified by the Board or the Commissioner shall only use the title "certified behavioral health case manager" if employed by the state or by behavioral services providers contracting with the state to provide behavioral health services. This section shall not be construed to permit the certified behavioral health case manager to practice any of the following professions or use the following titles unless also licensed or accredited by the appropriate authority: physician, psychologist, clinical social worker, professional counselor, marital and family therapist, behavioral practitioner, or alcohol and drug counselor.
E. Failure to comply with rules and standards promulgated by the Board shall be grounds for revocation, suspension or nonrenewal of certification.
F. No behavioral health case manager shall operate or continue to operate as a behavioral health case manager unless the case manager complies with the rules promulgated by the Board and is certified as required by this section.

§ 3-319. Rules and Standards for Certification of Program of Assertive Community Treatment

A. The Board of Mental Health and Substance Abuse Services shall promulgate rules and standards for certification of facilities or organizations that desire to be certified as a program of assertive community treatment for the provision of community-based comprehensive treatment for persons

with serious mental illness and related disorders.

B. Applications for certification as a program of assertive community treatment shall be made to the Department on prescribed forms. The Board, or the Commissioner upon delegation by the Board, may certify the program of assertive community treatment for a period of three (3) years subject to renewal as provided in the rules promulgated by the Board. The Department of Mental Health and Substance Abuse Services is authorized to establish and collect certification and renewal fees for certification of programs for assertive community treatment as provided in Section 3-324 of this title.

C. No program of assertive community treatment shall operate or continue to operate unless the program complies with the rules promulgated by the Board and is certified as required by this section.

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

§ 3-320. Certified Eating Disorder Treatment Programs – Definition – Applications for Certification – Exemption – Fee – Compliance

A. The Board of Mental Health and Substance Abuse Services shall promulgate rules and standards for certification of eating disorder treatment programs and for private facilities and organizations that offer eating disorder treatment services in this state. Such facilities and organizations shall be known as "Certified Eating Disorder Treatment Programs".

B. For purposes of this section, "eating disorder treatment" means any treatment for anorexia nervosa, bulimia nervosa, or any other severe disturbances in eating behavior specified in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders.

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

D. Hospitals licensed by the State Department of Health shall be exempt from certification requirements. In addition, licensed physicians, licensed psychologists, licensed social workers, individual members of the clergy, licensed marital and family therapists, registered nurses, licensed behavioral practitioners, and licensed professional counselors shall be exempt from certification requirements; provided, however, these exemptions shall only apply to individual professional persons in their private practices and not to any eating disorder treatment program operated by such person.

E. The Department of Mental Health and Substance Abuse Services is authorized to establish and collect certification and renewal fees for certification of eating disorder treatment programs as provided in Section 3-324 of this title.

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

G. No eating disorder treatment program shall operate or continue to operate unless the facility complies with the rules promulgated by the Board and is certified as required by this section.

§ 3-321. Action for Injunction Against Eating Disorder Treatment Program

A. The Attorney General, the Department of Mental Health and Substance Abuse Services, or any district attorney may bring an action for an injunction against any eating disorder treatment program found to be in violation of the provisions of Section 16 of this act, or any order or determination of the Department.

B. In any action for an injunction brought pursuant to the provisions of this section, any findings of the Department, after hearing and due notice, shall be prima facie evidence of the facts found therein.

§ 3-322. Certified Gambling Addiction Treatment Programs – Rules – Applications for Certification – Exemption – Fee – Compliance

A. The Board of Mental Health and Substance Abuse Services shall promulgate rules and standards for certification of gambling addiction treatment programs and for private facilities and organizations which offer gambling addiction treatment services in this state. These facilities and organizations shall be known as "Certified Gambling Addiction Treatment Programs".

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

C. Hospitals licensed by the State Department of Health shall be exempt from certification requirements. In addition, licensed physicians, licensed psychologists, licensed social workers, individual members of the clergy, licensed marital and family therapists, registered nurses, licensed behavioral practitioners, and licensed professional counselors shall be exempt from certification requirements; provided, however, these exemptions shall only apply to individual professional persons in their private practices and not to any gambling addiction treatment program operated by the person.

D. Facilities providing services for gambling addiction shall comply with standards promulgated by the Board; provided, that the certification requirements and standards shall not apply to programs and services offered by other state agencies. The gambling addiction treatment programs certified pursuant to the provisions of this section shall cooperate with inspection personnel of the state and shall promptly file all reports required by the Department. Failure to comply with rules and standards of the Board shall be

ground for revocation of certification, after proper notice and hearing.

E. The Department of Mental Health and Substance Abuse Services is authorized to establish and collect certification and renewal fees for certification of gambling addiction treatment programs as provided in Section 3-324 of this title.

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

G. No gambling addiction treatment program shall operate or continue to operate unless the facility complies with the rules promulgated by the Board and is certified as required by this section.

§ 3-323. Action for Injunction Against Gambling Addiction Treatment Program

A. The Attorney General, the Department of Mental Health and Substance Abuse Services, or any district attorney may bring an action for an injunction against any gambling addiction treatment program found to be in violation of the provisions of Section 18 of this act, or any order or determination of the Department.

B. In any action for an injunction brought pursuant to the provisions of this section, any findings of the Department, after hearing and due notice, shall be prima facie evidence of the facts found therein.

§ 3-323A Certification of Mental Illness Service Program

A. The Board of Mental Health and Substance Abuse Services shall promulgate rules and standards for certification of a facility or organization that desires to be certified as a "Mental Illness Service Program".

B. Applications for certification as a mental illness service program shall be made to the Department of Mental Health and Substance Abuse Services on prescribed forms. The Board, or the Commissioner of Mental Health and Substance Abuse Services upon delegation by the Board, may certify mental illness service programs for a period of three (3) years, subject to renewal as provided in the rules promulgated by the Board.

C. The Department of Mental Health and Substance Abuse Services is authorized to establish and collect certification and renewal fees for certification of mental illness service programs as provided in Section 3-324 of Title 43A of the Oklahoma Statutes.

D. A certified mental illness service program shall comply with standards adopted by the Board. Such standards shall be in compliance with:

1. The Joint Commission on Accreditation of Healthcare Organizations;

2. The Commission on Accreditation of Rehabilitation Facilities; or

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

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

§ 3-324. Certification and Renewal Fees

A. The Department of Mental Health and Substance Abuse Services is hereby authorized to establish and collect certification and renewal fees for

certification of any program the Department is authorized by law to certify, to defray the costs incurred in the certification and renewal inspections and procedures.

B. The application and renewal fees for certification shall not exceed Three Hundred Dollars ($300.00) per certification.

§ 3-325. Authority to Contract

A. The Department of Mental Health and Substance Abuse Services is hereby authorized to contract with public and private entities it certifies, as required by law, for the purpose of providing treatment, evaluation, prevention and other services related to the duties of the Department set forth in this title.

B. The Department of Mental Health and Substance Abuse Services shall not enter into a contract with any of the following programs unless such program has been certified by the Department pursuant to the provisions of this title:

1. Community mental health centers;
2. Community residential mental health programs;
3. Programs of assertive community treatment;
4. Eating disorder treatment programs;
5. Gambling addiction treatment programs;
6. Programs providing alcohol or drug abuse treatment services as set forth under the Oklahoma Alcohol and Drug Services Act;
7. Community-based structured crisis centers; and
8. Mental health facilities.

§ 3-326. Certification as Peer Recovery Support Specialist - Rules - Application - Fees - Titles – Penalties

A. The Board of Mental Health and Substance Abuse Services shall promulgate rules for certification of peer recovery support specialists who are:
1. Employed by the state;
2. Employed by a behavioral services provider contracting with the state to provide behavioral health services; or
3. Employed by a behavioral services provider certified by the Department of Mental Health and Substance Abuse Services. Provided, however, that certification as a peer recovery support specialist pursuant to this subsection shall be limited to providing services within the employer's area of certification.

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

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

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

E. A peer recovery support specialist certified by the Board or the Commissioner shall only use the title "certified peer recovery support specialist" if employed by the state or by behavioral services providers contracting

with or certified by the state to provide behavioral health services. This section shall not be construed to permit the certified peer recovery support specialist to practice any of the following professions or use the following titles unless also licensed or accredited by the appropriate authority:
1. Physician;
2. Psychologist;
3. Clinical social worker;
4. Professional counselor;
5. Marital and family therapist;
6. Behavioral practitioner; or
7. Alcohol and drug counselor.
F. No peer recovery support specialist shall operate or continue to operate as a peer recovery support specialist unless the peer recovery support specialist complies with the rules promulgated by the Board and is certified as required by this section.
G. Failure to comply with rules promulgated by the Board shall be grounds for revocation, suspension, or nonrenewal of certification.

§ 3-327. Expiration of Certifications

All certifications issued by the Department of Mental Health and Substance Abuse Services shall only be effective for the time period specified by rules and standards promulgated by the Board of Mental Health and Substance Abuse Services or specifically enumerated in Title 43A of the Oklahoma Statutes. Unless a renewal of certification has been issued in accordance with the rules and standards promulgated by the Board, certifications shall be deemed expired as a matter of law. No further action by the Department shall be required to remove an expired certification.

OKLAHOMA ALCOHOL AND DRUG ABUSE SERVICES ACT

§ 3-401. Short Title

Sections 3-401 through 3-429 of the Mental Health Law shall be known and may be cited as the "Oklahoma Alcohol and Drug Abuse Services Act".

§ 3-402. Public Policy – Purpose

It is hereby declared to be the public policy of this state to recognize alcoholism and drug abuse as illnesses and public health problems affecting the health, safety, morals, economy and general welfare of the state; to recognize alcoholism and drug abuse as illnesses subject to medical treatment and other therapeutic intervention and abatement; and to recognize that the sufferer of alcoholism and drug abuse is entitled to treatment and rehabilitation. The purpose of this act is to establish means whereby the appropriate resources of this state may be most fully and effectively focused upon the problems of alcoholism and drug abuse and utilized in implementing programs for the control and treatment of these illnesses.

§ 3-403. Definitions

As used in the Oklahoma Alcohol and Drug Abuse Services Act:
1. "Approved treatment facility" means any facility which:
a. offers either inpatient, intermediate or outpatient treatment to any person suffering from alcohol or drug abuse, or alcohol- or drug-related problems, and
b. is certified by the Board of Mental Health and Substance Abuse Services;
2. An "alcohol-dependent person" is one who uses alcoholic beverages to such an extent that it impairs the health, family life, or occupation of the person and

compromises the health and safety of the community;
3. A "drug-dependent person" means a person who is using a controlled substance as presently defined in Section 102 of the Federal Controlled Substances Act and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled substance on an intermittent or continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence;
4. "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as the direct result of the consumption of alcohol or drugs;
5. "Medical detoxification" means diagnostic and treatment services performed by licensed facilities for acute alcohol intoxication, delirium tremens and physical and neurological complications resulting from acute intoxication. Medical detoxification includes the services of a physician and attendant medical personnel including nurses, interns and emergency room personnel, the administration of a medical examination and a medical history, the use of an emergency room and emergency medical equipment if warranted, a general diet of three meals each day, the administration of appropriate laboratory tests, and supervision by properly trained personnel until the person is no longer medically incapacitated by the effects of alcohol;
6. "Nonmedical detoxification" means detoxification services for intoxicated clients with no apparent physical or neurological symptoms requiring medical treatment as a result of their intoxication. Nonmedical detoxification includes providing a bed, oral administration of fluids, three meals a day and the taking of the client's temperature, blood pressure and pulse at least once every six (6) hours for the duration of the client's stay in the nonmedical detoxification service;
7. "Inpatient treatment" means the process of providing residential diagnostic and treatment services on a scheduled basis;
8. "Intermediate care" means an organized therapeutic environment in which a client may receive diagnostic services, counseling, vocational rehabilitation and/or work therapy while benefiting from the support which a full or partial residential setting can provide. Intermediate care should provide a transition between the inpatient detoxification facility and reintegration into community life. Intermediate care must include provision for a bed, three meals a day and medical support if needed;
9. "Transitional living facility" and "halfway house" means an approved treatment facility which offers or provides temporary residential accommodations, meals, supervision at all times residents are in the facility or on facility premises, and services, including counseling, short-term supportive care, case management, mental health services or treatment services;
10. "Short-term supportive care" means a service rendered to any person residing in a halfway house or transitional living facility which is sufficient to assist the person to meet or achieve an adequate level of daily living and to learn or develop adequate daily living skills. Daily living skills shall include, but not

be limited to, resident participation in meal preparation and routine housekeeping and laundry tasks. Short-term supportive assistance includes, but is not limited to, assistance in the preparation of meals, housekeeping, laundry tasks and personal hygiene. Short-term supportive assistance shall not include medical services or personal care as defined in Section 1-820 of Title 63 of the Oklahoma Statutes;

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

12. "Faith-based" means an organization, association, facility or program that offers services within a context of religious beliefs that are articulated by the organization's, association's, facility's or program's mission statement, affiliations, or sponsoring entities.

§ 3-404. Repealed

§ 3-405. Use of Monies

The Commissioner of the Department of Mental Health and Substance Abuse Services may use any monies appropriated to the agency to fund or assist in funding expenditures of the Board of Mental Health and Substance Abuse Services which are necessary to perform the duties imposed upon the Board by law.

§ 3-406. Repealed

§ 3-406.1. Purchase of Alcohol and Drug Therapy – Authority of Board of Mental Health and Substance Abuse Services and Oklahoma Health Care Authority Board

A. Until June 30, 2013, the Department of Mental Health and Substance Abuse Services and the Oklahoma Health Care Authority shall continue to purchase, on a fee-for-service basis, therapy provided by certified alcohol and drug counselors, as defined in Chapter 43B, Section 1871 of Title 59 of the Oklahoma Statutes, provided such therapy is provided by certified alcohol and drug counselors employed from organizations or individuals under contract with the Department of Mental Health and Substance Abuse Services or the Oklahoma Health Care Authority.

B. Nothing in this section shall prohibit the Board of Mental Health and Substance Abuse Services or the Oklahoma Health Care Authority Board from initiating or terminating contracts with certified substance abuse providers, establishing contract limits, developing or modifying reimbursement schedules, or otherwise managing appropriated resources on behalf of the state.

§§ 3-407 to 3-414. Repealed

§ 3-415. Certified Services for the Alcohol and Drug Dependent – Application – Time Frame – Penalties – Exemptions – Standards – Publications – Fees – Confidentiality

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, recovery 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, recovery support 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. Except as otherwise provided in this section, no substance abuse treatment program shall operate or continue to operate unless the facility complies with the rules promulgated by the Board and is certified as required by this section.
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. The Board or the Commissioner of Mental Health and Substance Abuse Services upon delegation by the Board, may postpone, deny renewal of, revoke, or suspend the certification of the facility for failure to comply with rules and standards promulgated by the Board.
E. The following are exempt from the provisions of the Oklahoma Alcohol and Drug Abuse Services Act:
1. Individual persons in private practice as licensed physicians, licensed psychologists, licensed social workers, registered nurses, licensed professional counselors, licensed marriage and family therapists, licensed behavioral practitioners, individual members of the clergy, and certified alcohol or drug abuse counselors. The exemption shall apply only to individual professional persons in their private practice and not to any treatment facility operated by the person;
2. Properly licensed hospitals, psychiatric and medical surgical facilities;
3. Programs or facilities operated by a state agency;
4. Programs conducted and facilities operated by Alcoholics Anonymous;
5. Programs conducted and facilities operated by the Salvation Army;
6. Faith-based, nonresidential recovery programs;
7. Residential recovery-based programs with a resident capacity of less than twelve; or
8. Residential recovery and recovery support programs that are not collocated with certified treatment programs. However, the Department of Mental Health and Substance Abuse Services shall offer voluntary certification for those resident recovery and recovery support programs that are not collocated with certified treatment programs that desire Department certification.
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;

3. The Council on Accreditation (COA); or
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 consumer count and success rates, shall be documented and verifiable by the Board.
I. The Department of Mental Health and Substance Abuse Services is authorized to establish and collect certification and renewal fees for certification of private facilities and organizations which provide treatment, counseling and rehabilitation services directed toward alcohol- and drug-dependent persons, as provided in Section 3-324 of this title.
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.

§ 3-416. Standards – Treatment Services and Rules of Operation – Guidelines

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 consumer shall be treated on a voluntary rather than an involuntary basis.

2. A 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 consumer.

7. Family members of the 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. Consumers shall be encouraged to agree to such further diagnosis and treatment as will be of benefit to them

§ 3-417. Application for License

A. In addition to the standards for treatment services and rules of operation required by Section 3-416 of this title, the Department of Mental Health and Substance Abuse Services shall establish physical facility standards, fire safety standards and such other health and safety standards for halfway houses and transitional living facilities as necessary.

B. The Department of Mental Health and Substance Abuse Services shall

ensure that the standards required by Section 3-415 of this title include specific physical facility standards providing for facilities that provide substance abuse treatment services to pregnant women and women with children when the children also reside at the facility.

§ 3-417.1. Location of Treatment Facility, Transitional Living Center, or Halfway House Subject to Zoning Ordinances

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

§§ 3-418 to 3-423. Repealed

§ 3-424. Rights of Consumer in Inpatient or Residential Mental Health or Substance Abuse Facility - Restrictions

A. Subject to the restrictions imposed by subsection B of this section, a consumer in an inpatient or residential mental health or substance abuse facility has the right to:

1. Receive a reasonable number of visitors at reasonable times;

2. Reasonable access to make and receive telephone calls;

3. Communicate by uncensored and sealed mail; and

4. Writing materials and reasonable amounts of postage if unable to procure the same.

B. The rights provided in subsection A of this section are subject to the general rules of the facility and may be restricted by the treatment team ultimately responsible for the consumer's treatment to the extent that the restriction is necessary to the consumer's welfare, to protect another person, or to the security of the facility; provided, however, the right to communicate with legal counsel, a treatment advocate, or the Department may not be denied.

C. If a restriction is imposed under this section, the reasons for the restriction and the duration of the restriction shall be documented in the consumer's clinical record. The treatment team shall inform the consumer, the treatment advocate, and, if appropriate, the consumer's parent or guardian of the clinical reasons for the restriction and the duration of the restriction.

§ 3-425. Alcohol-and Drug-Dependent Person with Associated Medical Problems – Treatment

Any alcohol- and drug-dependent person with associated medical problems will be treated by appropriate medical facilities such as a duly licensed general hospital.

§ 3-425.1. Education in Treatment Facility on H.I.V.

Every approved treatment facility in this state shall:

1. Provide Human Immunodeficiency Virus (H.I.V.) infection education sessions to drug-dependent persons in such facility and shall make said education sessions available to the spouses or other sexual partners of such persons as part of its treatment program for drug-dependent persons; and

2. Refer all drug-dependent persons in its program for Human Immunodeficiency Virus (H.I.V.) infection testing and counseling. The treatment facility shall provide assistance as necessary to enable drug-dependent persons in its program to receive said testing and counseling services and may enter into a contract with a public or private organization for the provision of testing or counseling services at the treatment facility site. The results of individual tests shall be maintained in a confidential manner as required by state and federal law.

§ 3-426. Fees and Costs – Payment

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

1. By the 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 consumer.

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

§ 3-427. Alcohol-or Drug-Dependent Person Who is Also Deemed Mentally Ill Person

Any alcohol- or drug-dependent person who is also deemed to be a mentally ill person as defined in the mental health laws of this state is subject to all provisions of the mental health laws governing admission and disposition of mentally ill persons.

§ 3-428. Intoxicated Person in Public Place – Assistance – Protective Custody – Detention

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 the person

consents to the offered help, may be assisted to:

1. His or her home;

2. An alternative facility pursuant to the provisions of this section; or

3. 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 or herself 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 the person to an approved treatment facility, is taking the person into protective custody and shall make every reasonable effort to protect the person's health and safety.

3. In taking the person into protective custody, the detaining officer may take reasonable steps 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 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 State 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 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 the person either is no longer unconscious, or no longer appears likely to be of harm to self or others.

2. If the person remains unconscious or likely to harm himself or herself or others, 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 the commitment of the person to an approved treatment facility has been filed according to the Mental Health Law provisions and procedures for commitment. 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, the person may notify relatives of the admission or another person may, with the consent of the admittee, notify relatives of the admission.

§ 3-429. Emergency Service Patrols

A. Counties and municipalities may establish emergency service patrols. A patrol consists of persons trained to give assistance in public places to persons whom the patrol has reasonable grounds to believe are intoxicated. Members of an emergency service patrol shall be capable of providing first aid in emergency situations and may transport intoxicated persons to their homes and to and from approved treatment facilities and alternative facilities.

B. Standards for the establishment, training and conduct of emergency service patrols shall be adopted by the county or municipality and approved by the alcohol services and drug abuse planning body for that region. These standards shall comply with the standards of the regional emergency medical services plan.

§ 3-451. Definitions

As used in Sections 3-452 and 3-453 of this title:

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

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

3. "Alcohol and drug substance abuse treatment program" means a program designated by the Department of Mental Health and Substance Abuse Services for the treatment of alcohol and drug abuse, or alcoholism and drug dependency.

§ 3-452. Courts – Conditional Participation in Drinking Drivers Course

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

1. Upon a plea of guilty or nolo contendere, or stipulation by the defendant, or a verdict, but before a judgment of guilt is entered, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings upon the condition that the defendant enroll in, attend and successfully complete, at his or her own expense, an alcohol and drug substance abuse course or an alcohol and drug substance abuse treatment program, or both as identified by an assessment conducted by a certified assessor; or

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

§ 3-453. Institutions and Organizations that May Offer Courses – Fees – Limitations on Enrollment – Rules – Course Sessions – Reimbursement – Revolving Fund - Compliance

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

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

1. One Hundred Fifty Dollars ($150.00) for a ten-hour course; and

2. Three Hundred Sixty Dollars ($360.00) for a twenty-four-hour course.

C. Ten percent (10%) of each fee collected shall be remitted by the institution or organization offering alcohol and drug substance abuse courses to the State Treasurer to be credited to the Community-based Substance Abuse Revolving Fund in the State Treasury and shall be used to provide substance abuse services to the indigent or to provide specialized training to alcohol and drug substance abuse course facilitators. Five percent (5%) of each fee collected by the Department shall be used for the administrative costs related to providing such services.

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

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

F. The Department of Mental Health and Substance Abuse Services is authorized to promulgate rules governing:

1. Minimum curriculum requirements for such courses;

2. Facilities, equipment and instructional materials for such courses;

3. Minimum qualifications for course facilitators;

4. Grounds for reprimand and for revocation, suspension or nonrenewal of the authority to conduct such courses and for revocation of a facilitator's certification;

5. Attendance requirements; and

6. Guidelines for certifying to the Department of Mental Health and Substance Abuse Services and the Department of Public Safety successful completion of such course.

G. The Department of Mental Health and Substance Abuse Services shall require that each ten-hour course shall be conducted in no less than three sessions of no more than three and one-half (3 1/2) hours each on three (3) separate days. For a twenty-four-hour course, the Department shall require that:

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

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

3. No more than twenty-four students shall be allowed in a given class.

H. Any institution or organization authorized under this act to conduct an alcohol and drug substance abuse course shall certify to the Department of Public

Safety all persons who successfully complete such course.

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

J. Application fees for certification of course facilitators shall be set by the Board of Mental Health and Substance Abuse Services to defray the costs of administering the program and shall be:

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

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

K. The Director of the Office of Management and Enterprise Services shall transfer unobligated monies generated from the fees in subsection C of this section, deposited before November 1, 2005, from the Department of Mental Health and Substance Abuse Services Revolving Fund to the Community-based Substance Abuse Revolving Fund, in amounts calculated by the Department.

L. No alcohol or drug substance abuse course shall operate or continue to operate unless it is operated in compliance with the rules promulgated by the Board and is certified as required by this section.

§ 3-453.1. Action for Injunction – Operating Alcohol and Drug Substance Course Without Certification

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 order or determination of the Department.

B. Any findings of the Department, after hearing and due process, in any action for an injunction brought pursuant to this section, shall be prima facie evidence of the facts.

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.

§ 3-453.2. Facilitator Certification – Requirements for Twenty-Four-Hour Courses – Time Requirements

A. Each facilitator for an alcohol and drug substance abuse course shall be certified by the Department of Mental Health and Substance Abuse Services and shall:

1. Possess a bachelor's degree in behavioral or health care sciences education, psychology, social work or chemical dependency;

2. Possess at least two (2) years of verifiable full-time-equivalent experience in the addiction treatment field;

3. Provide documentation verifying observation of one complete alcohol and drug substance abuse course conducted by a certified facilitator, which shall be completed and verified to the Department prior to attending facilitator training;

4. Provide proof of attendance at a facilitator training session and pass the Department certification examination for the ten-hour alcohol and drug substance abuse course facilitator; and

5. Provide verification of having conducted a complete alcohol and drug substance abuse course under the supervision of a certified alcohol and drug substance abuse course facilitator or a Department representative.

B. A facilitator for a twenty-four-hour alcohol and drug substance abuse course shall meet all the requirements contained in paragraphs 1 through 3 of subsection A of this section and shall:

1. Attend the twenty-four-hour alcohol and drug substance abuse course facilitator training session and pass the Department certification examination for the twenty-four-hour alcohol and drug substance abuse course facilitator; and

2. Conduct a complete twenty-four-hour alcohol and drug substance abuse course under the supervision of a certified alcohol and drug substance abuse course facilitator or a Department representative.

C. Alcohol and drug substance abuse course facilitator candidates shall be allowed one year to complete all training requirements. Failure to meet all requirements within one year shall result in denial of certification. To be reconsidered, the candidate shall be required to reapply to the Department.

§ 3-460. Alcohol and Drug Assessment Personnel – Fees – Rules – Transfer of Unobligated Monies - Compliance

A. The Department of Mental Health and Substance Abuse Services shall certify assessment personnel for the purpose of conducting alcohol and drug assessment and evaluation programs related to driver license revocation.

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

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

2. Not less than Twenty-five Dollars ($25.00) and not more than One Hundred Fifty Dollars ($150.00) upon triennial renewal.

C. The fee for those undergoing an assessment and evaluation pursuant to this section shall be One Hundred Sixty Dollars ($160.00). A fee of Fifteen Dollars ($15.00) shall be remitted by the individual undergoing an assessment and evaluation directly to the Department of Public Safety pursuant to Section 6-212 of Title 47 of the Oklahoma Statutes.

1. The Department of Public Safety shall remit ninety percent (90%) of the Fifteen Dollar ($15.00) fee collected pursuant to this section to the State Treasurer to be credited to the Community-based Substance Abuse Revolving Fund in the State Treasury and shall be used by the Department of Mental Health and Substance Abuse Services.

2. Ten percent (10%) of each Fifteen Dollar ($15.00) fee collected by the Department of Public Safety pursuant to this section shall be deposited into the Department of Public Safety Revolving Fund, as created in Section 2-144.1 of Title 47 of the Oklahoma Statutes, to be

used for administrative costs associated with the duties imposed by this section.

D. The Board of Mental Health and Substance Abuse Services is authorized to promulgate such rules as are necessary to implement the provisions of this act. Failure to comply with rules and standards promulgated by the Board shall be grounds for revocation, suspension or nonrenewal of certification.

E. The Director of the Office of Management and Enterprise Services shall transfer any unobligated monies generated by the fees in subsection C of this section, deposited before November 1, 2005, from the Department of Mental Health and Substance Abuse Services Revolving Fund to the Community-based Substance Abuse Revolving Fund, in amounts calculated by the Department.

F. No alcohol or drug assessment personnel shall operate or continue to operate as such unless the alcohol or drug assessment personnel comply with the rules promulgated by the Board and are certified as required by this section.

§ 3-460.1. Action for Injunction – Performing Alcohol and Drug Assessments Without Certification

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 agency or individual for performing alcohol and drug assessments without appropriate certification by the Department of Mental Health and Substance Abuse Services or for a violation of any order or determination of the Department.

B. 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.

§ 3-461. Certification to Offer Alcohol and Drug Substance Abuse Course Assessments – Authority to Promulgate Rules and Standards

A. For purposes of this section:

1. "ADSAC assessor" means an individual certified by the Department of Mental Health and Substance Abuse Services to conduct the ADSAC assessment;

2. "Alcohol and drug substance abuse course ADSAC assessment" means an assessment process certified by the Department of Mental Health and Substance Abuse Services designed to identify the severity of the alcohol or other drug problems, risks of recidivism and the most appropriate referral(s) required for license reinstatement, including intensity and duration of clinical interventions;

3. "Alcohol and drug substance abuse treatment program" means a program certified by the Department of Mental Health and Substance Abuse Services for the treatment of alcohol and drug abuse, or alcoholism and drug dependency;

4. "Assessment agency" means an institution or organization certified by the Department to provide alcohol and drug assessments and evaluations related to driver license revocation; and

5. "Satisfactory completion of an assessment" means the participant has successfully completed the requirements of the assessment and the individual conducting the assessment certifies the completion of the requirements to the Department of Public Safety through the Oklahoma Department of Mental Health and Substance Abuse Services.

B. Alcohol and drug substance abuse course assessments shall be offered only by individuals certified by the Department of Mental Health and Substance Abuse Services. Each assessor shall be certified and shall:

1. Possess two (2) years or more of verifiable full-time-equivalent counseling experience in the addiction treatment field;

2. Provide documentation verifying observation of one complete alcohol and drug substance abuse course assessment conducted by a certified assessor. Such observation must receive prior authorization by the Department;

3. Provide proof of attendance at an assessor training course and pass the Department's certification examination for the alcohol and drug substance abuse course assessor;

4. Provide verification of having conducted a complete alcohol and drug substance abuse course assessment under the supervision of a certified alcohol and drug substance abuse course assessor approved by a Department representative;

5. The assessor candidate shall be allowed one (1) year to complete all requirements related to the assessment application. Failure to meet all requirements within one (1) year shall result in denial of certification. To be reconsidered, the candidate shall be required to reapply to the Department; and

6. Be licensed or certified as an alcohol and drug counselor pursuant to Section 1871 et seq. of Title 59 of the Oklahoma Statutes.

C. The Department of Mental Health and Substance Abuse Services shall promulgate rules and standards regulating the ADSAC assessment and assessment process. Failure to comply with rules and standards promulgated by the Department pursuant to this act shall be grounds for reprimand, suspension, revocation or non-renewal of an assessor's certification.

D. Any individual certified to conduct alcohol and drug substance abuse course assessments pursuant to this section shall certify to the Department of Public Safety through the Oklahoma Department of Mental Health and Substance Abuse Services all persons who successfully complete such assessments.

OKLAHOMA COMPREHENSIVE MENTAL HEALTH SERVICES FOR THE DEAF AND HARD-OF-HEARING ACT

§ 3-501 to 3-503. Repealed

NARCOTIC TREATMENT PROGRAMS

§ 3-601. Opoid Substitution Treatment Programs – Addicted Persons – Felons – Registry – Rules and Standards – Closure

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 for two (2) years or more;

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.

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

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

F. 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.

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

§ 3-602. Case Review Teams

A. A course of treatment in an opioid substitution treatment program may include, but shall not be limited to, short-term detoxification, interim maintenance treatment or comprehensive

maintenance treatment depending on the availability of such services and the needs of the individual.

B. The Department of Mental Health and Substance Abuse Services shall approve any drug and the formulation or formulations to be used in an opioid substitution treatment program and the Board shall promulgate rules establishing guidelines for the maximum daily dose, not to exceed limits set by the Code of Federal Regulations. Pregnancy tests for women shall be conducted upon admission to an opioid substitution treatment program and at least annually thereafter, unless otherwise indicated.

§ 3-603. Fees – Termination from Program – Rules and Regulations for Implementation of Act

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

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

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

TREATMENT OF INMATES IN CORRECTIONAL FACILITIES

§ 3-701. Repealed

§ 3-701a. Renumbered as 57 O.S. § 627 by Laws 2007, SB 523, c. 337, § 2, emerg. eff. June 4, 2007

§ 3-702. Mentally Ill Persons – Examination – Transfer to State Mental Institution – Outpatient Treatment – Costs – Expiration of Sentence

When a person confined in a penal or correctional institution or reformatory of this state is evaluated as provided by law by a licensed mental health professional to be a person requiring treatment as defined in Section 1-103 of this title, the district court may order the inmate’s transfer to a facility, or unit within the Department of Corrections and make a determination of whether the inmate is capable of consenting to or refusing treatment that is ordered including, but not limited to, the right to refuse medication, pursuant to the laws governing involuntary commitment, where the inmate shall remain until the person in charge of the correctional institution or unit, or the physician which received the inmate determines that the inmate has improved to the point that the inmate may be discharged pursuant to the laws of this title governing discharge. If the sentence expires during the time of a prisoner's involuntary commitment at the correctional institution, and the prisoner is still a person requiring treatment, the person in charge of the correctional institution shall immediately instigate proceedings for commitment to the custody of the Department of Mental Health and Substance Abuse Services or to a private facility willing to accept the person for treatment under the procedures provided in this title.

§ 3-703. Repealed

§ 3-704. Approved - Risk, Mental Health and Substance Abuse

Assessment and Evaluation - Requirement

After an initial appearance, a person accused of a felony offense may submit to an approved risk, mental health and substance abuse assessment and evaluation which shall be administered and scored by assessment personnel certified by the Department of Mental Health and Substance Abuse Services. Any person lacking sufficient skills to comprehend or otherwise participate in the risk, mental health and substance abuse assessment and evaluation shall have appropriate assistance. The court, district attorney, arrested person and counsel for the arrested person shall have access to the results of the risk, mental health and substance abuse assessment and evaluation. The results of the risk, mental health and substance abuse assessment and evaluation shall not be admissible as evidence in the criminal case unless specifically waived by the defendant or for purposes of determining sentencing options for a defendant who has pled guilty and punishment is to be determined at the discretion of the court. The court and the district attorney shall consider the results of the risk, mental health and substance abuse assessment and evaluation to determine sentencing options for the person.

CARE AND TREATMENT IN FACILITIES WITHIN OR CERTIFIED BY THE DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

§ 4-101. Humane Care and Treatment – Food – Discipline – Medical Care

All persons being treated at facilities within the Department of Mental Health and Substance Abuse Services and facilities certified by the Department shall be given humane care and treatment. The food shall always be sufficient and wholesome. No physical or emotional punishment shall be inflicted, and the rules and discipline shall be designed to promote the well-being of the person being treated. The physical, medical, psychiatric and psychological testing, diagnosis, care and treatment shall be in accordance with the highest standards accepted in private and public medical and psychiatric practice to the extent that facilities, equipment and personnel are available.

§ 4-102. Individualized Treatment Plans – Requirements

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 consumer involvement and, if applicable, accordance with the treatment plan by 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 individualized treatment goals of the plan in the least restrictive environment possible, closest to the home community of the consumer.

§ 4-103. Repealed

§ 4-103.1. Executive Director's Custody and Control of Consumer

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

§ 4-104. Major Operations on Consumer

Before proceeding with any major operation which in the judgment of the

executive director of the facility is advisable or necessary, the 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 the information is shown by the records on file with the executive director. A copy of the notice shall be filed in the records of the consumer, except 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.

§ 4-105. Service of Process on Consumer

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

§ 4-106. Mechanical Restraints Prohibited – Exceptions – Record of Use

A. Mechanical restraints shall not be applied to a consumer unless:

1. It is determined by a physician or physician's assistant to be required by the medical needs of the consumer; or

2. An emergency situation arises and a mechanical restraint is necessary for the safety of the individual or others. The mechanical restraint may be applied after obtaining a verbal order of a physician or physician's assistant as long as the physician or physician's assistant personally examines the consumer within one (1) hour after the restraint is applied.

B. 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, shall be made a part of the clinical record of the consumer under the signature of the physician.

§ 4-107. Repealed

§ 4-107a. Rights of Consumer in Inpatient or Residential Mental Health Facility

A. Subject to the restrictions imposed by subsection B of this section, a consumer in an inpatient or residential mental health facility has the right to:

1. Receive a reasonable number of visitors at reasonable times;

2. Reasonable access to make and receive telephone calls;

3. Communicate by uncensored and sealed mail; and

4. Writing materials and reasonable amounts of postage if unable to procure the same.

B. The rights provided in subsection A of this section are subject to the general rules of the facility and may be restricted by the treatment team ultimately responsible for the consumer's treatment to the extent that the restriction is necessary to the consumer's welfare, to protect another person or the security of the facility; provided, however, the right to communicate with legal counsel, treatment advocate, and the department may not be denied.

C. If a restriction is imposed under this section, the reasons for the restriction and the duration of the restriction shall be documented in the consumer's clinical record. The treatment team shall inform the consumer, the treatment advocate, and, if appropriate, the consumer's parent or guardian of the clinical reasons for the restriction and the duration of the restriction.

§ 4-108. Labor by Consumers

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 consumer voluntarily agrees to perform the labor;
2. Engaging in the labor would not be inconsistent with the treatment plan for the consumer;
3. The amount of time or effort necessary to perform the labor would not be excessive;
4. The 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. The provisions of subsections A and B of this section shall not apply to personal housekeeping, personal maintenance, or communal living, 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.

§ 4-109. Repealed

COSTS OF TREATMENT AND CARE

§ 4-201. Liability of Consumer for Care and Treatment – Inability to Pay Shall Not Limit Admission

A consumer at a facility within the Department of Mental Health and Substance Abuse Services is liable for his or her care and treatment. This claim of the state for such care and treatment shall constitute a valid indebtedness against any such consumer and the estate of the consumer and shall not be barred by any statute of limitations. At the death of the consumer this claim shall be allowed and paid as other lawful claims against the estate. Provided, further that no admission or detention of a consumer

in a state facility shall be limited or conditioned in any manner by the financial status or ability to pay of a consumer, the estate of the consumer, or any relative of the consumer.

§ 4-202. Determination of Amount Payable – Limitation of Amount

The amount payable for care and treatment shall be determined by the Commissioner subject to the approval of the Board. At no time shall a person be refused care and treatment because of inability to pay.

§ 4-203. Reduction or Waiver of Liability in Accordance with Ability to Pay

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

1. A written application and documentation demonstrating the income of the consumer;

2. The number of dependents of the consumer;

3. A statement of any charges to be placed on the sliding scale or waiver of indebtedness of the consumer for care and treatment; and

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 records of the consumer at the facility.

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

§ 4-204. Cost of Care and Treatment Payable Monthly Except as Otherwise Agreed Upon – Statements

The cost of the care and treatment of the consumer shall be paid monthly unless the Commissioner 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 consumer is held shall issue a statement of the sum that is due to all persons who are liable for the 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 care and treatment of the consumer.

§ 4-205. Duty of Guardian to Pay – Collection by Suit or Other Proceedings – Procedure

A. If a guardian has been appointed for the estate of a 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 consumer for the care and treatment of the consumer may be collected by suit or other proceedings against the consumer brought in the name of the state by the district attorney of the county from which said consumer was sent or any county in which the consumer may have property.

C. The claim of the state against a husband, wife, the parents and the children of any consumer for 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.

§ 4-206. Proof of Indebtedness – Monies Deposited With State Treasurer to Credit of Revolving Fund of Such Institution

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 consumer and the amount due the state for the care and treatment of the consumer. All collected monies 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.

ADMISSIONS

§ 5-101. Methods of Admission to Institution

A. Any person who has a mental illness or is alcohol- or drug-dependent to a degree which warrants inpatient treatment or care, and who is not in confinement in any jail or correctional facility on a criminal charge or conviction and who has no criminal charges pending against him or her, may be admitted to and confined in a facility within the Department of Mental Health and Substance Abuse Services, a state psychiatric hospital, or a licensed private institution by compliance with any one of the following procedures:

1. Emergency admission;
2. On voluntary application; or
3. On involuntary court commitment.

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

C. 1. Any person confined pursuant to a criminal charge shall only be admitted to and confined pursuant to a

court order issued in compliance with the provisions of Section 1175.6 of Title 22 of the Oklahoma Statutes.

2. No person shall be deprived of his or her liberty on the grounds that such person is, or is supposed to have, a mental illness or is in need of mental health treatment, except in accordance with the provisions of the Mental Health Law.

§ 5-102. Official Forms Necessary to Admission

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

§ 5-103. Conspiracy to Have Person Admitted Unlawfully or Maliciously a Misdemeanor – Punishment

Any person who shall knowingly contrive or conspire to have ordered or admitted any person to an institution for the mentally ill or a facility for the treatment of alcohol-dependent or drug-dependent persons, unlawfully or maliciously 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 such fine and imprisonment.

§ 5-104. False Certification as to Mental Illness a Misdemeanor – Punishment

Any person who intentionally falsely attests to the mental illness, alcohol dependency, or drug dependency of any person, or whose false attestations as to mental illness, alcohol dependency, or drug dependency of any person is proved to be the result of negligence or deficient professional skill, or who signs such an evaluation or petition for pecuniary reward, or promise thereof, or other consideration of value or operating to his or her advantage, other than the professional fee usually paid for such service, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by payment of a fine not to exceed One Thousand Dollars ($1,000.00), or imprisonment in the county jail not to exceed one (1) year, or both such fine and imprisonment.

RIGHTS DURING DETENTION OR CONFINEMENT

§ 5-201. Rights of Detained Persons upon Entry into Facility

All facilities wherein persons are detained for any purpose under the provisions of this act shall allow such detained person the right to contact a relative, close friend or attorney immediately upon entry into such place of detention.

§ 5-202. Confinement of Persons Allegedly or Adjudged Mentally Ill

When any person alleged in any court to be mentally ill, alcohol-dependent, or drug-dependent, or shall have been adjudged to be mentally ill, alcohol-dependent, or drug-dependent and shall be in the legal custody of the county sheriff as prescribed by law, if such person has not been charged with commission of a crime, the said county sheriff is hereby authorized to confine such person in a place other than the county jail to be selected by said county

sheriff and to transport such person to the place selected; provided that such confinement shall be in a place and manner so as to prevent such confined person from in any way endangering himself or any other person. The county is hereby directed to expend such funds as may be necessary to provide for such confinement outside the county jail. Specific authority is hereby granted the county sheriff and the county commissioners to enter into a contract with a nursing home or facility as a place of detention. Other departments and agencies of the state may not interfere with nor deter, in any manner, this right to contract.

§ 5-203. Conveyance of Female Patients

A. Upon receiving an order from a district court to convey a mentally ill, alcohol-dependent, or drug-dependent female to a facility, the sheriff of such county shall procure a suitable female to assist in conveying the female to the 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 assistance, and certify the same to the county clerk as a part of the expense of 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 executive director of the facility, showing that the person has been duly conveyed to the facility by, or accompanied by a female attendant or as otherwise authorized by this section.

D. Whenever a female consumer is transferred from one facility to another within the Department of Mental Health and Substance Abuse Services or from a facility within the Department to another facility of like nature elsewhere, the female must be accompanied by a female employee of the Department or a suitable relative of the female consumer.

§ 5-204. Treatment and Medication During Pre-Screening Detention – Liability – Seclusion or Restraint

A. Appropriate treatment and medication, including psychotropic medication, may be administered to a consenting individual:

1. During the detention periods authorized by the Mental Health Law;

2. During the time set forth in the Mental Health Law for the precommitment screening examination; or

3. While in the custody of the Department of Corrections.

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

1. Has personally examined the consumer;

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

3. Notes in the medication record of the consumer, 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 the administration of medication.

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

1. Personally examined the consumer; and

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

E. If the consumer 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 the hearing that:

1. The consumer is under the influence of psychotropic medication;

2. The purpose of the medication; and

3. The effect which such medication may have on the actions, demeanor and participation of the consumer 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.

§ 5-205. Repealed

§ 5-206. Definitions

As used in Sections 5-206 through 5-209 of this title:

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

a. determining if a petition requesting involuntary commitment or treatment is warranted, or

b. completing a mental health evaluation pursuant to Section 5-414 of this title, or

c. both subparagraphs a and b of this paragraph;

2. "Initial assessment (medical necessity review)" means the examination of a person, either in person or via telemedicine, who appears to be a mentally ill person, an alcohol-dependent person, or a drug-dependent person and a person requiring treatment, whose condition is such that it appears that emergency detention may be warranted by a licensed mental health professional at a facility approved by the Commissioner of Mental Health and Substance Abuse Services, or a designee, as appropriate for such examination to determine if emergency detention of the person is warranted;

3. "Emergency detention" means the detention of a person who appears to be

a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination, either in person or via telemedicine, and a determination that emergency detention is warranted for a period not to exceed one hundred twenty (120) hours or five (5) days, excluding weekends and holidays, except upon a court order authorizing detention beyond this period or pending the hearing on a petition requesting involuntary commitment or treatment as provided by this act;

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

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

§ 5-207. Emergency Detention Version 1 (as amended by Laws 2009, HB 1616, c. 252, § 1, eff. November 1, 2009)

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

B. Any peace officer who reasonably believes that a person is a person requiring treatment as defined in Section 1-103 of this title shall take the person into protective custody. The officer shall make every reasonable effort to take the person into custody in the least conspicuous manner.

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

D. If the person is medically stable, the officer shall immediately transport the person to the nearest facility designated by the Commissioner of Mental Health and Substance Abuse Services as an appropriate facility for an

initial assessment. If, subsequent to an initial assessment, it is determined that emergency detention is warranted, the officer shall transport the person to the nearest facility, designated by the Commissioner as appropriate for such detention, that has bed space available. If it is determined by the facility director or designee that the person is not medically stable, the officer shall transport the person to the nearest hospital or other appropriate treatment facility.

E. If the person is medically unstable, the person may be transported to an appropriate medical facility for medical treatment. A treating physician may authorize that the person be detained until the person becomes medically stable. When the person becomes medically stable, if in the opinion of the treating or discharging physician, the patient is still a person requiring treatment as defined in Section 1-103 of this title, the physician shall authorize detention of the patient for transportation as provided in subsection D of this section by an appropriate law enforcement agency.

F. The parent, brother or sister who is eighteen (18) years of age or older, child who is eighteen (18) years of age or older, or guardian of the person, or a person who appears to be or states that such person is mentally ill, alcohol-dependent, or drug-dependent to a degree that emergency action is necessary may request the administrator of a facility designated by the Commissioner as an appropriate facility for an initial assessment to conduct an initial assessment to determine whether the condition of the person is such that emergency detention is warranted and, if emergency detention is warranted, to detain the person as provided in Section 5-206 of this title.

Version 2 (as amended by Laws 2009, SB 597, c. 316, § 1, eff. November 1, 2009)

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

B. 1. Any peace officer who reasonably believes that a person is a person requiring treatment as defined in Section 1-103 of this title shall take the person into protective custody. The officer shall make every reasonable effort to take the person into custody in the least conspicuous manner.

2. Upon taking the person into protective custody, the officer may relinquish custody of the person believed to require treatment to a duly qualified reserve officer or deputy employed by the same agency to fulfill the officer's duties as required by this title.

C. The officer shall prepare a written statement indicating the basis for the officer's belief that the person is a person requiring treatment and the circumstances under which the officer took the person into protective custody. The officer shall give a copy of the statement to the person or the person's attorney upon the request of either. If the officer does not make the determination to take an individual into protective custody on the basis of the officer's personal observation, the officer shall not be required to prepare a written statement. However, the person stating to be mentally ill, alcohol-dependent, or

drug-dependent or the person upon whose statement the officer relies shall sign a written statement indicating the basis for such person's belief that the person is a person requiring treatment. Any false statement given to the officer by the person upon whose statement the officer relies shall be a misdemeanor and subject to the sanctions of Title 21 of the Oklahoma Statutes.

D. If the person is medically stable, the officer shall immediately transport the person to the nearest facility designated by the Commissioner of Mental Health and Substance Abuse Services as an appropriate facility for an initial assessment. If, subsequent to an initial assessment, it is determined that emergency detention is warranted, the officer shall transport the person to the nearest facility, designated by the Commissioner as appropriate for such detention, that has bed space available. If it is determined by the facility director or designee that the person is not medically stable, the officer shall transport the person to the nearest hospital or other appropriate treatment facility.

E. If the nearest facility designated by the Commissioner as an appropriate facility for an initial assessment or detention is in excess of fifty (50) miles from the county seat of the county in which the person is located, and whenever, as provided in paragraph (b) of Article III of Section 6-201 of this title, there are factors based upon clinical determinations made within the state indicating that the care and treatment of the person would be facilitated or improved thereby, the person may be transported by the officer to a facility in another state if the facility:

1. Is located in a state that has enacted into law and entered into the Interstate Compact on Mental Health;

2. Is designated or accredited by the mental health authorities of that state as an appropriate facility for an initial assessment or detention of such person;

3. Is accredited by the Joint Commission;

4. Is the nearest available facility to the county seat of the county in which the person is located; and

5. Has agreed prior to the person leaving the state to receive the person for initial assessment or detention.

F. The parent, brother or sister who is eighteen (18) years of age or older, child who is eighteen (18) years of age or older, or guardian of the person, or a person who appears to be or states that such person is mentally ill, alcohol-dependent, or drug-dependent to a degree that emergency action is necessary may request the administrator of a facility designated by the Commissioner as an appropriate facility for an initial assessment to conduct an initial assessment to determine whether the condition of the person is such that emergency detention is warranted and, if emergency detention is warranted, to detain the person as provided in Section 5-206 of this title.

§ 5-208. Examination of Person in Protective Custody

A. 1. A consumer in protective custody as provided by Section 5-207 of this title shall be subject to an initial assessment 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 consumer is warranted. The initial assessment of the consumer shall include an appropriate screening and assessment process, as determined by the Department of Mental Health and

Substance Abuse Services, designed to identify possible alcohol or drug abuse or dependency.

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

3. If, upon examination, the licensed mental health professional determines that the consumer 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 consumer shall be detained in emergency detention for a period not to exceed one hundred twenty (120) hours or five (5) days, 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 mental health evaluation of the consumer shall be conducted by two licensed mental health professionals and, if the consumer appears to have a mental illness or be alcohol- or drug-dependent and be a consumer requiring treatment, and

b. reasonable efforts shall be made to determine whether the consumer 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 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 consumer to be a person requiring treatment to a degree that emergency action is necessary, the hospital or facility may detain such consumer in emergency detention for a period not to exceed one hundred twenty (120) hours or five (5) days, excluding weekends and holidays, only on the following conditions:

1. The consumer has refused to consent or has withdrawn consent to voluntary treatment;

2. The consumer has been examined by a licensed mental health professional who has determined that the consumer is a person requiring treatment, the condition of the consumer 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 mental health evaluation of the consumer by two licensed mental health professionals.

C. Whenever it appears that a consumer detained pursuant to the provisions of this section is no longer a person requiring treatment and will not require treatment beyond the period of detention, the consumer shall be

discharged and returned by an officer to the point where he or she was taken into protective custody, or if the consumer had not been in protective custody, the consumer shall be taken to the home or residence of the consumer or to an alternative facility. If the home or residence of the consumer is a nursing home or group home, it shall not refuse the return of the consumer 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, and may request a court order directing prehearing detention when such detention is necessary for the protection of the person or others.

§ 5-209. Additional Period of Detention – Notification of Interested Parties of Detention

A. A person may be detained in emergency detention more than one hundred twenty (120) hours or five (5) days, excluding weekends and holidays, only if the facility in which the person being detained is presented with a copy of an order of the district court authorizing further detention. Such order may be entered by the court only after a petition has been filed seeking involuntary commitment or treatment pursuant to the provisions of Section 5-410 of this title.

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

C. The person being held in protective custody or emergency detention shall be asked to designate any person whom such person wishes informed regarding the detention. If the person being held in protective custody is incapable of making such designation, the peace officer holding the person in protective custody shall notify within twenty-four (24) hours of taking the person into protective custody, other than the person initiating the request for protective custody, the attorney, parent, spouse, guardian, brother, sister, or child who is at least eighteen (18) years of age of the person. Failure of the sheriff to find such person shall within a reasonable time be reported to the administrator of the facility. Such fact shall be made a part of the records of the facility for the person being detained.

§§ 5-210 to 5-212. Repealed

§ 5-213 - Law Enforcement Behavioral Health Emergency Dispatch Task Force

A. There is hereby created, to continue until July 1, 2012, the Law Enforcement Behavioral Health Emergency Dispatch Task Force.

B. The Task Force shall consist of eleven (11) members as follows:

1. The Commissioner, or designee, of the Department of Mental Health and Substance Abuse Services;

2. The State Commissioner of Health, or designee, of the State Department of Health;

3. An individual representing a statewide sheriffs' organization to be appointed by the Speaker of the Oklahoma House of Representatives;

4. An individual representing a statewide chiefs of police organization to be appointed by the President Pro Tempore of the State Senate;

5. An individual representing a statewide hospital organization to be appointed by the Speaker of the Oklahoma House of Representatives;

6. An individual representing a statewide behavioral health advocacy organization to be appointed by the President Pro Tempore of the Senate;

7. An individual representing a statewide organization that serves consumers of mental health services to be appointed by the Speaker of the Oklahoma House of Representatives;

8. An individual representing a statewide association of county governments to be appointed by the Speaker of the House of Representatives;

9. An individual representing a statewide association of city governments to be appointed by the President Pro Tempore of the Senate;

10. One member of the Oklahoma House of Representatives as appointed by the Speaker of the Oklahoma House of Representatives; and

11. One member of the Senate as appointed by the President Pro Tempore of the State Senate.

C. 1. The Task Force:

a. shall study and evaluate the development of a law enforcement behavioral health emergency dispatch system that will assist and encourage law enforcement agencies and hospitals and emergency medical service providers providing services pursuant to Section 1-101 et seq. of Title 43A of the Oklahoma Statutes, to provide an organized system of transportation for persons in need of mental health or substance abuse inpatient treatment,

b. shall study the practicality of adopting current systems in place such as the Trauma Transfer and Referral Center system, established pursuant to the Oklahoma Trauma Systems Improvement and Development Act or the adoption of a similar system or model to ensure that persons are directed to the appropriate hospital based on a regional plan and the current capability and capacity of hospitals,

c. may divide into subcommittees in furtherance of its purpose, and

d. may obtain information and assistance as necessary to complete its duties from any state agency.

2. a. The Task Force shall be staffed by the Department of Mental Health and Substance Abuse Services.

b. All departments, officers, agencies and employees of the state shall cooperate with the Task Force in carrying out its duties and responsibilities including, but not limited to, providing any information, records, reports or other assistance as may be requested by the Task Force.

3. It shall be the duty of the Task Force to formulate recommendations related to the development and implementation of a law enforcement behavioral health emergency dispatch system, including recommendations for any resulting legislation.

D. The members of the Task Force shall determine meeting dates. Members shall not be compensated for their service but shall be reimbursed by their appointing authorities for necessary

expenses incurred in the performance of their duties. Members shall receive no compensation for their service on the Task Force, but shall receive travel reimbursement as follows:

1. Legislative members shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with the provisions of Section 456 of Title 74 of the Oklahoma Statutes;

2. Nonlegislative members who are state officers or employees shall be reimbursed by their respective agencies for their necessary travel expenses incurred in the performance of their duties in accordance with the provisions of the State Travel Reimbursement Act; and

3. Members who are not legislators or officers or employees of the state shall be reimbursed by their appointing authorities in accordance with the provisions of the State Travel Reimbursement Act.

MENTAL HOSPITAL VOLUNTARY ADMISSION PROCEDURES ACT

§ 5-301. Short title

Sections 5-301 through 5-311 of the Mental Health Law shall be known and may be cited as the "Mental Hospital Voluntary Admission Procedures Act".

§ 5-301.1. Definition of “Person”

As used in the Mental Hospital Voluntary Admission Procedures Act, "person" shall include:

1. An individual eighteen (18) years of age or older; or

2. A court-appointed Guardian Ad Litem or an individual given the power of attorney to make medical decisions for the individual.

§ 5-302. Status as Informal Patient

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 consumer when there are available accommodations and in the judgment of the person in charge of the facility or a designee such person may require treatment therein. Such person may be admitted as an informal consumer without making formal or written application therefor and any such informal 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 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 a designee has informed such consumer in writing of the following:

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

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

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

§ 5-303. Liability for Refusing Admittance to Patient

The state and its agents do not have a legal duty to admit a person as an informal consumer, and refusal to admit a person as an informal consumer, if made in good faith, shall not give rise to a cause of action by anyone damaged as a result of such refusal.

§ 5-304. Voluntary Admission to State and Private Institutions – Cost of Care and Treatment – Bond

A. The Board of Mental Health and Substance Abuse Services shall promulgate rules for the reception and retention of voluntary 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 or her discretion receive and retain therein as a consumer:

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

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 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 or her intention or desire to leave such hospital or facility.

D. The applicant, or someone on behalf of the applicant, must 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.

§ 5-305. Application for Voluntary Admission

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

1. Of the county in which the person resides; or

2. Of the county in which a state hospital for the mentally ill is located.

§ 5-306. Certificate of Physician

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 such profession by the Oklahoma State Board of Medical Licensure and Supervision or the Oklahoma Board of Osteopathic Examiners, who is not related by blood or marriage to the person being examined, and who has no interest in the estate of the person being examined. This certificate shall include the following:

1. A statement that a physician licensed in this state has personally examined the person;

2. A statement that such physician is not related by blood or marriage to the person being examined and has no interest in the estate of the person being examined;

3. A determination that the person has a mental illness that requires inpatient admission;

4. A statement that the person may not be held at the facility for longer than one hundred twenty (120) hours or five (5) days, excluding weekends and holidays, past the time when such person has revoked consent to stay for treatment;

5. Information on the benefits and side effects of the treatment the person will receive in an inpatient setting;

6. Certification that the person has made a knowing and willing consent to voluntary inpatient treatment; and

7. The physician's signature made under penalty of perjury.

§ 5-307. Questioning of Applicant by County Judge – Order

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

§ 5-308. Order Authorizing Admission

The order of the judge of the district court authorizing the admission of an applicant as a voluntary consumer pursuant to the provisions of the Mental Hospital Voluntary Admission Procedures Act shall contain the following findings:

1. A physician licensed in this state personally examined the person requesting inpatient admission for psychiatric care;

2. Such physician certified that the person has a mental condition that requires inpatient admission;

3. The person knowingly and willingly consented to voluntary inpatient admission;

4. The person fully understands the benefits, consequences, conditions, and side effects of inpatient admission and treatment, and agrees to them; and

5. An arrangement for the transportation of the person to the inpatient facility.

§ 5-309. Detention Against Will Prohibited – Notice of Desire to be Discharged

No 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 one hundred twenty (120) hours or five (5) days, excluding weekends and holidays, after the consumer gives notice in writing to the executive director of the facility of the desire of the 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.

§ 5-310. Mental Health Law Provisions Applicable

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

§ 5-311. Procedure as Cumulative

The admission procedure prescribed by the Mental Hospital Voluntary Admission Procedures Act shall be cumulative to the procedures prescribed by other provisions of law. Nothing herein shall affect the admission procedures prescribed by other provisions of law.

§§ 5-401 and 5-402. Repealed

§§ 5-403 to 5-407. Renumbered as 43A O.S. §§ 5-417, 5-418, 5-416, 5-419 and 5-420 by Laws 1997, HB 2024, c. 387, § 12, eff. November 1, 1997

§§ 5-408 and 5-409. Blank

INVOLUNTARY COMMITMENT

§ 5-410. Petition to the District Court

A. The following persons may file or request the district attorney to file a petition with the district court, upon which is hereby conferred jurisdiction, to determine whether an individual is a person requiring treatment, and to order the least restrictive appropriate treatment for the person:

1. A treatment advocate as defined in Section 1-109.1 of this title;
2. The father, mother, husband, wife, grandparent, brother, sister, guardian or child, over the age of eighteen (18) years, of an individual alleged to be a person requiring treatment;
3. A licensed mental health professional;
4. A person in charge of any correctional institution;
5. Any peace officer within the county in which the individual alleged to be a person requiring treatment resides or may be found; or
6. The district attorney in whose district the person resides or may be found.

B. 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 a person requiring treatment may be attached to the petition.
3. If the individual alleged to be a person requiring treatment is being held in emergency detention, a copy of the mental health evaluation shall be attached to the petition.

C. The inpatient mental health treatment of minors shall be pursuant to the provisions of the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

§ 5-411. Rights of Person Alleged to be a Person Requiring Treatment

A. An individual alleged to be a person requiring treatment shall have the following rights:

1. The right to notice, as provided by Section 5-412 of this title;
2. The right to counsel, including court-appointed counsel, and if the person has no counsel, that the court shall appoint an attorney to represent the person at no cost if the person is an indigent person and cannot afford an attorney;
3. The right to a hearing and the right to a closed hearing, unless the person requests otherwise;
4. Upon request, right to a jury trial. The jury shall be composed of six persons having the qualifications required of jurors in courts of record;
5. The right to be present at the hearing on the petition or jury trial. The person shall be present at the hearing or jury trial unless the court finds that the presence of the person alleged to be a person requiring treatment makes it impossible to conduct the hearing or trial in a reasonable manner or that the presence of the person would be injurious to the health or well-being of such person.

a. The court shall not decide in advance of the hearing, solely on the basis of the mental health evaluation, that the person alleged to be a person requiring treatment should not be allowed nor required to appear.

b. Prior to issuing an order excluding the person from the hearing or jury trial, the court shall find, based upon clear and convincing evidence, that alternatives to exclusion of the person were attempted;

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

B. An individual alleged to be or found by a court to be a person requiring treatment shall be afforded such other rights as are guaranteed by state and federal law.

C. No statement, admission or confession made by the person alleged to be a person requiring treatment shall be used for any purpose except for proceedings under this act. No such statement, admission or confession may be used against such person in any criminal action whether pending at the time the hearing is held or filed against such person at any later time directly or in any manner or form.

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

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

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

a. the person alleged to be a person requiring treatment prefers the services of an attorney other than the one initially appointed for the person,

b. the preferred attorney agrees to accept the responsibility, and

c. the person alleged to be a person requiring treatment or the preferred attorney notifies the court of the preference and the attorney's acceptance of employment.

The preferred attorney shall meet and consult with the person within one (1) day of employment or appointment. Any request for additional days shall be subject to the discretion of the court, considering the facts and circumstances of each particular case, including cost.

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

such person is indigent. The amount of such fee shall be set by the court.

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

§ 5-412. Notice of Hearing

A. Notice of the date, time and place of the hearing on a petition alleging a person to be a person requiring treatment shall be delivered to such person at least one (1) day prior to the hearing. Notice shall be personally delivered to the person together with a copy of the petition and copies of the mental health evaluation and any order of the court directing prehearing detention.

B. The notice shall contain the following information:

1. The definitions provided by Section 1-103 of this title of a "mental illness" and a "person requiring treatment";
2. If applicable, that the court has ordered the mental health evaluation of the person by two licensed mental health professionals, at least one of whom is a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology, a licensed clinical psychologist, or a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions, for the purpose of conducting an evaluation of the person alleged to be a person requiring treatment stating their findings, and the time and place of the evaluation;
3. That, upon request, the hearing on the petition may be conducted as a jury trial and the jury shall be composed of six persons having the qualifications required of jurors in courts of record;
4. That the petitioner and witnesses identified in the petition may offer testimony under oath at the hearing on the petition;
5. If applicable, that the court has appointed an attorney for the person alleged to be a person requiring treatment who shall represent the person until final disposition of the case and that if the person is indigent, the court shall pay the attorney fees;
6. That, if the person is found at the hearing or at a jury trial to be a person requiring treatment under Section 5-410 et seq. of this title, the court will take evidence and make findings of fact concerning the person's competency to consent or to refuse the treatment that is ordered, including, but not limited to, the right of the person to refuse psychotropic medications; and
7. That the person alleged to be a person requiring treatment shall be afforded such other rights as are guaranteed by state and federal law.

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

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

a. the individual initiating the request for protective custody, emergency detention,

involuntary commitment or prehearing detention,
b. the attorney or court-appointed counsel of the person, to the district attorney, and to the public defender, if any,
c. the facility, if any, in which the person is detained in emergency detention,
d. if any exist and if one is known, the treatment advocate as defined pursuant to Section 1-109.1 of this title, a person having a valid power of attorney with health care decision-making authority, a person having a valid guardianship with health care decision-making authority, a person having an advance health care directive, or a person having an attorney-in-fact as designated in a valid mental health advance directive, unless specifically indicated otherwise by the instrument or court order. The documents shall not identify the alleged person requiring treatment directly or indirectly as a person with a substance abuse disorder, and
e. if the designations or orders listed in subparagraph d of this paragraph do not exist or are not known, then a parent, spouse, guardian, brother, sister or child who is at least eighteen (18) years of age of the person alleged to be a person requiring treatment and who is not the individual initiating the petition or a request for protective custody, emergency detention, involuntary commitment or prehearing detention. The documents shall not identify the alleged person requiring treatment directly or indirectly as a person with a substance abuse disorder. Notice shall also be delivered to any other person as may be ordered by the court.
2. The notice required by this subsection may be served personally or by certified mail. When notice is served personally, the person making such service shall make affidavit of the same and file such notice, with proof of service, with the district court. This notice may be served in any part of the state when so ordered by the court.
E. Notice of orders of a court directing a mental health evaluation or prehearing detention of a person alleged to be a person requiring treatment shall be delivered in substantially the same manner as provided by subsection A of this section. Notice of a court order directing a mental health evaluation of the person shall be delivered at least one (1) day before the evaluation, and as many additional days as are requested by the person alleged to be a person requiring treatment or the attorney of such person as are reasonable without prejudice to the person. Any request for additional days shall be subject to the discretion of the court, considering the facts and circumstances of each particular case.

§ 5-413. Request for Prehearing Detention Order

A. When a request for an order of prehearing detention is attached to a petition alleging a person to have a mental illness and to be a person requiring treatment, the district court shall determine whether there is probable cause to detain the person who is the subject of the petition prior to a hearing on the petition.
1. If the court issues an order for detention, it shall immediately set a date, time, and place for a hearing on the petition, and shall issue notice to each individual required to receive notice pursuant to Section 5-412 of this title.
2. The period of prehearing detention shall not exceed seventy-two (72) hours, excluding the weekends and holidays,

except upon a court order authorizing detention beyond a seventy-two-hour period or pending the hearing on a petition requesting involuntary commitment or treatment. Prehearing detention may be extended to coincide with any order of continuance entered by the court.

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

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

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

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

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

§ 5-414. Mental Health Evaluation – Report of Licensed Mental Health Professional

A. If a mental health evaluation is not attached to a petition alleging a person to be a person requiring treatment at the time the petition is filed, the court shall order the person who is the subject of the petition to undergo a mental health evaluation by two licensed mental health professionals, and a mental health evaluation to be completed and filed with the court prior to the hearing.

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

2. A copy of all petitions, orders, affidavits, powers of attorney, advance health care directives, treatment advocate designations, mental health advance directives, guardianships, police reports and other relevant documents shall accompany the person to the place where the mental health evaluation is to be conducted.

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

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

1. The person being evaluated appears to be a person requiring treatment as defined in this title, and is reasonably likely to benefit from mental health or substance abuse treatment; and

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

a. reasonable efforts have been made to provide for the mental health or substance abuse treatment needs of the person through the provision of less restrictive alternatives and the alternatives have failed to meet the treatment needs of the person, or

b. after a thorough consideration of less restrictive alternatives to inpatient treatment, the condition of the person is such that less restrictive alternatives are unlikely to meet the treatment needs of the person.

§ 5-415. Hearing – Records

A. Upon receiving a petition alleging a person to be a person requiring treatment, the court shall set a day and time for the hearing.

1. If the person alleged 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 mental health evaluation is not attached to the petition at the time it is filed, the court shall immediately order a mental health 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 be a person requiring treatment demands, the court shall schedule the hearing on the petition as a jury trial to be held within one hundred twenty (120) hours or five (5) days 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 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 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 mental health 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 be a person requiring treatment may also be called as a witness and cross-examined.

D. After the hearing, when the court determines that the person 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. After the hearing, when the court determines the person 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 mental health examination.

2. If the court finds that a program other than hospitalization is appropriate to meet the 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, the person's treatment advocate as defined pursuant to Section 1-109.1 of this title, if any, a person having a valid power of attorney with health care decision-making authority, a person having valid guardianship with health care decision-making authority, a person having an advance health care directive, a person having an attorney-in-fact as designated in a valid mental health advance directive or persons having a legitimate treatment interest, unless specifically indicated otherwise by the instrument or court order. The documents shall not identify the alleged person requiring treatment directly or indirectly as a person with a substance abuse disorder.
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.

§ 5-416. Alternative to Hospitalization

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, or without addressing the competency of the consumer to consent to or refuse the treatment that is ordered including, but not limited to, the rights of the consumer:

1. To be heard concerning the 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 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 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 initial 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.

§ 5-417. Precommitment Examination – Matters Included

A precommitment examination ordered by the court shall include, but is not limited to:

1. A physical evaluation;
2. A mental evaluation;
3. A social history;
4. A study of the individual's family and community situation;
5. A list of available forms of care and treatment which may serve as an alternative to admission to a hospital;
6. Powers of attorney or advance health care directives, if any; and
7. A recommendation as to the least restrictive placement suitable to the person's needs, as identified by this section, should the individual be ordered to undergo treatment by the court. Programs other than hospitalization to be considered shall include, but not be limited to, outpatient clinics, extended care facilities, nursing homes, sheltered care arrangements, home care and homemaker services, and other treatment programs or suitable arrangements.

§ 5-418. Precommitment Screening Examination – Copy of Order to be Provided Examinee – Explanation of Examination

In addition to the notice requirements contained in the Mental Health Law, each person ordered to undergo a precommitment screening examination shall receive:

1. A copy of the order requiring the person to undergo the examination; and
2. A written statement explaining what the examination will cover.

If the individual is unable to read or understand the written materials, every effort will be made to explain them in a language such person understands, and a copy of the examination findings shall

be provided to the court, to the person's attorney of record, if known, and the person's treatment advocate as defined pursuant to Section 1-109.1 of this title, if any, upon completion.

§ 5-419. Modification Order – Notice – Contents of Notice

The court may modify an order for involuntary inpatient commitment and order alternative treatment pursuant to the provisions of this section upon request of the person committed or the administrator of a facility to which a person has been involuntarily committed for inpatient treatment. The court shall give notice to the person affected thereby and to each individual required to receive notice pursuant to Section 5-412 of this title, to appear within five (5) regular court days, or as many other days as the court may grant, and show cause why the modification shall not be made. The notice shall contain the following information:

1. The individual ordered to undergo a program of alternative treatment to hospitalization is not complying with the previous order, or that the alternative treatment program has not been sufficient to prevent harm or injury to the person or others, or the person committed for inpatient care and treatment is eligible for discharge and that an evaluation conducted prior to discharge determined that an order for alternative treatment is necessary in order to prevent impairment or injury to the person;
2. A statement of the facts upon which the alleged change of condition is based and a copy of any written findings entered by the court;
3. Notice of the time and place of the show cause hearing;
4. Notice of the types of modifications that the court can make pursuant to this hearing;
5. The witnesses who shall testify or offer evidence for the modification which are known to the court;
6. That the individual has the right to an attorney, and that if the individual cannot afford an attorney, one will be provided; and
7. That the individual has the right to cross-examine witnesses, and to call witnesses in such person's own defense.

§ 5-420. Review of Status of Persons Involuntarily Detained

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

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

respondent, or enter any appropriate order.

§ 5-421. Emergency Service Patrols – Standards

A. Counties and municipalities may establish emergency service patrols. A patrol consists of persons trained to give assistance in public places to persons whom the patrol has reasonable grounds to believe are mentally ill. Members of an emergency service patrol shall be capable of providing first aid in emergency situations and may transport mentally ill persons to their homes and to and from approved treatment facilities and alternative facilities.

B. Standards for the establishment, training, and conduct of emergency service patrols shall be adopted by the county or municipality and approved by the Department of Mental Health and Substance Abuse Services. These standards shall comply with the standards of the regional emergency medical services plan.

C. All participating state and local agencies are directed to coordinate with each other and cooperate in assisting the Department of Mental Health and Substance Abuse Services as needed. If specifically requested in two or more regional emergency medical service plans, the Department may establish a law enforcement behavioral health emergency dispatch system.

D. All emergency service patrols shall be required to keep reliable data on services made available and provided by the emergency service patrols.

E. Upon the request of the Department of Mental Health and Substance Abuse Services, every state agency, board or commission shall provide any information requested by the Department of Mental Health and Substance Abuse Services to assess the effectiveness of emergency service patrols.

INPATIENT MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT OF MINORS ACT

§ 5-501. Short Title – Public Policy – Legislative Intent

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. Assure adequate treatment of minors needing mental health treatment or treatment for drug or alcohol abuse;

2. Establish behavioral standards for determination of dangerousness of persons in need of such treatment;

3. Require the use of the least restrictive alternative in the determination of the method of treatment;

4. 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

5. Protect the rights of 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.

D. A minor may be admitted for inpatient mental health or substance abuse treatment only pursuant to the provisions of the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

§ 5-502. Definitions

As used in the Inpatient Mental Health and Substance Abuse Treatment of Minors Act:

1. "Minor" means any person under eighteen (18) years of age;

2. "Minor in need of treatment" means a minor:

a. who has a demonstrable mental illness or who is drug or alcohol dependent and as a result of that mental illness or dependency can be expected within the near future to inflict or attempt to inflict serious bodily harm to himself or herself or another person, and who has engaged in one or more recent overt acts or made significant recent threats which substantially support that expectation, or

b. who has a demonstrable mental illness or is drug or alcohol dependent of sufficient severity to cause substantial impairment or disability in at least two of the following major areas of functioning in the life of the minor:

(1) family relations,

(2) school performance,

(3) social interactions,

(4) ability to perform independently the basic tasks of personal hygiene, hydration and nutrition, or

(5) self-protection.

A determination regarding the ability of the minor to perform independently such basic tasks shall be based upon the age of the minor and the reasonable and appropriate expectation of the abilities of a minor of such age to perform such tasks.

The term "minor in need of treatment" shall not mean a minor afflicted with epilepsy, a developmental disability, organic brain syndrome, physical handicaps, brief periods of intoxication caused by such substances as alcohol or drugs or who is truant or sexually active unless the minor also meets the criteria for a minor in need of treatment pursuant to subparagraph a or b of this paragraph;

3. "Consent" means the voluntary, express, and informed agreement to treatment in a mental health facility by a minor sixteen (16) years of age or older or by a parent of the minor;

4. "Individualized treatment plan" means a specific plan for the care and treatment of an individual minor who requires inpatient mental health treatment. The plan shall be developed with maximum involvement of the family of the minor, consistent with the desire of the minor for confidentiality and with the treatment needs of the minor, and shall clearly include the following:

a. a statement of the presenting problems of the minor, short- and long-term treatment goals and the estimated date of discharge. The short- and long-term goals shall be based upon a clinical evaluation and shall include specific

behavioral and emotional goals against which the success of treatment can be measured,

b. treatment methods and procedures to be used to achieve these goals, which methods and procedures are related to each of these goals and which include, but are not limited to, specific prognosis for achieving each of these goals,

c. identification of the types of professional personnel who will carry out the treatment procedures including, but not limited to, appropriate licensed mental health professionals, education professionals, and other health or social service professionals, and

d. documentation of the involvement of the minor or the parent of the minor or legal custodian in the development of the treatment plan and whether all persons have consented to such plan;

5. "Inpatient treatment" means treatment services offered or provided for a continuous period of more than twenty-four (24) hours in residence after admission to a mental health or substance abuse treatment facility for the purpose of observation, evaluation or treatment;

6. "Least restrictive alternative" means the treatment and conditions of treatment which, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit to the minor, or to protect the minor or others from physical injury;

7. "Less restrictive alternative to inpatient treatment" means and includes, but is not limited to, outpatient counseling services, including services provided in the home of the minor and which may be referred to as "home-based services", day treatment or day hospitalization services, respite care, or foster care or group home care, as defined by Title 10 of the Oklahoma Statutes, through a program established and specifically designed to meet the needs of minors in need of mental health treatment, or a combination thereof;

8. "Licensed mental health professional" means a person who is not related by blood or marriage to the person being examined or does not have any interest in the estate of the person being examined, and who is:

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.

For the purposes of this paragraph, "licensed" means that the person holds a current, valid license issued in accordance with the laws of this state;

9. "Mental health evaluation" means an examination or evaluation of a minor

for the purpose of making a determination whether, in the opinion of the licensed mental health professional making the evaluation, the minor is a minor in need of treatment and, if so, is in need of inpatient treatment and for the purpose of preparing reports or making recommendations for the most appropriate and least restrictive treatment for the minor;

10. "Mental health facility" means a public or private hospital or related institution as defined by Section 1-701 of Title 63 of the Oklahoma Statutes offering or providing inpatient mental health services, a public or private facility accredited as an inpatient or residential psychiatric facility by the Joint Commission on Accreditation of Healthcare Organizations, or a facility operated by the Department of Mental Health and Substance Abuse Services and designated by the Commissioner of the Department of Mental Health and Substance Abuse Services as appropriate for the inpatient evaluation or treatment of minors;

11. "Mental illness" means a substantial disorder of the child's thought, mood, perception, psychological orientation or memory that demonstrably and significantly impairs judgment, behavior or capacity to recognize reality or to meet the ordinary demands of life. "Mental illness" may include substance abuse, which is the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional, or physical impairment and cause socially dysfunctional or socially disordering behavior;

12. "Parent" means:

a. a biological or adoptive parent who has legal custody of the minor or has visitation rights, or

b. a person judicially appointed as a legal guardian of the minor, or

c. a relative within the third degree of consanguinity who exercises the rights and responsibilities of legal custody by delegation from a parent, as provided by law;

13. "Person responsible for the supervision of the case" means:

a. when the minor is in the legal custody of a private child care agency, the Department of Human Services or the Office of Juvenile Affairs, the caseworker or other person designated by the agency to supervise the case, or

b. when the minor is a ward of the court and under the court-ordered supervision of the Department of Human Services, the Office of Juvenile Affairs or a statutorily constituted juvenile bureau, the person designated by the Department of Human Services, the Office of Juvenile Affairs or juvenile bureau to supervise the case;

14. "Initial assessment (medical necessity review)" means the examination of current and recent behaviors and symptoms of a minor who appears to be mentally ill, alcohol-dependent, or drug-dependent and a minor requiring treatment, whose condition is such that it appears that emergency detention may be warranted by a licensed mental health professional at a facility approved by the Commissioner of Mental Health and Substance Abuse Services, or a designee, as appropriate for such examination to determine if emergency detention of the minor is warranted, and whether admission for inpatient mental illness or drug- or alcohol-dependence

treatment or evaluation constitutes the least restrictive level of care necessary;

15. "Ward of the court" means a minor adjudicated to be a deprived child, a child in need of supervision, or a delinquent child;

16. "Treatment" means any planned intervention intended to improve the functioning of a minor in those areas which show impairment as a result of mental illness or drug or alcohol dependence; and

17. "Prehearing detention order" means a court order that authorizes a facility to detain a minor pending a hearing on a petition to determine whether the minor is a minor in need of treatment.

§ 5-503. Admission for Inpatient Mental Health or Substance Abuse Treatment

A. A parent of a minor or a minor sixteen (16) years of age or older may consent to the voluntary admission of the minor for inpatient mental health or substance abuse treatment.

B. Upon the application of a minor sixteen (16) years of age or older or a parent of a minor, a mental health or substance abuse facility may admit the minor for inpatient evaluation or treatment if the person in charge of the facility, or a designee, determines the minor to be clinically eligible for such admission, and:

1. After an initial assessment, a licensed mental health professional determines and states in writing that there is reasonable cause to believe that the minor may be a minor in need of treatment and that an evaluation is necessary to properly determine the condition and treatment needs of the minor, if any; and

2. After an outpatient or inpatient mental health evaluation, a licensed mental health professional determines and states in writing that in the opinion of the professional, the minor is a minor in need of treatment and:

a. the minor appears to have a mental illness or drug or alcohol dependence serious enough to warrant inpatient treatment and is reasonably likely to benefit from the treatment, and

b. based upon the following, inpatient treatment is determined to be the least restrictive alternative that meets the needs of the minor:

(1) reasonable efforts have been made to provide for the treatment needs of the minor through the provision of less restrictive alternatives and such alternatives have failed to meet the treatment needs of the minor, or

(2) after a thorough consideration of less restrictive alternatives to inpatient treatment, the condition of the minor is such that less restrictive alternatives are unlikely to meet the treatment needs of the minor, and

c. the minor has been provided with a clinically appropriate explanation of the nature and purpose of the treatment.

The consenting parent shall have the opportunity to discuss the findings with a person involved in the treatment of the minor.

C. The determinations and written statements of a licensed mental health professional made pursuant to this section shall, upon the admission of the minor for inpatient evaluation or treatment, be made a part of the medical record of the minor.

D. Inpatient treatment of a minor admitted under this section may not continue unless continued inpatient treatment has been authorized by appropriate hospital medical personnel,

based upon their written findings that the criteria set forth in subsection B of this section continue to be met, after such persons have examined the minor and interviewed the consenting parent and reviewed reports submitted by members of the facility staff familiar with the condition of the minor. This finding is subject to the review provisions contained in Section 5-512 of this title.

E. A mental health or substance abuse treatment facility may request that the district attorney file a petition alleging a minor to be a minor in need of treatment and require inpatient treatment when the parent consenting to the admission of a minor or when the minor age sixteen (16) years or older who had previously consented to admission revokes such consent and the person in charge of the facility, or a designee, determines that the condition of the minor is such that the minor should remain in the facility. If the district attorney refuses to file a petition, the district attorney must immediately notify the requesting facility, in writing, of the refusal to file.

F. A minor who is in the legal custody of the Department of Human Services or the Office of Juvenile Affairs, or who is a ward of a court may be admitted to a hospital or other facility for inpatient mental health or substance abuse treatment only pursuant to the provisions of Section 5-507 of this title.

1. A public or private child care agency having legal custody of a minor may request the district attorney to file a petition alleging the minor to be a minor in need of treatment and to require inpatient treatment.

2. Nothing in the Inpatient Mental Health and Substance Abuse Treatment of Minors Act shall be interpreted to prohibit or preclude the provision of outpatient treatment or services including, but not limited to, outpatient evaluation, counseling, educational, rehabilitative or other mental health and substance abuse services to the minor, as necessary and appropriate, in the absence of a specific court order for such services.

G. 1. An order of a court committing a minor to a facility for inpatient mental health or substance abuse evaluation or treatment shall not, by itself, relieve a parent of the obligation to provide for the support of the minor nor of liability for the cost of treatment provided to the minor.

2. Nothing in the Inpatient Mental Health and Substance Abuse Treatment of Minors Act shall be interpreted to:

a. limit the authority of the court to order a parent to make support payments or to make payments or reimbursements for medical care or treatment, including mental health care or treatment, to the person, institution, or agency having custody of the minor or providing the treatment, or

b. abrogate the right of the minor to any benefits provided through public funds for which the minor is otherwise eligible.

3. An order committing a minor to a facility for inpatient mental health or substance abuse treatment shall not by itself serve to preclude a subsequent adjudication which finds the minor to be delinquent, in need of supervision or deprived nor shall it cause the vacation of any such order of adjudication previously entered.

H. If the parent who consented to the admission of a minor under this section revokes such consent at any time, the minor shall be discharged within forty-eight (48) hours, excluding weekends and holidays, unless the district attorney

is requested to file a petition alleging the minor to be a minor in need of treatment and to require inpatient treatment in accordance with the provisions of this title. If the district attorney refuses to file a petition, the district attorney must immediately notify the requesting facility, in writing, of the refusal to file.

I. If a minor sixteen (16) years of age or older who consented to treatment subsequently revokes their consent at any time, the minor shall be discharged within forty-eight (48) hours, excluding weekends and holidays, unless the district attorney is requested to file a petition alleging the minor to be a minor in need of treatment and to require inpatient treatment in accordance with the provisions of this title or the parent of the minor subsequently consents to the treatment of the minor. If the district attorney refuses to file a petition, the district attorney must immediately notify the requesting facility, in writing, of the refusal to file.

§ 5-504. Responsibility and Jurisdiction Over Child Allegedly in Need of Mental Health Treatment

A. Upon the filing of a petition alleging that a minor is a minor in need of treatment and requires inpatient mental health or substance abuse treatment, or upon the assumption of custody of an alleged deprived child pursuant to the provisions of Section 7003-2.1 of Title 10 of the Oklahoma Statutes, or when a minor is the ward of the court, the judge of the district court having juvenile docket responsibility shall have jurisdiction of any minor who is or is alleged to be a minor in need of treatment and of the parent or legal custodian of the minor, regardless of where the parent or legal custodian is found. When jurisdiction has been obtained over a minor who is or is alleged to be in need of treatment, such jurisdiction may be retained until the minor is discharged from treatment ordered by the court. For the convenience of the parties and in the interest of justice, a proceeding under the Inpatient Mental Health and Substance Abuse Treatment of Minors Act may be transferred to the district court in any other county.

1. The venue for legal proceedings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act shall be:

a. the county where the minor resides,

b. when the minor is in the custody of a public or private child care agency, the county in which the minor resides at the time legal proceedings are initiated, or

c. the county of original jurisdiction.

2. The district court in which a petition is filed or the district court in which custody has been assumed pursuant to the provisions of Section 7003-2.1 of Title 10 of the Oklahoma Statutes may retain jurisdiction of a minor in need of treatment in such proceeding even if the minor is subject to the jurisdiction of another district court within the state. Any orders made by the court in which the petition is filed shall control over prior orders in regard to the minor.

3. The district court in which a petition is filed which alleges that a minor is a minor in need of treatment may issue any temporary order or grant any interlocutory relief authorized by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act even if another district court within the state has jurisdiction of the minor or has

jurisdiction to determine the custody or support of the minor.

4. If the district court in which a petition is filed pursuant to either paragraph 2 or 3 of this subsection sustains the petition, the district court shall have the jurisdiction to make a final determination on the petition or to transfer the proceedings to a court having prior jurisdiction over the minor. Where the other proceeding is pending in the same judicial district in which the petition is filed, the chief judge of the judicial district shall determine which judge shall try the issues when the judges to whom the cases have been assigned are unable to agree on the procedure that should be followed.

B. Unless otherwise specifically provided by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act and Title 43A of the Oklahoma Statutes, the rules of civil procedure shall apply to all legal proceedings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

§ 5-505. Repealed

§ 5-505.1. Protective Custody and Detention – Mentally Ill, Alcohol-dependent, or Drug-dependent Minor

A. Any minor who appears to be mentally ill, alcohol-dependent, or drug-dependent to a degree that immediate emergency action is necessary may be taken into protective custody and detained pursuant to the provisions of this section.

B. Any peace officer who reasonably believes that a minor is a minor in need of treatment as defined in Section 5-502 of this title shall take the minor into protective custody and shall transport the minor to a mental health or substance abuse treatment facility for evaluation. Peace officers providing such transportation services shall be entitled to reimbursement pursuant to Section 1-110 of this title.

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

D. A minor in protective custody shall be subject to an initial assessment at the appropriate facility by a licensed mental health professional for the purpose of determining whether emergency detention is warranted.

1. If the licensed mental health professional determines that the minor is not a minor in need of treatment or that the condition of the minor is such that emergency detention is not warranted, the minor shall be returned immediately to the point where the minor was taken into protective custody and released or the minor may be taken to the home or

residence of the minor or to an alternative facility.

2. If the licensed mental health professional determines that the minor is a minor in need of treatment to a degree that emergency detention is warranted, the minor shall be detained in emergency detention for a period not to exceed five (5) days, excluding weekends and holidays. The detention may exceed five (5) days, excluding weekends and holidays, upon a court order authorizing detention pending a hearing on a petition requesting involuntary commitment or treatment.

E. If a licensed mental health professional designated to have such responsibility by the executive director of a hospital, or the administrator of a facility designated by the Commissioner of Mental Health and Substance Abuse Services as appropriate for emergency detention believes a minor to be a minor requiring treatment to a degree that emergency action is necessary, the administrator may detain such minor in emergency detention for a period not to exceed five (5) days, excluding weekends and holidays, only on the following conditions:

1. The minor sixteen (16) years of age or older or parent of the minor has refused to consent or has withdrawn consent to voluntary treatment;

2. The minor has been examined by a licensed mental health professional who has determined that the minor is a minor in need of treatment, the condition of the minor is such that emergency detention is warranted, and a mental health evaluation has been prepared as provided in Section 5-508 of this title; and

3. The administrator or the designee of the administrator shall provide for an initial assessment of the minor by a licensed mental health professional.

F. Whenever it appears that a person detained as provided by this section will require treatment beyond the period of emergency detention and the minor sixteen (16) years of age or older or parent of the minor has refused to consent to voluntary treatment, a licensed mental health professional conducting an initial assessment of the minor or the administrator of the facility in which the minor is being detained, or the designee of the administrator, shall immediately file a petition or request the district attorney to file a petition with the district court as provided by Section 5-509 of this title, and may request a court order directing prehearing detention when detention is necessary for the protection of the person or others. If the district attorney refuses to file a petition, the district attorney must immediately notify the requesting facility, in writing, of the refusal to file.

§ 5-506. Admission of Minor 16 Years or Older who Objects to Admission

A. Any parent, guardian, or law enforcement officer may request the administrator of a facility or designee to conduct an initial assessment of a minor to determine whether the minor is a minor requiring treatment.

B. Following an initial assessment, a minor may be admitted or detained on an emergency basis in a mental health or substance abuse treatment facility that is willing to admit or detain the minor for a period not to exceed five (5) days from the time of admission or detention, excluding weekends and legal holidays. The admission or detention for an emergency basis may only exceed five (5) days, excluding weekends or

holidays, if the facility receives a prehearing detention order authorizing detention pending a hearing on a petition to determine whether the minor is a minor in need of treatment and to require inpatient treatment.

C. 1. A minor admitted or detained pursuant to this section shall be evaluated by a licensed mental health professional to determine whether the minor is a minor in need of treatment.

a. If the licensed mental health professional determines that the minor is a minor in need of treatment, the licensed mental health professional shall submit the mental health evaluation to the district attorney within forty-eight (48) hours, excluding weekends or holidays, of admission, detention, or revocation of the consent of the minor sixteen (16) years of age or older or to the parent.

b. If the licensed mental health professional determines that the minor is not a minor in need of treatment, the minor shall immediately be discharged.

2. Upon admission or detention of a minor pursuant to this section, the person requesting the petition shall immediately notify the district attorney. The district attorney shall file a petition as provided in Section 5-509 of this title within three (3) days of receipt of the report and shall request a prehearing detention order from the court authorizing further detention of the child in the facility pending a hearing on a petition alleging the minor to be a minor in need of treatment and to require inpatient treatment and further order of the court. If the district attorney refuses to file a petition, the district attorney must immediately notify the requesting facility, in writing, of the refusal to file.

a. If the court finds probable cause exists that the minor is a minor in need of treatment, the court shall issue a prehearing detention order authorizing the facility to detain the minor until the hearing on the petition and to immediately set a date and time for a hearing on the petition. A certified copy of the prehearing detention order shall constitute authority for a facility to detain or continue to detain the minor who is the subject of the order.

b. If the court does not find probable cause exists that the minor is a minor in need of treatment, the court shall dismiss the petition and request for a prehearing detention order and order the release of the minor to the minor's parent.

§ 5-507. Admission of Minor Who is Ward of Court or Alleged Deprived Child – Emergency Psychiatric Admission – Mental Health Evaluation

A. No minor who is placed into emergency, temporary or permanent custody of a state agency pursuant to Title 10A of the Oklahoma Statutes shall be admitted to a hospital or mental health or substance abuse treatment facility:

1. On an emergency basis except as provided by this section;

2. For inpatient treatment except upon a commitment order of the court pursuant to the provisions of subsection D of this section and after a finding that the minor requires such services as provided by Section 5-512 of this title.

B. After an initial assessment and a determination that a minor is a minor in need of treatment, the minor may be admitted to a hospital or mental health or substance abuse treatment facility on an emergency basis for a period not to exceed five (5) days from the time of admission, excluding weekends and holidays. On the next business day

following admission, notice of such admission shall be given by the person responsible for the supervision of the case, as applicable, to the minor's attorney, Court Appointed Special Advocate (CASA) or guardian ad litem, the court and district attorney.

C. A minor admitted on an emergency basis pursuant to this section shall be evaluated and the mental health evaluation submitted to the district attorney within forty-eight (48) hours of admission, excluding weekends and holidays. The mental health evaluation shall be performed by a licensed mental health professional at the facility.

D. If after an inpatient or outpatient mental health evaluation it appears that the minor may require inpatient treatment, the district attorney shall file a petition as provided by Section 5-509 of this title within three (3) days after receiving the mental health evaluation requesting an order committing the minor to a facility for inpatient treatment. After the filing of a petition and upon issuance of a prehearing detention order, the minor may be detained in the facility for no longer than necessary for a hearing on the petition as provided by Section 5-510 of this title or further order of the court.

E. Nothing in this section shall be interpreted to preclude or prohibit a parent having physical custody of a minor who is a ward of the court from arranging for an emergency admission of the minor. In such cases, the parent shall immediately notify the person responsible for the supervision of the case of the admission.

§ 5-508. Mental Health Evaluation Report

A. The mental health evaluation of a licensed mental health professional prepared pursuant to Section 5-506 or 5-507 of this title shall include written findings as to whether:

1. The minor appears to be a minor in need of treatment and is reasonably likely to benefit from treatment;

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

a. reasonable efforts have been made to provide for the treatment needs of the minor through the provision of less restrictive alternatives and such alternatives have failed to meet the treatment needs of the minor, or

b. after a thorough consideration of less restrictive alternatives to inpatient treatment, the condition of the minor is such that less restrictive alternatives are unlikely to meet the treatment needs of the minor; and

3. The minor has been provided with a clinically appropriate explanation of the nature and purpose of the treatment.

B. Any mental health evaluation of a minor alleged to be a minor in need of treatment that recommends that the minor be found to be eligible for inpatient mental health or substance abuse treatment shall be signed by the licensed mental health professional examining the minor.

C. The parents, all public agencies, and all providers or programs which have treated or are treating the minor shall cooperate with the person conducting a mental health evaluation for the purpose of providing the mental health evaluation to a district attorney or to a district court and shall promptly deliver, as otherwise provided by law, all records related to the treatment or education of the minor.

§ 5-509. Filing of Petition

A. A petition alleging a minor to be a minor in need of treatment shall be filed by a district attorney and may be filed by a district attorney only after receipt and review of the mental health evaluation conducted by a licensed mental health professional stating that in the opinion of the professional the minor has a demonstrable mental illness or is drug or alcohol dependent and as a result of that mental illness or drug or alcohol dependence can be expected within the near future to inflict or attempt to inflict serious bodily harm to himself or herself or another person if services are not provided, and upon the request of:

1. A parent, a public or private child care agency having legal custody of the minor, or a mental health or substance abuse treatment facility; or

2. When the minor is a ward of the court, the Department of Human Services, the Office of Juvenile Affairs or juvenile bureau having supervision of the case or by the parent of the minor with the consent of the applicable agency, or juvenile bureau having supervision of the case.

B. If after receipt and review of the mental health evaluation conducted by a licensed mental health professional:

1. The district attorney declines to file a petition, the district attorney must immediately notify the requesting facility, in writing, of the refusal to file. Then the minor shall be discharged to the custody of the consenting parent or public or private agency having custody of the minor; or

2. The petition is filed, a copy of the mental health evaluation conducted by the licensed mental health professional shall be attached to the petition and notice shall be given as provided by Section 5-510 of this title.

C. 1. The proceeding shall be entitled "In the matter of _____, a minor alleged to be in need of inpatient mental health or substance abuse treatment".

2. The petition shall allege that the minor has a demonstrable mental illness or is drug or alcohol dependent and as a result of that mental illness or drug or alcohol dependence can be expected within the near future to inflict or attempt to inflict serious bodily harm to himself or herself, or another person if services are not provided and has engaged in one or more recent overt acts or made significant recent threats which substantially support that expectation and shall be verified and may be based upon information and belief. The petition shall set forth:

a. with particularity the facts which bring the minor within the purview of the Inpatient Mental Health and Substance Abuse Treatment of Minors Act,

b. the name, age and residence of the minor,

c. the names and residences of the parents of the minor,

d. the name and residence of the legal guardian of the minor, if one,

e. the name and residence of the person or persons having custody or control of the minor,

f. the name and residence of the nearest known relative, if no parent or guardian can be found,

g. the relief requested, and

h. an endorsement of witnesses intended to be called by the petitioner.

D. Upon the filing of a petition pursuant to this section, if the minor has been admitted to a facility, the facility shall ensure that a proposed individual treatment plan for the minor is prepared and submitted to the court at least

twenty-four (24) hours prior to the time set for the hearing.

§ 5-510. Notice of Hearing on Petition – Appointment of Attorney – Independent Mental Health Evaluation

A. Upon the filing of a petition alleging a minor to be a minor in need of treatment, the court shall:

1. Appoint an attorney to represent the minor if the minor is not represented by counsel. An attorney so appointed shall consult with the minor at least twenty-four (24) hours prior to the date set for hearing the petition. In addition, the court may appoint a guardian ad litem as provided by Section 7003-3.7 of Title 10 of the Oklahoma Statutes;

2. Enter any prehearing detention orders as may be necessary;

3. Set a date for a hearing on the petition. The date shall not be less than one (1) day, or more than three (3) days, excluding weekends and legal holidays, from the date of the filing of the petition. Upon the request of the attorney for the minor, the date of the hearing may be extended once for up to an additional three (3) days, excluding weekends and holidays; and

4. Cause notice of the date, time, place and purpose of the hearing to be given to the petitioner, the minor, the parent(s) or legal custodian of the minor and the person in charge of the mental health or substance abuse treatment facility. If the minor is a ward of the court, or is in the custody of the Department of Human Services or the Office of Juvenile Affairs, notice shall also be given to a public or private child care agency having legal custody of the minor, if any, or to the person at the Department of Human Services, the Office of Juvenile Affairs or the applicable juvenile bureau responsible for the supervision of the case. The notice shall be given at least twenty-four (24) hours prior to the date set for the hearing and shall be given in such manner as directed by the court.

§ 5-511. Hearings – Privacy – Transcript – Right to Silence – Decisions – Stipulation of Facts – Trial by Jury – Teleconference

A. Hearings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act shall be private unless specifically ordered by the judge to be conducted in public, but persons having a direct interest in the case shall be admitted. Stenographic notes or other transcript of the hearings shall be kept as in other cases, but they shall not be open to inspection except by order of the court or as otherwise provided by Title 10A of the Oklahoma Statutes for court records relating to children.

B. The minor may remain silent as a matter of right in hearings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act and shall be so advised. No statement, admission or confession made by the minor alleged to be a minor in need of treatment shall be used against the minor for any purpose except for proceedings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

C. A decision determining a minor to be a minor in need of treatment must be based on sworn testimony and the minor must have the opportunity for cross-examination unless the facts are stipulated. Where the facts are stipulated, the judge must ascertain from the minor if the minor agrees with the stipulation and understands the consequences of stipulating the facts.

D. In hearings to determine whether a minor is a minor in need of treatment, the minor shall have the right to demand a trial by jury, which shall be granted as in other cases, unless waived, or the judge on his or her own motion may call a jury to try any such case. Such jury shall consist of six persons.

1. If a jury trial is not demanded, the court may receive as evidence and act upon the evaluation or report of the licensed mental health professional who evaluated the minor;

2. When the hearing is conducted as a jury trial, any witness on behalf of the district attorney shall be subject to cross-examination by the attorney for the minor alleged to be a minor requiring treatment.

E. If authorized by the court, any proceeding held pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act may be conducted via teleconference communication; provided, that when a parent or child appears for a proceeding via teleconference, the attorney representing that parent or child shall personally appear at the hearing. For purposes of this paragraph, "teleconference communication" means participation in the hearing by interactive telecommunication, including telephonic communication, by the absent party, those parties present in court, the attorneys, and others deemed to be necessary participants to the proceeding including, but not limited to, foster parents and facility staff where a child may be receiving care or treatment.

§ 5-512. Determinations at Hearing – Commitment

A. At the hearing the court shall determine whether by clear and convincing evidence:

1. The minor has a demonstrable mental illness or is drug or alcohol dependent and as a result of that mental illness or drug or alcohol dependence can be expected within the near future to inflict or attempt to inflict serious bodily harm to himself or herself, or another person if services are not provided, and has engaged in one or more recent overt acts or made significant recent threats which substantially support that expectation; and

2. The minor is a minor in need of treatment proposed in the individualized treatment plan and is likely to benefit from such treatment.

B. After a hearing, the court shall order the minor to receive the least restrictive care and treatment appropriate for the treatment needs of the minor until such time as the care and treatment are no longer necessary.

C. The court shall not commit a minor to a facility for inpatient treatment unless the court determines:

1. The minor has a demonstrable mental illness or is drug or alcohol dependent and as a result of that mental illness or drug or alcohol dependence can be expected within the near future to inflict or attempt to inflict serious bodily harm to himself or herself, or another person if services are not provided, and has engaged in one or more recent overt acts or made significant recent threats which substantially support that expectation; or

2. That all reasonable efforts have been made to provide for the treatment needs of the minor through the provision of less restrictive alternatives to inpatient treatment and that such alternatives have failed to meet the treatment needs of the minor; or

3. After a thorough consideration of less restrictive alternatives to inpatient

treatment, that the condition of the minor is such that less restrictive alternatives are unlikely to meet the treatment needs of the minor; and

4. There are no comparably effective services available to the minor that are less physically intrusive or restrictive.

D. Whenever, after a hearing, the court finds that the minor:

1. Is not a minor in need of treatment the court shall dismiss the case; or

2. Is a minor in need of treatment but does not require inpatient treatment, the court may order treatment or services through a less restrictive alternative to inpatient mental health or substance abuse treatment, which may include ordering the minor to take medication as prescribed by a physician and, upon a finding that it is in the best interests of the minor, the court may order the parents or other adult persons living in the home of the minor to comply with reasonable conditions relating to the treatment of the minor.

E. Whenever, after a hearing, the court finds that the minor is a minor in need of treatment and requires inpatient treatment in a mental health or substance abuse treatment facility, the court shall order the commitment of the minor to a mental health or substance abuse treatment facility until the minor is no longer a "minor in need of treatment" as determined by medical staff, subject to the review provisions contained in this section, and:

1. When the minor is in the custody of a parent or legal guardian, order the parent or legal guardian to make arrangements for the admission of the minor to a public or private mental health or substance abuse treatment facility appropriate for the inpatient care and treatment of minors which is willing to admit the minor for treatment; and

2. When the minor is in the custody of the Department of Human Services or the Office of Juvenile Affairs, order the Department or Office, as applicable, to make arrangements for the placement of the minor in a public or private mental health or substance abuse treatment facility appropriate for the inpatient treatment needs of the minor.

F. Whenever the court commits a minor to a mental health or substance abuse treatment facility for inpatient treatment pursuant to this section, the court shall set the matter for review and shall review the matter not more than thirty (30) days from the date of commitment and shall continue to review the matter at intervals of not more than thirty (30) days until the minor is discharged from inpatient treatment. Not less than three (3) days prior to the review hearing, the mental health or substance abuse treatment facility shall submit a report regarding the minor’s progress and treatment and make a recommendation as to whether the minor needs inpatient care and the reasons therefor.

§ 5-513. Discharge Plan

A. Within ten (10) days after the admission of a minor for inpatient treatment, the person in charge of the facility in which the minor is being treated shall ensure that an individualized treatment plan has been prepared by the person responsible for the treatment of the minor. The minor shall be involved in the preparation of the treatment plan to the maximum extent consistent with the ability of the minor to understand and participate. The parent or legal custodian of the minor or, if the minor is in the custody of the Department of Human Services or the Office of Juvenile Affairs, the

designated representative of the applicable agency, shall be involved to the maximum extent consistent with the treatment needs of the minor.

B. The facility shall discharge the minor when appropriate facility medical staff determine the minor no longer meets the admission or commitment criteria. If not previously discharged, a minor committed by a court for inpatient treatment shall be discharged upon the expiration of a court order committing the minor for inpatient treatment or an order of the court directing the discharge of the minor.

C. Prior to the discharge of the minor from inpatient treatment, a discharge plan for the minor shall be prepared and explained to the minor and the parent or the person responsible for the supervision of the case. The plan shall include, but not be limited to:

1. The services required by the minor in the community to meet the needs of the minor for treatment, education, housing and physical care and safety;

2. Identification of the public or private agencies that will be involved in providing treatment and support to the minor;

3. Information regarding medication which should be prescribed to the minor; and

4. An appointment for follow-up outpatient treatment and medication management.

§ 5-521. Department of Mental Health and Substance Abuse Services Pilot Projects

A. The Department of Mental Health and Substance Abuse Services shall continue pilot projects previously established for the delivery of mental health services to children and adolescents through a community-based system of care, contingent upon the availability of funds. Pilot projects shall include, but not be limited to, requirements for:

1. The active participation and assistance of:

a. local public agencies and private child-serving agencies receiving state funds through contracts with state agencies,

b. local offices of state agencies having health, mental health or social or other service responsibilities related to children and adolescents, and

c. the local school district;

2. The use of comprehensive treatment plans that cross individual agency boundaries;

3. Case managers responsible for the coordination of service delivery;

4. Flexible funding to provide traditional or nontraditional services for which no other source of funding is available;

5. A coordinated database for children receiving services through the pilot project; and

6. Outcome measures to evaluate the service and cost effectiveness of the project.

B. Community-based system of care for mental health services for children and adolescents shall be funded through available agency funds, federal grants, and private grants or other funds. Each state agency required by this act to participate in the continuation of pilot projects shall also assist with funding, including any required state matches to federal funds.

As used in this section, "community-based system of care" means a consortium of public and private agencies within a community that establishes a coordinated team approach for the delivery of services to children

and adolescents who require mental health services and their families. Services provided under a community-based system of care may include, but shall not be limited to, case management and service coordination, counseling, day treatment, special education services, family support, health services, homebound services, respite care, residential care, transitional services, psychiatric consultation, medication, transportation and wrap-around or nontraditional services.

TRANSFER, RELEASE OF NONRESIDENTS; OKLAHOMA RESIDENTS IN OUT-OF-STATE INSTITUTIONS

§ 6-101. Transfer of Nonresident to Hospital in Resident State

Nonresidents who have been admitted as consumers to a facility within the Department of Mental Health and Substance Abuse Services in accordance with the provisions of this title may be transferred by the Commissioner of Mental Health and Substance Abuse Services 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.

§ 6-102. Transfer of Patients to Federal Agencies for Care and Treatment

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 of Mental Health and Substance Abuse Services in accordance with the provisions of this title and that such person is eligible for care or treatment, the Commissioner of Mental Health and Substance Abuse Services, upon recommendation by the person in charge of the facility in which the consumer is located, may transfer the 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 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 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 the person had been originally committed.

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

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

3. Any 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 the person had been originally committed.

§ 6-103. Admission of Mentally Ill or Mentally Retarded After Having Been So Admitted in Another State

Any resident of this state who has been admitted to an institution for mentally ill in another state, the District of Columbia, or a territory, in accordance with the laws of that place, may be admitted to an institution in Oklahoma within the Department of Mental Health and Substance Abuse Services without further proceedings in this state.

§ 6-104. Non-Resident Poor or Indigent Person Brought to State for Purpose of Placing in an Institution a Misdemeanor

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 such person, or attempts to keep or leave such person, within the state for the purpose of placing the person or requiring the placement of the person as a consumer in any state facility within the Department of Mental Health and Substance Abuse Services for care or treatment therein at the expense of the state, shall be guilty of a misdemeanor.

INTERSTATE COMPACT ON MENTAL HEALTH

§ 6-201. Interstate Compact – Form and Contents

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 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 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 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 consumer is transported pursuant to the provisions of the compact or from which it is contemplated that a consumer may be so sent.

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

(c) "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) "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 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 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 persons so afflicted are incapable of managing themselves and 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, the person shall be eligible for care and treatment in an institution in that state irrespective of the residence of the person, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any consumer may be transferred to a facility in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said 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 full record of the consumer with due regard for the location of the 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 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 consumer; furnished all available medical and other pertinent records concerning the consumer; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the consumer if said authorities so wish; and unless the receiving state shall agree to accept the consumer.

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

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

ARTICLE IV

(a) Whenever, pursuant to the laws of the state in which a consumer is

physically present, it shall be determined that the 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 consumer in the sending state shall have reason to believe that aftercare in another state would be in the best interest of the 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 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 intended place of residence of the consumer and the identity of the person in whose charge it is proposed to place the consumer, the complete medical history of the 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 consumer in the sending state and the appropriate authorities in the receiving state find that the best interest of the consumer would be served thereby, and if the public safety would not be jeopardized thereby, the consumer may receive aftercare or supervision in the receiving state.

(c) In supervising, treating, or caring for a 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 consumers.

ARTICLE V

Whenever a dangerous or potentially dangerous 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 consumer, 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 consumer, shall be permitted to transport any 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 consumer of more than one facility at any given time. Completion of transfer of any consumer to a facility in a receiving state shall have the effect of making the person a consumer of the facility in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any 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 guardian of the consumer on behalf of the guardian or in respect of any patient for whom the guardian may serve, except that where the transfer of any 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 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 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 consumer shall be placed or detained in any prison, jail or lockup, but such consumer shall, with all expedition, be taken to a suitable facility for mental illness or mental deficiency.

ARTICLE X

(a) Each party state shall appoint a "compact administrator" who, on behalf of the state of the compact administrator, shall act as general coordinator of activities under the compact in the state of the compact administrator and who shall receive copies of all reports, correspondence, and other documents

relating to any consumer processed under the compact by the state of the compact administrator either in the capacity of sending or receiving state. The compact administrator or a duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any 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 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.

§ 6-202. Director of Department of Mental Health-Rules and Regulations to Effect Compact

Pursuant to said compact, the Director of the Department of Mental Health and Substance Abuse Services, shall be ex officio compact administrator and who, acting jointly with like officers of other party states, shall have power to promulgate rules and regulations to carry

out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact of any supplementary agreement or agreements entered into by this state thereunder.

§ 6-203. Authority of Compact Administrator to Enter into Supplementary Agreements

The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact. In the event that such supplementary agreements shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, no such agreement shall have force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

§ 6-204. Financial Obligations of State

The compact administrator, subject to the approval of the State Budget Director, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder, and said payments shall be made from monies appropriated to the Department of Mental Health and Substance Abuse Services.

§ 6-205. Proposed Transferees – Consultation with Family – Approval of County Court

The compact administrator is hereby directed to consult with the immediate family of any proposed transferee and, in the case of a proposed transferee from an institution in this state to an institution in another party state, to take no final action without approval of the district court.

PATIENT DISCHARGE, LEAVE, ESCAPE, AND PLACEMENT

§ 7-101. Discharge – Grant of Convalescent Leave – Outpatient, Nonhospital, or Visiting Status – Notification of Discharge – Expense of and Procedure for Return to Facility

A. The person in charge of a facility within the Department of Mental Health and Substance Abuse Services shall discharge a consumer or permit the consumer to leave the facility as provided in this section.

B. The person in charge shall discharge a consumer:

1. Who is no longer a risk to self or others as defined in Section 1-103 of this title;

2. Who is capable of surviving safely in freedom alone or with the help of other state agencies, private entities, or willing and responsible family members or friends; provided, however, nothing in this section or Section 7-102 of this title shall be construed as requiring any state agency or private entity to provide services except as voluntarily agreed to by the agency and consumer; 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 consumer in accordance with policies prescribed by the Commissioner. The facility granting a convalescent leave or visiting status to a consumer has no responsibility in returning the consumer to the facility should such become necessary. A convalescent leave or visiting status may be granted rather than a discharge when the complete recovery of the consumer can be determined only by permitting the consumer to leave the facility. The person in charge shall discharge a 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 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 consumer and the necessary treatment may be continued on that basis; provided however, that before transferring the consumer, the person in charge shall ensure that appropriate financial resources and appropriate services are available to receive and care for such consumer after such transfer.

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

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

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

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

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

§ 7-102. Discharge Planning

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 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 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 consumer and shall be kept in the permanent files of the 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 the order; or

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

§ 7-103. Discharge or Convalescent Leave Patients to be Furnished Suitable Clothing – Expenses in Reaching Family or Friends

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

§ 7-104. Placement of Homeless Patients

A. In the case of a 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 consumer, the executive director prior to discharge from the facility shall make a reasonable effort to arrange an appropriate placement and necessary services for the consumer.

B. When necessary, the 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 consumer, when such consumer has not been found by a court to be incompetent, to determine the placement or residence of such consumer upon discharge from a facility.

§ 7-105. Personal Funds to be Delivered to Patient When Discharged

It shall be the duty of the executive director of such facility to deliver all personal funds in the possession of the executive director for the benefit of a consumer to such consumer at the time the consumer is discharged.

§ 7-106. Delivery of Property to Patient, Guardian or Next of Kin – Unclaimed Property

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

1. To the consumer, if leaving; or

2. To the guardian or next of kin of the consumer, if the consumer has died. If the consumer has died and no person is available for such delivery, the 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. If the property is not claimed within one (1) year from the date of such notice, then the property shall become the property of the state, and all monies shall be credited to the revolving fund of the facility.

§ 7-107. Escape or Leave Without Permission – Notice – Discharge or Convalescent Leave – Apprehension

A. When a facility within the Department of Mental Health and Substance Abuse Services has a consumer leave without permission, or escape, the executive director of the facility shall notify a relative of the consumer, or, in the event the consumer has been admitted in accordance with a

court order, the judge of the court ordering the consumer to the hospital.

B. Should a 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, the consumer may be discharged or given convalescent leave at the discretion of the executive director of the hospital.

C. Any other 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 the individual and return the consumer to the appropriate facility. It shall be the duty of any municipal law enforcement officer to directly return such consumer if the facility is located within the boundaries of the governmental entity employing the officer.

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

§ 7-108. Taking Patient, or Assisting Escape, from Institution a Misdemeanor – Punishment

Any person who takes a consumer who has been lawfully admitted from any facility within the Department of Mental Health and Substance Abuse Services without the consent of the executive director, or who entices, assists or encourages any such 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.

§§ 7-109 to 7-111. Repealed

§ 7-112. Judicial Proceeding for Declaration of Restoration to Soundness of Mind – Procedure

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 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. 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 consumer resides or where the facility in which the consumer is confined is located. The petition may be presented by the person who has been declared to be incompetent, or by the father, mother, husband, wife, brother, sister, child, or next of kin of the person, or by the executive director of the facility in which the consumer is held, provided, the executive director is of the opinion that the consumer has recovered.

3. a. If the executive director of the facility where a person is confined files a petition, in addition to requesting an adjudication as to the person's competency, the 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 a request is made, the executive director must attach a verified affidavit to the petition stating that the consumer no longer needs care and treatment and confinement is not necessary for 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 executive director of the facility in which the consumer is kept and shall prepare the necessary pleadings for the executive director.

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

D. If, upon the hearing of the petition the court or the judge from the testimony given, shall find such person restored to soundness of mind, an order shall be entered declaring the person mentally competent. 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 and entering 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 the person is not institutionalized.

§ 7-113. Incompetence not Requiring Hospitalization – Guardian – Duties

If after full examination and hearing the court shall determine that a person is mentally incompetent, but that it is not necessary to hospitalize him for treatment or for his own welfare, the welfare of others or of the community, the judge of the district court must issue an order adjudging the person to be mentally incompetent and must appoint a guardian of his person and estate with the powers and duties that are prescribed for the guardian of a minor. Every such guardian has the care and custody of his ward, and the management of all his estate, until such guardian is legally discharged. The guardian shall give bond to the State of Oklahoma, in like manner and with like conditions, as before prescribed with respect to the guardian of a minor, provided that upon a finding by the district court that:

1. The anticipated annual income to a ward for one (1) year plus the value of the personal property of the ward is less than Forty Thousand Dollars ($40,000.00); and

2. The guardian of the ward is either a parent or a child of the ward, the court may order that a bond is not necessary. In all other cases, except as provided in subsection A of Section 776 of this title, a bond shall be required.

PRIVATE HOSPITALS AND INSTITUTIONS FOR MENTALLY ILL PERSONS

§ 8-101. Court Certification to Private Hospitals

The purpose of Sections 8-101 through 8-108 of the Mental Health Law is to provide for the certification, admission, treatment, transfer, and

discharge of mentally ill persons to and from private hospitals or institutions.

§ 8-102. Repealed

§ 8-103. Methods of Admission

Any person alleged to be mentally ill within the meaning of this act, and who is not in confinement on a criminal charge, and who has no criminal charges pending against him, may be admitted to a private institution or hospital as defined in the act by compliance with any one of the following procedures:

(A) On voluntary application, or

(B) On court certification.

§ 8-104. Voluntary Admission – Release – Detention Permitted for Court Certification

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

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

C. Consumers admitted voluntarily who give notice in writing of their desire or intention to leave such private hospital or facility must be released immediately.

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

§ 8-105. Procedure for Court Certification

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

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

2. The name of the physician who will be the attending physician during the period of the hospitalization of the consumer in such private hospital or 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

3. A statement by the person in charge of the private hospital or facility, or someone designated by 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.

§ 8-106. Attending Physician – Responsibility and Duties – Convalescent Leaves – Discharge

A. The responsibility for prescribing the treatment of any consumer admitted

either voluntarily or by commitment, and for determining 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, the physician shall notify the court and the petitioner, relative, or guardian in writing. The petitioner, relative, or guardian shall 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 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 consumer or grant leave to a consumer only as provided in this act. The attending physician may discharge a consumer at any time as follows:

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

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

C. A visiting or convalescent leave status may be granted a consumer for a period not exceeding six (6) months to any consumer upon authorization of the attending physician.

1. Neither the attending physician, the private hospital or facility shall be responsible for the consumer or any act of the consumer, while on visiting or convalescent leave status.

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

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

§ 8-107. Escape or Leave Without Permission – Notice – Apprehension and Return

A. 1. When a private hospital or facility has a mentally ill person leave without permission, or the person escapes, the person in charge of the private hospital or facility shall immediately notify the attending physician and, in the case of a committed consumer, the committing court.

2. In the case of a committed consumer, the attending physician shall in turn immediately notify the petitioner, relative or guardian who obtained the commitment to the private hospital or facility.

B. It shall be the responsibility of the petitioner, relative, or guardian who obtained the commitment of the consumer to return the consumer to the hospital or facility and, in the event of a

failure to return the escaped consumer, then it shall be the responsibility and duty of the sheriff of the county wherein the consumer is present to apprehend and return the consumer to the private hospital or facility.

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

§ 8-108. Transfer of Patients

A. A consumer committed to a private hospital or facility under the provisions of 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 executive director of the state hospital in the district serving the county of residence of the consumer.

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

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

C. 1. The sheriff of the county in which the consumer is hospitalized is authorized to transport the consumer to the state hospital, and the expense of conveying the consumer will be borne whenever possible by the petitioner, relative, or guardian. The sheriff or 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 consumer.

§§ 8-201 to 8-204. Repealed

DRUG- AND ALCOHOL-DEPENDENT PERSONS – TREATMENT AND COMMITMENT

§ 9-101. Voluntary Treatment – Application – Admission – Discharge

A. 1. An alcohol- or drug-dependent person or his or her court appointed guardian may apply for voluntary treatment directly to an approved treatment facility.

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

3. A parent of a minor may consent to the voluntary admission and treatment of the minor directly to an approved treatment facility for substance abuse treatment.

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 consumer receiving inpatient care leaves an approved treatment facility, the 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 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 consumer is a minor or an incompetent person, the request for discharge from an inpatient or residential facility shall be made by a parent, spouse, or legal guardian, or by the minor if the minor was voluntarily admitted.

§§ 9-102 to 9-104. Repealed

PROTECTIVE SERVICES FOR THE ELDERLY AND FOR INCAPACITATED ADULTS ACT

§ 10-101. Short Title

Sections 10-101 through 10-110 of this title may be cited as the "Protective Services for Vulnerable Adults Act".

§ 10-102. Purpose

A. The Legislature recognizes that many citizens of this state, because of the infirmities of aging, incapacity, or other disability are unable to manage their own affairs or to protect themselves from exploitation, abuse, or neglect and are in need of protective services.

B. Services provided pursuant to the provisions of the Protective Services for Vulnerable Adults Act shall guarantee, to the maximum degree of feasibility, the individual the same rights as other citizens, and at the same time protect the individual from exploitation, abuse, or neglect.

C. The Protective Services for Vulnerable Adults Act is designed to establish a program of protective services for vulnerable adults in need of those services.

§ 10-103. Definitions

A. When used in the Protective Services for Vulnerable Adults Act:

1. "Protective services" means services which are necessary to aid a vulnerable adult in meeting the essential requirements for mental or physical health and safety that the vulnerable adult is unable to provide or obtain without assistance. The term "protective services" includes but is not limited to services provided to or obtained for such person in order to prevent or remedy the abuse, neglect, or exploitation of such person;

2. "Services which are necessary to aid an individual to meet essential requirements for mental or physical health and safety" include, but shall not be limited to:

a. the identification of vulnerable adults in need of the services,

b. the provision of medical care for physical and mental health needs,

c. the provision of social services assistance in personal hygiene, food, clothing, and adequately heated and ventilated shelter,

d. protection from health and safety hazards,

e. protection from physical mistreatment,

f. guardianship referral,

g. outreach programs, and

h. the transportation necessary to secure any of such services.

The term shall not include taking the person into physical custody without the consent of the person except as provided for in Sections 10-107 and 10-108 of this

title, and the evaluation, monitoring, and provision of protective placements;

3. "Meet essential requirements for mental or physical health and safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which physical injury or illness to the vulnerable adult is likely to occur;

4. "Incapacitated person" means:

a. any person eighteen (18) years of age or older:

(1) who is impaired by reason of mental or physical illness or disability, dementia or related disease, mental retardation, developmental disability or other cause, and

(2) whose ability to receive and evaluate information effectively or to make and to communicate responsible decisions is impaired to such an extent that such person lacks the capacity to manage his or her financial resources or to meet essential requirements for his or her mental or physical health or safety without assistance from others, or

b. a person for whom a guardian, limited guardian, or conservator has been appointed pursuant to the Oklahoma Guardianship and Conservatorship Act;

5. "Vulnerable adult" means an individual who is an incapacitated person or who, because of physical or mental disability, incapacity, or other disability, is substantially impaired in the ability to provide adequately for the care or custody of himself or herself, or is unable to manage his or her property and financial affairs effectively, or to meet essential requirements for mental or physical health or safety, or to protect himself or herself from abuse, verbal abuse, neglect, or exploitation without assistance from others;

6. "Caretaker" means a person who has:

a. the responsibility for the care of a vulnerable adult or the financial management of the resources of a vulnerable adult as a result of a family relationship,

b. assumed the responsibility for the care of a vulnerable adult voluntarily, by contract, or as a result of the ties of friendship, or

c. been appointed a guardian, limited guardian, or conservator pursuant to the Oklahoma Guardianship and Conservatorship Act;

7. "Department" means the Department of Human Services;

8. "Abuse" means causing or permitting:

a. the infliction of physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, or mental anguish, or

b. the deprivation of nutrition, clothing, shelter, health care, or other care or services without which serious physical or mental injury is likely to occur to a vulnerable adult by a caretaker or other person providing services to a vulnerable adult;

9. "Exploitation" or "exploit" means an unjust or improper use of the resources of a vulnerable adult for the profit or advantage, pecuniary or otherwise, of a person other than the vulnerable adult through the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense;

10. "Financial neglect" means repeated instances by a caretaker, or other person, who has assumed the role of financial management, of failure to use the resources available to restore or maintain the health and physical well-

being of a vulnerable adult, including, but not limited to:

a. squandering or negligently mismanaging the money, property, or accounts of a vulnerable adult,

b. refusing to pay for necessities or utilities in a timely manner, or

c. providing substandard care to a vulnerable adult despite the availability of adequate financial resources;

11. "Neglect" means:

a. the failure to provide protection for a vulnerable adult who is unable to protect his or her own interest,

b. the failure to provide a vulnerable adult with adequate shelter, nutrition, health care, or clothing, or

c. negligent acts or omissions that result in harm or the unreasonable risk of harm to a vulnerable adult through the action, inaction, or lack of supervision by a caretaker providing direct services;

12. "Sexual abuse" means:

a. oral, anal, or vaginal penetration of a vulnerable adult by or through the union with the sexual organ of a caretaker or other person providing services to the vulnerable adult, or the anal or vaginal penetration of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult with any other object, or

b. for the purpose of sexual gratification, the touching, feeling or observation of the body or private parts of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult, or

c. indecent exposure by a caretaker or other person providing services to the vulnerable adult;

13. "Indecent exposure" means forcing or requiring a vulnerable adult to:

a. look upon the body or private parts of another person or upon sexual acts performed in the presence of the vulnerable adult, or

b. touch or feel the body or private parts of another;

14. "Self-neglect" means the action or inaction of a vulnerable adult which causes that person to fail to meet the essential requirements for physical or mental health and safety due to the vulnerable adult’s lack of awareness, incompetence or incapacity;

15. "Sexual exploitation" includes, but is not limited to, a caretaker’s causing, allowing, permitting or encouraging a vulnerable adult to engage in prostitution or in the lewd, obscene, or pornographic photographing, filming or depiction of the vulnerable adult as those acts are defined by state law; and

16. "Verbal abuse" means the use of words, sounds, or other communication including, but not limited to, gestures, actions or behaviors, by a caretaker or other person providing services to a vulnerable adult that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame or degradation.

B. Nothing in this section shall be construed to mean a vulnerable adult is abused or neglected for the sole reason the vulnerable adult, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the practices of a recognized religious method of healing, for the treatment or cure of disease or remedial care, or a caretaker or other person responsible, in good faith, is furnishing such vulnerable adult spiritual means alone through prayer, in accordance with the tenets and practices of a recognized church or religious denomination, for the treatment or cure of disease or remedial care in

accordance with the practices of or express consent of the vulnerable adult.

§ 10-104. Report of a Possible Abused Person – Contents – False Report

A. Any person having reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, or exploitation shall make a report as soon as the person is aware of the situation to:

1. The Department of Human Services; or

2. The municipal police department or sheriff's office in the county in which the suspected abuse, neglect, or exploitation occurred.

B. Persons required to make reports pursuant to this section shall include, but not be limited to:

1. Physicians;

2. Operators of emergency response vehicles and other medical professionals;

3. Social workers and mental health professionals;

4. Law enforcement officials;

5. Staff of domestic violence programs;

6. Long-term care facility personnel, including staff of nursing facilities, intermediate care facilities for persons with mental retardation, assisted living facilities, and residential care facilities;

7. Other health care professionals;

8. Persons entering into transactions with a caretaker or other person who has assumed the role of financial management for a vulnerable adult;

9. Staff of residential care facilities, group homes, or employment settings for individuals with developmental disabilities;

10. Job coaches, community service workers, and personal care assistants; and

11. Municipal employees.

C. 1. If the report is not made in writing in the first instance, as soon as possible after it is initially made by telephone or otherwise, the report shall be reduced to writing by the Department of Human Services, in accordance with rules promulgated by the Commission for Human Services, or the local municipal police or sheriff's department whichever entity received the initial report. The report shall contain the following information:

a. the name and address of the vulnerable adult,

b. the name and address of the caretaker, guardian, or person having power of attorney over the vulnerable adult's resources if any,

c. a description of the current location of the vulnerable adult,

d. a description of the current condition of the vulnerable adult, and

e. a description of the situation which may constitute abuse, neglect or exploitation of the vulnerable adult.

2. If federal law specifically prohibits the disclosure of any of the information required by this subsection, that information may be excluded from the report.

D. If the initial report is made to the local municipal police department or sheriff's office, such police department or sheriff's office shall notify, as soon as possible, the Department of Human Services of its investigation.

E. Any person who knowingly and willfully fails to promptly report any abuse, neglect, or exploitation as required by the provisions of subsection A of this section, upon conviction, shall be guilty of a misdemeanor punishable by imprisonment in the county jail for a term not exceeding one (1) year or by a fine of not more than One Thousand

Dollars ($1,000.00), or by both such fine and imprisonment.

F. 1. Any person participating in good faith and exercising due care in the making of a report pursuant to the provisions of this section shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

2. The same immunity from any civil or criminal liability shall also be extended to previous employers of a person employed to be responsible for the care of a vulnerable adult, who in good faith report to new employers or prospective employers of such caretaker any misconduct of the caretaker including, but not limited to, abuse, neglect or exploitation of a vulnerable adult, whether confirmed or not.

G. Any person who willfully or recklessly makes a false report shall be civilly liable for any actual damages suffered by the person being reported and for any punitive damages set by the court or jury which may be allowed in the discretion of the court or jury.

H. 1. Every physician or other health care professional making a report concerning the abuse, neglect or exploitation of a vulnerable adult, as required by this section, or examining a vulnerable adult to determine the likelihood of abuse, neglect or exploitation, and every hospital in which a vulnerable adult is examined or treated for abuse, neglect or exploitation shall disclose necessary health information related to the case and provide, upon request by either the Department of Human Services or the local municipal police or sheriff's department receiving the initial report, copies of the results or the records of the examination on which the report was based, and any other clinical notes, x-rays or photographs and other health information which is related to the case if:

a. the vulnerable adult agrees to the disclosure of the health information, or

b. the individual is unable to agree to the disclosure of health information because of incapacity; and

(1) the requesting party represents that the health information for which disclosure is sought is not intended to be used against the vulnerable adult in a criminal prosecution but to provide protective services pursuant to the Protective Services for Vulnerable Adults Act,

(2) the disclosure of the information is necessary to conduct an investigation into the alleged abuse, neglect or exploitation of the vulnerable adult subject to the investigation, and

(3) immediate enforcement activity that depends upon the disclosure:

(a) is necessary to protect the health, safety and welfare of the vulnerable adult because of incapacity, or

(b) would be materially and adversely affected by waiting until the vulnerable adult is able to agree to the disclosure.

2. If federal law specifically prohibits the disclosure of any of the information required by this subsection, that information may be excluded from the disclosed health information.

I. After investigating the report, either the county office of the Department of Human Services or the municipal police department or sheriff's office, as appropriate, shall forward its findings to the office of the district attorney in the county in which the suspected abuse, neglect, or exploitation occurred.

J. Any state or county medical examiner or physician who has reasonable cause to suspect that the death of any vulnerable adult may be the result of abuse or neglect as defined by Section 10-103 of this title shall make a report to the district attorney or other law enforcement official of the county in which the death occurred. The report shall include the name of the person making the report, the name of the deceased person, the facts or other evidence supporting such suspicion, and any other health information that may be of assistance to the district attorney in conducting an investigation into the matter.

K. No employer shall terminate the employment, prevent or impair the practice or occupation of or impose any other sanction on any employee solely for the reason that the employee made or caused to be made a report or cooperated with an investigation pursuant to the Protective Services for Vulnerable Adults Act. A court, in addition to other damages and remedies, may assess reasonable attorney fees against an employer who has been found to have violated the provisions of this subsection.

§ 10-105. Investigation of Report

A. Upon receiving a report of alleged abuse, neglect, or exploitation of a vulnerable adult pursuant to the provisions of the Protective Services for Vulnerable Adults Act, the Department of Human Services shall make a prompt and thorough investigation.

B. The investigation by the Department shall include:

1. Notification of local law enforcement agency. Upon the request of a law enforcement agency, the Department shall submit copies of any results or records of an examination on the vulnerable adult who is alleged to have been abused, neglected, or exploited and any other clinical notes, x-rays, photographs, or previous or current records relevant to the case;

2. Any findings of abuse, neglect, or exploitation of a vulnerable adult shall also be sent to any state agency with concurrent jurisdiction over persons or issues identified in the investigation including, but not limited to, where appropriate, the State Department of Health, the Oklahoma Board of Nursing, or any other appropriate state licensure or certification board, agency, or registry;

3. Every reasonable effort to locate and notify the caretaker, legal guardian and next of kin of the vulnerable adult who may be in need of protective services pursuant to Section 10-105.1 of this title;

4. Diagnostic evaluation to determine whether the person needs protective services;

5. Any photographs necessary to document injuries or conditions which have resulted or may result in an injury or serious harm to the person;

6. A statement of the least restrictive services needed;

7. Whether services are available from the Department or in the community and how the services can be provided;

8. Whether the person would be capable of obtaining services for self and could bear the cost or would be eligible for services from the Department;

9. Whether a caretaker or legal guardian would be willing to provide services or would agree to their provision;

10. Whether the person desires the services;

11. A statement of any follow-up investigation or monitoring of the services that may be needed; and

12. Other relevant information.

C. 1. a. The Department's investigation shall include a visit to the home or other place of residence of the person who is the subject of the report, a private interview with such person, and consultation with persons who have knowledge of the circumstances.

b. If, in the course of an investigation of this nature, the Department is denied entrance to the home or other place of residence of a person believed to be a vulnerable adult in need of protective services, or is denied a private interview with the vulnerable adult, the Department may petition the court for an order allowing entry to the premises or private access to the vulnerable adult. The court shall make a finding of probable cause of the vulnerability of the adult before issuing the order. If documentation, or access to records, or other information relating to such person as provided by this section is denied, the Department may petition the court for an order allowing entry or access.

2. The petition shall state the name and address of the person who is the subject of the report and shall allege specific facts sufficient to show that the circumstances of the person are in need of investigation.

3. If it is necessary to forcibly enter the premises, the representative of the Department shall make the entry accompanied by a peace officer.

4. The Department shall make all reasonable attempts to interview the caretaker or other persons alleged to be involved in the abuse, neglect or exploitation in order to enhance service provision and to prevent additional incidents of abuse, neglect or exploitation.

D. When a report is received pertaining to a vulnerable adult who has a legal guardian, a copy of the investigative report of the Department shall be filed with the court to which the guardian is accountable.

E. 1. In the case of a final investigative report pertaining to a vulnerable adult who is a resident of a nursing facility, residential care facility, assisted living facility or continuum of care facility and who is alleged to be a victim of abuse, verbal abuse, neglect, or exploitation by an employee of such facility, the Department shall forward to the State Department of Health a copy of the Department's final investigative report.

2. The Department of Human Services shall be deemed a party pursuant to the Administrative Procedures Act for the investigative reports filed by the Department with the State Department of Health regarding vulnerable adults who are residents of nursing facilities, residential care facilities, assisted living facilities or continuum of care facilities.

a. Within thirty (30) days of receipt of the final investigative report submitted by the Department of Human Services pursuant to this section, the State Department of Health shall provide the Department of Human Services with a written summary of any action taken as a result of the complaint including, but not limited to, results of any inspections, enforcement actions or actions which may be taken by the State Department of Health.

b. Whenever the Department of Human Services believes that the conditions giving rise to a complaint by the Department alleging a serious threat

to the health, safety or welfare of a resident of a nursing facility, residential care facility, assisted living facility or continuum of care facility have not been adequately addressed, the Department of Human Services may request the State Department of Health to hold a hearing on the complaint as provided by Section 309 of Title 75 of the Oklahoma Statutes.

3. Nothing herein shall prevent the State Department of Health from conducting any type of investigation or taking any appropriate remedial or other action pursuant to the provisions of the Nursing Home Care Act, the Residential Care Act and the Continuum of Care and Assisted Living Act.

F. When a report is received pertaining to a vulnerable adult residing in a facility other than the home of the vulnerable adult, where persons are employed to provide care and those employees have been named as persons responsible for the abuse, neglect or exploitation, the Department shall forward its final findings, including, but not limited to, any administrative appeal findings to the owner or administrator of the facility to prevent further incidents.

§ 10-105.1. Summary and Written Description of Investigation Process

A. As soon as possible after initiating an investigation of a referral regarding a vulnerable adult, the Department shall provide to the caretaker of the alleged victim, the legal guardian, and next of kin of the vulnerable adult notification including a brief oral summary and easily understood written description of the investigation process, whether or not the caretaker, guardian or next of kin is alleged to be the perpetrator of the abuse, neglect or exploitation of the vulnerable adult.

B. If the vulnerable adult retains capacity to consent to voluntary services, and does not wish for a caretaker or next of kin to receive notification of the investigation, the Department shall abide by wishes of the vulnerable adult.

C. The notification specified by subsection A of this section shall include:

1. A statement that the investigation is being undertaken by the Department of Human Services pursuant to the requirements of the Protective Services for Vulnerable Adults Act in response to a report of abuse, neglect or exploitation and shall include the name and office telephone number of the Department representative with primary responsibility for the investigation;

2. A statement that the identity of the person who reported the incident of abuse is confidential and may not even be known to the Department since the report could have been made anonymously;

3. A statement that the investigation is required by law to be conducted in order to enable the Department of Human Services to identify incidents of abuse, neglect or exploitation in order to provide protective or preventive social services to vulnerable adults who are in need of such services;

4. An explanation of the procedures of the Department of Human Services for conducting an investigation of alleged abuse, neglect or exploitation, including:

a. a statement that the alleged victim of abuse, neglect or exploitation is the Department’s primary client in such an investigation,

b. a statement that findings of all investigations are provided to the office of the district attorney, and

c. a statement that law enforcement may conduct a separate investigation to determine whether a criminal violation occurred;

5. An explanation of services which may be provided as a result of the Department's investigation, including:

a. a statement that the caretaker, legal guardian and next of kin will be involved in the process of developing a plan of services for the vulnerable adult insofar as that involvement is consistent with the best interests of the vulnerable adult,

b. a statement that voluntary services may be provided or arranged for based on the adult client's needs, desires and acceptance, and

c. a statement that involuntary services may be provided through the judicial system when immediate services are needed to preserve the life of the vulnerable adult and physical health or preserve the resources of the vulnerable adult which may later be needed to provide care for the vulnerable adult;

6. A statement that, upon completion of the investigation, the identified caretaker, legal guardian and next of kin will receive a letter from the Department which will inform such caretaker, legal guardian and next of kin:

a. that the Department has found insufficient evidence of abuse, neglect or exploitation,

b. that there appears to be probable cause to suspect the existence of abuse, neglect or exploitation in the judgment of the Department, and

c. the recommendations of the Department concerning the vulnerable adult;

7. The procedures concerning the process the caretaker, legal guardian and next of kin may use to acquire access to the vulnerable adult in the event the vulnerable adult is removed from the residence of the vulnerable adult and the circumstances under which access may be obtained;

8. The procedures to follow if there is a complaint regarding the actions of the Department and the procedures to request a review of the findings made by the Department during or at the conclusion of the investigation;

9. Information specifying that if the caretaker, legal guardian and next of kin of the vulnerable adult have any questions as to their legal rights, that such persons have a right to seek legal counsel;

10. References to the statutory and regulatory provisions governing abuse, neglect or exploitation and how the caretaker, legal guardian and next of kin may obtain copies of those provisions; and

11. An explanation that the caretaker, legal guardian and next of kin may review specific information gathered during the investigation and pertaining to the service needs of the vulnerable adult subject to the requirements and exceptions provided in Section 10-110 of this title.

§ 10-106. Voluntary Protective Services

A. If the Department of Human Services determines, as a result of its investigation, that a vulnerable adult needs protective services, the Department shall immediately provide or arrange for the provision of available protective services in the least restrictive manner, provided the person

affirmatively consents to receive these services.

B. 1. When a caretaker of a vulnerable adult who consents to the receipt of protective services refuses to allow the provision of such services to the person, the Department may petition to the court for a decree enjoining the caretaker from interfering with the provision of protective services to the person.

2. The complaint must allege specific facts sufficient to show that the person is a vulnerable adult in need of protective services, consents to the receipt of protective services, and that the caretaker refuses to allow the provision of such services.

3. If the court finds that the person is a vulnerable adult in need of protective services, consents to the receipt of protective services, and that the caretaker refuses to allow the provision of such services, the court may enter a decree:

a. enjoining the caretaker from interfering with the provision of protective services to the vulnerable adult, and

b. freezing the assets of the vulnerable adult if it has been determined by preponderance of the evidence that the vulnerable adult is being exploited and it is necessary to protect such assets.

C. If a vulnerable adult does not consent to the receipt of protective services or withdraws consent to the receipt of such services, the services shall be terminated, unless the Department determines that the person lacks capacity to consent, in which case the Department may seek court authorization to provide services pursuant to Section 10-108 of this title.

D. 1. Payment for the costs of providing protective services shall be made from either:

a. the assets of the vulnerable adult consenting to the receipt of voluntary protective services, or

b. any available private or public assistance programs for which the vulnerable adult is eligible.

2. If no assets or other private or public funds are available to the person, payment shall be made from a fund established by the Department for the purpose of providing emergency adult protective services, subject to availability of funds.

§ 10-107. Involuntary Protective Services

A. If a vulnerable adult lacks the capacity to consent to receive protective services recommended by the Department of Human Services, these services may be ordered by a court on an involuntary basis through an emergency order.

B. 1. In ordering emergency involuntary protective services for a vulnerable adult, the court shall authorize only that intervention which it finds to be least restrictive of the liberty and rights of such person, while consistent with the welfare and safety of the person. The basis for such finding shall be stated in the record by the court.

2. Whenever it is consistent with the welfare and safety of the person, the court shall authorize that involuntary protective services be administered to the vulnerable adult in the present living accommodations of that person.

C. 1. Payment for involuntary protective services provided to a vulnerable adult determined by the court to be in need of involuntary protective services pursuant to this section or

Section 10-108 of this title shall be made:

a. from assets of the vulnerable adult receiving emergency involuntary protective services, if the court so orders after a showing by the Department that the person has adequate assets to make such payment, and that payment for the involuntary protective services will not cause the person to go without other necessities of life. Prior to any hearing on the assets or issuance of an order pursuant to this subparagraph, the legal guardian, caretaker and guardian ad litem of the vulnerable adult, any person so requested by the vulnerable adult and persons required to be notified pursuant to Section 3-110 of Title 30 of the Oklahoma Statutes shall be notified of such hearing and order,

b. from any private or public assistance programs for which the person is eligible, or

c. as provided by paragraph 2 of subsection D of Section 10-106 of this title if the person has inadequate assets to make such payments as ordered by the court, and no private or public funds are available to the person, from a fund established by the Department for the purpose of providing emergency adult protective services, subject to availability of funds.

2. The person has a right to be present and represented by counsel at any hearing. If the vulnerable adult is indigent or, in the determination of the court, lacks capacity to waive the right to counsel, the court shall appoint counsel. If the person is indigent, the cost of representation by counsel shall be borne by this state.

D. Upon the request of an authorized representative of the Department, the district attorney of the county in which the person alleged or found by a court to be in need of involuntary protective services resides shall provide legal representation for the Department in any local proceedings related to the provision of involuntary protective services pursuant to this section or Section 10-108 of this title.

§ 10-108. Emergency Protective Services – Extension of Protective Services

A. 1. If the Department of Human Services determines that a vulnerable adult is suffering from abuse, neglect, self-neglect, or financial neglect or exploitation presenting a substantial risk of death or immediate and serious physical harm to the person or financial exploitation of the estate of the person, and the vulnerable adult lacks mental capacity to consent to receive protective services and no consent can be obtained, the Department may petition the district court in the county specified by paragraph 3 of this subsection for an order:

a. authorizing involuntary protective services and appointing a temporary guardian of the person and/or the estate,

b. freezing the assets of the vulnerable adult, if the vulnerable adult is being exploited, establishing any new accounts necessary to pay the daily living expenses of the vulnerable adult, and directing a full accounting and investigation of the person alleged to be improperly managing the estate of the vulnerable adult,

c. suspending or revoking the powers of an attorney-in-fact granted by a durable power of attorney, or revoking an irrevocable trust, or terminating a guardianship or conservatorship established pursuant to the Oklahoma Guardianship and Conservatorship Act, or

d. directing any law enforcement agency to transport any incapacitated person or vulnerable adult as necessary for appropriate care, treatment and residential placement. If such transportation is ordered, reimbursement for expenses incurred from the transportation of a vulnerable adult under the Department's temporary guardianship shall be paid as provided for in Section 10-107 of this title.

2. Under no circumstances shall the court authorize the Department, pursuant to this subsection, to consent or deny consent to a Do-Not-Resuscitate order or the withdrawal of hydration or nutrition or other life-sustaining treatment although the court retains jurisdiction to hear such matters under applicable law.

3. The district court which may be petitioned by the Department for an order pursuant to paragraph 1 of this subsection is:

a. the district court in the county in which the vulnerable adult resides,

b. the district court in the county in which the vulnerable adult is receiving inpatient services, or

c. the district court in the county where the vulnerable adult is located when any delay caused by taking the petition to the district court in the county of the residence of the vulnerable adult would result in greater substantial risk of death or greater serious physical harm to the vulnerable adult. The petition shall include an explanation of why the petition was filed in the district court in the county specified by this subparagraph rather than in the district court as specified in subparagraph a or b of this paragraph.

B. The petition shall be sworn to and include the name, age, and address of the vulnerable adult who the Department has determined is in need of emergency protective services, the nature of the abuse, neglect, or exploitation, the services needed, and information relating to the capacity of the person to consent to services and a description of the attempts of the Department to obtain consent and the name of the person or organization proposed to be appointed as temporary guardian.

C. 1. The vulnerable adult shall receive an opportunity for a hearing upon the petition, and shall be personally served with a copy of the petition and a notice scheduling hearing at least forty-eight (48) hours prior to any such hearing if the petition seeks temporary guardianship of thirty (30) days or more.

2. a. The hearing shall be set by the court on an expedited basis, but no later than five (5) calendar days, not including weekends or holidays when the court is closed, from the date the notice scheduling hearing is signed by the judge. The vulnerable adult shall have a right to a closed hearing unless such vulnerable adult requests otherwise.

b. Unless the vulnerable adult objects or the person requiring notification pursuant to this subparagraph is alleged to have abused, neglected or exploited the vulnerable adult, the following persons shall be notified of any hearing held pursuant to this subsection:

(1) the legal guardian, guardian ad litem and caretaker of the vulnerable adult,

(2) any person so requested by the vulnerable adult to be present at the hearing, and

(3) persons required to be notified pursuant to Section 3-110 of Title 30 of the Oklahoma Statutes.

D. 1. Upon sworn testimony of a representative of the Department, or statement of a district attorney representing the Department, that

immediate and reasonably foreseeable death or serious physical harm to or financial exploitation of the vulnerable adult will result, the court may waive prior notice and issue a seventy-two-hour temporary guardianship and provide involuntary protective services whether or not during regular courthouse business hours. However, within twenty-four (24) hours of issuance of the seventy-two-hour order, the vulnerable adult and the attorney of the vulnerable adult, if known, shall be personally served with written notice scheduling a hearing within seventy-two (72) hours.

2. If a hearing on the seventy-two-hour order is declined, or upon conclusion of any such hearing, the court may terminate the temporary guardianship and involuntary services or enter a temporary guardianship for up to thirty (30) additional calendar days as provided for in subsection G of this section.

E. 1. The vulnerable adult has a right to be present and represented by counsel at any hearing authorized by this section. If the vulnerable adult is indigent or, in the determination of the court, lacks capacity to waive the right to counsel, the court shall immediately appoint counsel who shall personally meet with the vulnerable adult and attempt to discuss the petition or any pending motion prior to any hearing.

2. If the vulnerable adult is not in attendance at a scheduled hearing, the court shall make a special finding as to why the vulnerable adult is unable to attend, and, upon the request of the vulnerable adult or the attorney of the vulnerable adult, may continue the hearing to allow the vulnerable adult to attend.

3. If the vulnerable adult is indigent, the cost of representation by counsel shall be borne by court funds.

4. If the vulnerable adult is not indigent, the court may order costs of representation paid from the estate in the same manner as currently paid under the Oklahoma Guardianship and Conservatorship Act.

F. 1. After a hearing on the petition, the court may:

a. appoint a temporary guardian and order involuntary protective services including, but not limited to, authorization for medical and/or psychological treatment and evaluations, and residential placement subject to the provisions of subsection G of this section,

b. issue an order freezing all assets of the vulnerable adult, establish any new accounts necessary to pay the daily living expenses of the vulnerable adult, and order a full accounting and investigation of the person alleged to be improperly managing the vulnerable adult's estate,

c. suspend or revoke powers of attorney or terminate a guardianship or conservatorship upon a finding that the attorney-in-fact, guardian or conservator failed to act appropriately on behalf of the vulnerable adult, or

d. order any law enforcement agency to transport any incapacitated person or vulnerable adult as necessary for appropriate care, treatment and residential placement. If such transportation is ordered, reimbursement for expenses incurred from the transportation of a vulnerable adult under the Department’s temporary guardianship shall be paid as provided for in Section 10-107 of this title.

2. a. Except as otherwise provided by subparagraphs b and c of this paragraph,

the court appointing a temporary guardian and ordering involuntary protective services shall not have authority to order the sale of the real property of the vulnerable adult.

b. If the Department of Human Services has been appointed temporary guardian and the court issues an order for the Department to continue as the temporary guardian of the vulnerable adult beyond the one hundred eighty (180) calendar days authorized by this section because there is no one willing and able to act as guardian for the vulnerable adult, the Department, as temporary guardian may, after one (1) year from its initial appointment, sell the real property of a vulnerable adult pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act.

c. The Department, as temporary guardian of a vulnerable adult, may also sell the real property of the vulnerable adult pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act prior to the one-year requirement specified in subparagraph b of this paragraph, if not selling the real property would jeopardize the vulnerable adult's eligibility for Medicaid. The fact that the vulnerable adult would be in jeopardy for receipt of Medicaid if the property was not sold shall be stated upon the court order directing the sale of the real property of the vulnerable adult.

d. The court may issue an order authorizing the Department to sell personal property of a vulnerable adult when additional resources are required to pay for necessary care for the vulnerable adult pursuant to state law.

G. Whenever the court issues an order for involuntary protective services, the court shall adhere to the following limitations:

1. Only such protective services as are necessary to remove the conditions creating the emergency shall be ordered, and the court shall specifically designate the approved services in the order of the court;

2. Protective services authorized by an involuntary protective services order shall not include a change of residence unless the court specifically finds such action is necessary to remove the conditions creating the emergency and gives specific approval for such action in the order of the court. Emergency placement may be made to such facilities as nursing homes, hospital rehabilitation centers, assisted living centers, foster care and in-home placements, or to other appropriate facilities for emergency care or evaluation to determine the extent of a vulnerable adult’s physical, mental and functional limitations; provided, however, emergency placement shall not be made or construed as an alternative to emergency detention and protective custody as authorized under Section 5-206 et seq. of this title or made or construed as an alternative to involuntary commitment under Section 5-410 et seq. of this title when a vulnerable adult otherwise meets the criteria for involuntary commitment. Services to such vulnerable adults shall be provided in a manner that is appropriate for the adult’s age and condition and, except for facilities operated by the Department of Mental Health and Substance Abuse Services or community-based structured crisis centers under contract with the Department pursuant to Section 3-317 of this title, services provided to vulnerable adults pursuant to this section shall be provided in a setting that is segregated

from any patients or residents of a facility who have been determined to be a danger to others; and

3. Involuntary protective services may be provided for a period not to exceed thirty (30) calendar days except as provided by subsections L and M of this section.

H. The court shall appoint the Department or an interested person or organization as temporary guardian of the person with responsibility for the welfare of such person and authority to give consent on behalf of the person for the approved involuntary protective services until the expiration of the order.

I. The issuance of an order for involuntary protective services and the appointment of a temporary guardian shall not deprive the vulnerable adult of any rights except to the extent validly provided for in the order or appointment.

J. 1. To enforce an order for involuntary protective services, the court may authorize:

a. forcible entry of the premises of the vulnerable adult to be protected for the purpose of rendering protective services but only after a reasonable showing to the court that good faith attempts to gain voluntary access to the premises have failed and forcible entry is necessary,

b. the transporting of the vulnerable adult to another location for the provision of involuntary services, and

c. the eviction of persons who are in a position to exploit the vulnerable adult from any property owned, leased, or rented by the vulnerable adult and restriction of those persons' further access to any property of the vulnerable adult.

2. If forcible entry is authorized by the court, the order shall include a directive that the Department's representative be accompanied by a police officer or deputy sheriff in the county where the vulnerable adult or property of the vulnerable adult is located, and the police officer or deputy sheriff shall make the forcible entry.

K. The vulnerable adult, the temporary guardian, or any interested person may petition the court to have the order to provide involuntary protective services set aside or modified at any time.

L. If the vulnerable adult continues to need involuntary protective services after expiration of the thirty-day temporary guardianship provided in subsection G of this section, the temporary guardian shall immediately file a verified motion requesting the court to, except as otherwise provided by subsection F of this section, continue the temporary guardianship and involuntary protective services under this section for a period not to exceed one hundred eighty (180) calendar days.

M. 1. Service of the verified motion shall be made in conformity with subsection C of this section.

2. Upon filing such motion, the court shall order that a physical, mental, and social evaluation of the vulnerable adult be conducted by the Department and that a proposed plan of care be submitted to the court within thirty (30) calendar days thereafter reflecting the evaluation findings and recommended services.

3. Upon filing such motion, the prior temporary guardianship shall remain in full force and effect pending a review hearing after the thirty-day evaluation period. The caretaker, guardian or next-of-kin of the vulnerable adult may request that the evaluation period be shortened for good cause.

4. The evaluation shall include at least the following information:

a. the address of the place where the person is residing and the person or agency which is providing care, treatment, or services at present,

b. a summary of the professional treatment and services provided to the person by the Department or agency, if any, in connection with the problem creating the need for emergency protective services, and

c. a medical and social evaluation, including, but not limited to, the Department's assessment of the person's capacity to consent to services, a psychological or psychiatric evaluation and review if the mental state of the person is in question, and any recommendations for or against maintenance of partial legal rights. The evaluation and review shall include recommendations for placement based upon the best interests of the vulnerable adult taking into consideration the following:

(1) the least restrictive environment,

(2) the desires of the vulnerable adult and legal guardian,

(3) the desires of the caretaker of the vulnerable adult and of any of the persons specified in Section 3-110 of Title 30 of the Oklahoma Statutes,

(4) the physical and mental health needs of the vulnerable adult,

(5) the available programs and services, and

(6) the health, well-being and welfare of the vulnerable adult and the public.

During the hearing to consider the motion to continue the temporary guardianship of the vulnerable adult for up to one hundred eighty (180) calendar days, the court shall consider the Department’s findings and proposed plan of care and any other evidence presented by the caretaker, guardian or other interested persons. The court shall either terminate the temporary guardianship and all involuntary services or continue the temporary guardianship and specify any necessary services to be provided by the Department for a period not to exceed one hundred eighty (180) calendar days. Provided, the court may continue the guardianship of the Department, if there is no one willing and able to act as guardian for the vulnerable adult.

N. Neither the Department nor any of its employees or any other petitioner shall be liable for filing a petition pursuant to the Protective Services for Vulnerable Adults Act if the petition was filed in good faith.

§ 10-109. Utilization of Available Services

A. In providing any of the duties set forth in this act, the Department of Human Services may provide direct protective services.

B. The Department may contract with any public or private agency for the provision of protective services.

C. The Department shall utilize to the extent appropriate and available existing resources and services of public and nonprofit private agencies in providing protective services. The Department shall make maximum use of volunteers and church groups whenever feasible.

§ 10-109a. Uniform Policy Detailing Employee Duties and Responsibilities

A. The Commission for Human Services shall establish uniform policies detailing the responsibilities and duties of employees of the Department of Human Services when providing or arranging services for vulnerable adults whether the services are to be paid for by

the vulnerable adult or from other private or public funds.

B. The policies shall include, but not be limited to:

1. The handling of the personal resources, such as bank accounts, cash, checks, notes, mortgages, trust deeds, sales contracts, stocks, bonds, certificates or other liquid assets of a vulnerable adult without prior approval of the supervisor;

2. Specific procedures for obtaining and handling repairs, personal services and other necessary actions to provide health care, food, shelter to or on behalf of a vulnerable adult;

3. Prohibiting an employee from any type of solicitation or charging, requesting or accepting any fee, gift, reward, or payment of any kind from individuals or staff for any services rendered as a volunteer, intern, or employee relating to vulnerable adults;

4. Prohibiting an employee from using contact with clients or any member or the client's support system for personal gain or personal relationships;

5. Prohibiting an employee, upon termination of any assignment, from making personal contact with former clients or any member of the client's support system and from using former contact with clients for personal gain;

6. Prohibiting an employee from buying items from clients;

7. Ensuring that no employee whose responsibilities relate in any manner to services provided to or on behalf of a vulnerable adult is subject to a conflict of interest which would impair the ability of the employee to carry out his or her employment duties in an impartial manner;

8. Sufficient oversight by administrative heads of local offices of the Department as to the provision for and arrangement of services to vulnerable adults; and

9. Such other requirements as deemed necessary by the Commission.

§ 10-110. Confidentiality of Records and Reports

Version 1 (as amended by Laws 2010, SB 1601, c. 474, § 1, emerg. eff. July 1, 2010)

A. The reports, records, and working papers used or developed in an investigation of the circumstances of a vulnerable adult pursuant to the provisions of the Protective Services for Vulnerable Adults Act are confidential and may be disclosed only pursuant to rules promulgated by the Commission for Human Services, by order of the court or as otherwise provided by this section or Section 10-110.1 of this title.

B. Department of Human Services agency records pertaining to a vulnerable adult may be inspected and their contents disclosed without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to this title or the prosecution of crimes against vulnerable adults;

2. The attorney representing a vulnerable adult who is the subject of a proceeding pursuant to the provisions of the Protective Services for Vulnerable Adults Act;

3. Employees of a law enforcement agency of this or another state and employees of protective services for vulnerable adults of another state;

4. A physician who has before him or her a vulnerable adult whom the physician reasonably suspects may have

been abused or neglected or any health care or mental health professional involved in the evaluation or treatment of the vulnerable adult;

5. A caretaker, legal guardian, custodian or other family members of the vulnerable adult; provided the Department may limit such disclosures to summaries or to information directly necessary for the purpose of such disclosure;

6. Any public or private agency or person authorized by the Department to diagnose, provide care and treatment to a vulnerable adult who is the subject of a report or record of vulnerable adult abuse or neglect;

7. Any public or private agency or person authorized by the Department to supervise or provide other services to a vulnerable adult who is the subject of a report or record of vulnerable adult abuse or neglect; provided, the Department may limit such disclosure to summaries or to information directly necessary for the purpose of such disclosure; and

8. Any person or agency for research purposes, if all of the following conditions are met:

a. the person or agency conducting such research is employed by the State of Oklahoma or is under contract with this state and is authorized by the Department of Human Services to conduct such research, and

b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to such documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed.

C. Nothing in this section shall be construed as prohibiting the Department from disclosing such confidential information as may be necessary to secure appropriate care, treatment or protection of a vulnerable adult alleged to be abused or neglected.

D. Records and their contents disclosed pursuant to this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for any unauthorized purpose.

E. Records of investigations conducted pursuant to the Protective Services for Vulnerable Adults Act shall not be expunged except by court order.

1. If the Department is currently or was previously appointed as temporary guardian of the alleged victim of abuse, neglect, financial exploitation, or financial neglect, any petition or motion requesting expungement of the investigative records of the Department shall be filed under the same case number.

2. Written notice of the hearing and a copy of any such petition or motion shall be properly and timely served upon:

a. the alleged victim of abuse, neglect, financial exploitation, or financial neglect,

b. the Department's Office of General Counsel and any other counsel of record in a proceeding in which the Department was appointed as temporary guardian, and

c. all other persons due notice in a guardianship proceeding involving the

victim pursuant to Section 3-110 of Title 30 of the Oklahoma Statutes.

Version 2 (as amended by Laws 2010, HB 2776, c. 110, § 1, eff. November 1, 2010)

A. The reports, records, and working papers used or developed in an investigation of the circumstances of a vulnerable adult pursuant to the provisions of the Protective Services for Vulnerable Adults Act are confidential and may be disclosed only pursuant to rules promulgated by the Commission for Human Services, by order of the court or as otherwise provided by this section or Section 2 of this act.

B. Department of Human Services agency records pertaining to a vulnerable adult may be inspected and their contents disclosed without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to this title or the prosecution of crimes against vulnerable adults;

2. The attorney representing a vulnerable adult who is the subject of a proceeding pursuant to the provisions of the Protective Services for Vulnerable Adults Act;

3. Employees of a law enforcement agency of this or another state and employees of protective services for vulnerable adults of another state;

4. A physician who has before him or her a vulnerable adult whom the physician reasonably suspects may have been abused or neglected or any health care or mental health professional involved in the evaluation or treatment of the vulnerable adult;

5. A caretaker, legal guardian, custodian or other family members of the vulnerable adult; provided the Department may limit such disclosures to summaries or to information directly necessary for the purpose of such disclosure;

6. Any public or private agency or person authorized by the Department to diagnose, provide care and treatment to a vulnerable adult who is the subject of a report or record of vulnerable adult abuse or neglect;

7. Any public or private agency or person authorized by the Department to supervise or provide other services to a vulnerable adult who is the subject of a report or record of vulnerable adult abuse or neglect; provided the Department may limit such disclosure to summaries or to information directly necessary for the purpose of such disclosure; and

8. Any person or agency for research purposes, if all of the following conditions are met:

a. the person or agency conducting such research is employed by the State of Oklahoma or is under contract with this state and is authorized by the Department of Human Services to conduct such research, and

b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to such documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed.

C. Nothing in this section shall be construed as prohibiting the Department

from disclosing such confidential information as may be necessary to secure appropriate care, treatment or protection of a vulnerable adult alleged to be abused or neglected.

D. Records and their contents disclosed pursuant to this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for any unauthorized purpose.

§ 10-110.1. Public Disclosure of Information Relating to Charges Against Caretaker Commits Crime Against Vulnerable Adult Resulting in Death or Near Death of Vulnerable Adult

A. For purposes of this section:

1. "Near death" means the vulnerable adult is in serious or critical condition, as certified by a physician, as a result of abuse or neglect; and

2. "Vulnerable adult" shall be defined as provided in Section 10-103 of Title 43A of the Oklahoma Statutes.

B. When a person responsible for the care of a vulnerable adult has been charged by information or indictment with committing a crime resulting in the death or near death of the vulnerable adult, there shall be a presumption that the best interest of the public is served by public disclosure of certain information concerning:

1. The circumstances of the investigation of the death or near death of the vulnerable adult; and

2. Any other investigations concerning that vulnerable adult, or other vulnerable adults living in the same facility, or involving an individual provider of services to vulnerable adults, within:

a. three (3) years of the death or near death, and

b. one (1) year after the death or near death.

C. 1. At any time subsequent to seven (7) days of the date the person providing care to the vulnerable adult has been criminally charged, the Department of Human Services Adult Protective Services Division, the district attorney, the district court clerk, and the judge having jurisdiction over the case, upon request, shall release certain information to the public as follows:

a. a confirmation shall be provided by the Department as to whether a report has been made concerning the alleged victim or other vulnerable adults while living in the same household or facility and whether an investigation has begun,

b. confirmation shall be provided by the Department as to whether previous reports have been made and the dates thereof, a summary of those previous reports, the dates and outcome of any investigations or actions taken by the Department in response to a previous report of abuse or neglect of vulnerable adults, and the specific recommendation made to the district attorney and any subsequent action taken by the district attorney,

c. the dates of any judicial proceedings prior to the death or near death of the vulnerable adult,

d. recommendations submitted by each participant in writing at the judicial proceedings including recommendation made at the hearing as they relate to appropriate placement of a vulnerable adult, and

e. the rulings of the court.

2. Specific recommendations made and services rendered by the Department of Human Services Adult Protective Services Division described in any progress reports of a pending case submitted to the court may be disclosed by the Department.

D. Any disclosure of information pursuant to this section shall not identify or provide an identifying description of any complainant or reporter of vulnerable adult abuse or neglect, and shall not identify the name of other vulnerable adults in the household or facility, the person responsible for the care of the vulnerable adult, or any other member of the facility or household, other than the person criminally charged.

§ 10-111. Jurisdiction of District Courts

A. 1. The district courts are vested with jurisdiction to issue orders and enforce orders restricting visitation, by the custodian or by any other person specified by the court, of a vulnerable adult who is receiving or has been determined to need protective services pursuant to the Protective Services for Vulnerable Adults Act.

2. Whenever it is consistent with the welfare and safety of a vulnerable adult, the court shall restrict the visitation of a custodian or other person specified by the court who is alleged or has been determined to have abused, neglected or exploited the vulnerable adult.

3. Notice as ordered by the court shall be given to the custodian or other person alleged or determined to have abused, neglected or exploited a vulnerable adult.

B. If the Department of Human Services determines, as a result of its investigation, that a vulnerable adult needs voluntary or involuntary protective services as a result of abuse, neglect or exploitation by the caretaker or by any other person, the Department may petition the district court to restrict the visitation of such custodian or other person with the vulnerable adult.

C. 1. Consistent with the welfare and safety of the vulnerable adult, the court may require supervised visitation, prohibit visitation or otherwise limit the visitation by the custodian or such other person with the vulnerable adult.

2. The basis for restricting visitation shall be stated in the record by the court.

D. The owner, operator or any facility personnel of a nursing home, residential home, assisted living facility or other long-term care facility having reason to believe that visitation of a vulnerable adult should be restricted may notify the long-term care ambudsman program or adult protective services. Any other person having reason to believe that visitation of a vulnerable adult should be restricted may notify the Department of Human Services pursuant to the Protective Services for Vulnerable Adults Act.

§ 10-112. Vulnerable Adult Intervention Task Force

A. The Department of Human Services, together with the Department of Mental Health and Substance Abuse Services, shall develop and implement a Vulnerable Adult Intervention Task Force. The purpose of the task force shall be to study and examine how to best provide interdisciplinary community assistance, intervention, and referral services for persons with mental or physical illnesses or disabilities, dementia or other related disease or condition.

B. The task force shall consist of at least eleven (11) members as follows:

1. One member who shall be a member of the Oklahoma House of Representatives, to be appointed by the Speaker of the Oklahoma House of Representatives, and one member who shall be a member of the Oklahoma Senate, to be appointed by the President Pro Tempore of the Oklahoma Senate;

2. Commissioner of the Department of Mental Health and Substance Abuse Services, or designee;

3. Commissioner of the State Department of Health, or designee;

4. Director of the State Department of Rehabilitation Services, or designee;

5. One member who shall be a representative from law enforcement, to be appointed by the Senate President Pro Tempore;

6. One member who shall be a current or former municipal employee who worked as a code enforcement officer, to be appointed by the Speaker of the House of Representatives;

7. One member who shall be a public defender, or designee, to be appointed by the Governor;

8. One member who shall be a citizen of this state and a current or former member of an advocacy organization that represents vulnerable adults or persons with mental illness, to be appointed by the House Minority Leader;

9. One member who shall be a physician licensed to practice in this state, to be appointed by the Senate Minority Leader; and

10. The Director of the Department of Human Services, or designee.

Members of the task force shall serve for a thirty–month term.

C. Appointments to the task force shall be made by July 1, 2010. The first meeting shall be convened on or before August 1, 2010. A majority of the members present at a meeting shall constitute a quorum to do business. Members of the task force shall receive no compensation for their service, but shall receive travel reimbursement by the appointing authority pursuant to the State Travel Reimbursement Act.

D. The task force is authorized to meet as necessary in order to perform the duties imposed on it.

E. The task force shall recommend a curriculum, which at a minimum should include training for individuals on the symptoms, causes and evidence-based services and interventions for illnesses and conditions contained herein. The training should also address possible crisis situations arising from these illnesses and conditions and steps to support an individual in a crisis situation.

F. On or before December 31, 2010, and annually thereafter, the task force shall submit a report to the Legislature stating the recommendations and findings of the task force including but not limited to suggested legislative action, funding sources, state agency action, and numbers of potential participants in recommended programs, either as a team member who promotes services or a recipient of services, and any recommendations for improvement of the program.

G. The task force shall be subject to the provisions of the Open Records Act and the Open Meeting Act. Staff assistance for the task force shall be provided by the staff of the Oklahoma House of Representatives and the Oklahoma State Senate.

ADVANCE DIRECTIVES FOR MENTAL HEALTH TREATMENT ACT

§ 11-101. Short Title

This act shall be known and may be cited as the "Advance Directives for Mental Health Treatment Act".

§ 11-102. Legislative Findings

A. The Legislature finds that all competent persons have the fundamental right to control decisions relating to their own mental health treatment, including the decision to accept mental health treatment.

B. A capable adult may make an advance directive of mental health treatment preferences or instruction which may include, but is not limited to, consent to mental health treatment.

§ 11-103. Definitions

Whenever used in the Advance Directives for Mental Health Treatment Act:

1. "Advance directive for mental health treatment" means a written document voluntarily executed by a declarant in accordance with the requirements of this act and includes:

a. a declaration, or

b. the appointment of an attorney-in-fact;

2. "Attending physician or psychologist" means the physician or psychologist who has primary responsibility for the mental health treatment of the declarant;

3. "Attorney-in-fact" means an individual eighteen (18) years old or older appointed by a declarant to make mental health treatment decisions on behalf of the declarant as provided by this act;

4. "Capable" means the person is able to receive and evaluate information effectively and communicate decisions regarding his or her mental health treatment;

5. "Declaration" means a written document voluntarily executed by a declarant stating the mental health treatment wishes of a declarant in the event the declarant is determined to be incapable and mental health treatment is necessary;

6. "Declarant" means a capable person eighteen (18) years of age or older who has executed an advance directive for mental health treatment in accordance with the provisions of this act;

7. "Health care facility" includes any program, institution, place, building or agency, or portion thereof, private or public, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, rehabilitative or preventive care to any person. The term "health care facility" includes, but is not limited to, health care facilities that are commonly referred to as hospitals, outpatient clinics, organized ambulatory health care facilities, emergency care facilities and centers, health maintenance organizations, and others providing similarly organized services regardless of nomenclature;

8. "Mental health treatment" means convulsive treatment, treatment with psychoactive medication, and admission to and retention in a facility for a period up to twenty-eight (28) days;

9. "Physician" means an individual currently licensed to practice medicine in this state;

10. "Psychologist" means an individual currently licensed to practice in this state as a clinical psychologist; and

11. "Incapable" means that, in the opinion of two persons, who shall be physicians or psychologists, a person's ability to receive and evaluate information effectively or communicate decisions is impaired as the result of a mental illness to such an extent that the person currently lacks the capacity to make mental health treatment decisions.

§ 11-104. Advance Directive – Execution

A. Any capable person eighteen (18) years of age or older may execute an advance directive for mental health treatment stating the mental health treatment wishes of the person in the event the person is determined to be incapable and mental health treatment is determined to be necessary as provided by Section 10 of this act. An advance directive for mental health treatment

may include but is not limited to consent to inpatient mental health treatment.

B. An advance directive for mental health treatment may be executed by:

1. Executing a declaration; or

2. Appointing an attorney-in-fact; or

3. Both executing a declaration and appointing an attorney-in-fact. If executed, the appointment of an attorney-in-fact shall be attached to the declaration.

C. The Advance Directives for Mental Health Treatment Act:

1. Shall not affect the right of an individual to make decisions about mental health treatment, so long as the individual is capable; and

2. Creates no presumption concerning the intention of an individual who has revoked or has not executed an advance directive for mental health treatment.

D. For the purpose of the Advance Directives for Mental Health Treatment Act:

1. If a person is incapable at the time of a determination that mental health treatment is necessary, an advance directive for mental health treatment executed in accordance with the Advance Directives for Mental Health Treatment Act is presumed to be valid; and

2. A physician, psychologist or health care facility may presume, in the absence of actual notice to the contrary, that a person who executed an advance directive for mental health treatment was of sound mind when the advance directive for mental health treatment was executed.

E. A person shall not be required to execute or to refrain from executing an advance directive for mental health treatment as a criterion for insurance, as a condition for receiving mental or physical health services, or as a condition of discharge from a health care facility.

F. The fact that a person has executed an advance directive for mental health treatment shall not constitute an indication of mental incompetence

§ 11-105. Validity of Advance Directive

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 consumer or resident.

§ 11-106. Advance Directive – Form

A. A declaration stating the mental health treatment wishes of the declarant executed in accordance with the provisions of this act shall be substantially in the form provided by subsection E of this section.

B. A declarant may designate a capable person eighteen (18) years of age or older to act as attorney-in-fact to make mental health treatment decisions. An alternative attorney-in-fact may also

be designated to act as attorney-in-fact if the original attorney-in-fact is unable or unwilling to act at any time. An appointment of an attorney-in-fact shall be substantially in the form provided by subsection E of this section.

C. An attorney-in-fact who has accepted the appointment in writing shall have authority to make decisions, in consultation with the attending physician or psychologist, about mental health treatment on behalf of the declarant only when the declarant is certified as incapable and to require mental health treatment as provided by Section 10 of this act.

1. These decisions shall be consistent with any wishes or instructions the declarant has expressed in the declaration. If the wishes or instructions of the declarant are not expressed, the attorney-in-fact shall act in what the attorney-in-fact believes to be in the best interest of the declarant.

2. The attorney-in-fact may consent to inpatient mental health treatment on behalf of the declarant if so authorized in the advance directive for mental health treatment.

D. An attorney-in-fact may withdraw by giving notice to the declarant. If a declarant is incapable, the attorney-in-fact may withdraw by giving notice to the named alternative attorney-in-fact if any, and if none then to the attending physician or provider. The attending physician or provider shall note the withdrawal of the last named attorney-in-fact as part of the declarant's medical record.

E. An advance directive for mental health treatment shall be notarized and shall be in substantially the following form:

ADVANCE DIRECTIVE FOR MENTAL HEALTH TREATMENT

I, _____, being of sound mind and eighteen (18) years of age or older, willfully and voluntarily make known my wishes about mental health treatment, by my instructions to others through my advance directive for mental health treatment, or by my appointment of an attorney-in-fact, or both. I thus do hereby declare:

I. DECLARATION FOR MENTAL HEALTH TREATMENT

If my attending physician or psychologist and another physician or psychologist determine that my ability to receive and evaluate information effectively or communicate decisions is impaired to such an extent that I lack the capacity to refuse or consent to mental health treatment and that mental health treatment is necessary, I direct my attending physician or psychologist and other health care providers, pursuant to the Advance Directives for Mental Health Treatment Act, to provide the mental health treatment I have indicated below by my signature.

I understand that "mental health treatment" means convulsive treatment, treatment with psychoactive medication, and admission to and retention in a health care facility for a period up to twenty-eight (28) days.

I direct the following concerning my mental health care:

_____

_____

_____

I further state that this document and the information contained in it may be released to any requesting licensed mental health professional.

_____

Declarant's Signature Date

_____

Witness 1 Date

_____

Witness 2 Date

II. APPOINTMENT OF ATTORNEY-IN-FACT

If my attending physician or psychologist and another physician or psychologist determine that my ability to receive and evaluate information effectively or communicate decisions is impaired to such an extent that I lack the capacity to refuse or consent to mental health treatment and that mental health treatment is necessary, I direct my attending physician or psychologist and other health care providers, pursuant to the Advance Directives for Mental Health Treatment Act, to follow the instructions of my attorney-in-fact.

I hereby appoint:

NAME

_____

ADDRESS

_____

TELEPHONE #

_____ to act as my attorney-in-fact to make decisions regarding my mental health treatment if I become incapable of giving or withholding informed consent for that treatment.

If the person named above refuses or is unable to act on my behalf, or if I revoke that person's authority to act as my attorney-in-fact, I authorize the following person to act as my attorney-in-fact:

NAME

_____

ADDRESS

_____

TELEPHONE #

_____

My attorney-in-fact is authorized to make decisions which are consistent with the wishes I have expressed in my declaration. If my wishes are not expressed, my attorney-in-fact is to act in what he or she believes to be my best interest.

_____

(Signature of Declarant/Date)

III. CONFLICTING PROVISION

I understand that if I have completed both a declaration and have appointed an attorney-in-fact and if there is a conflict between my attorney-in-fact's decision and my declaration, my declaration shall take precedence unless I indicate otherwise.

_____ _____

(signature)

IV. OTHER PROVISIONS

a. In the absence of my ability to give directions regarding my mental health treatment, it is my intention that this advance directive for mental health treatment shall be honored by my family and physicians or psychologists as the expression of my legal right to consent or to refuse to consent to mental health treatment.

b. This advance directive for mental health treatment shall be in effect until it is revoked.

c. I understand that I may revoke this advance directive for mental health treatment at any time.

d. I understand and agree that if I have any prior advance directives for mental health treatment, and if I sign this advance directive for mental health treatment, my prior advance directives for mental health treatment are revoked.

e. I understand the full importance of this advance directive for mental health treatment and I am emotionally and mentally competent to make this advance directive for mental health treatment.

Signed this _____ day of _____, 19 __

_____

(Signature)

_____
City, County and State of Residence

This advance directive was signed in my presence.

_____
(Signature of Witness)

_____
(Address)

_____
(Signature of Witness)

_____
(Address)

§ 11-107. Advance Directive

A. The wishes of a declarant, at all times while the declarant is capable, shall supersede the effect of an advance directive for mental health treatment.

B. An advance directive for mental health treatment shall become operative when:

1. It is delivered to the declarant's physician or psychologist; and

2. The declarant is certified to be incapable and to require mental health treatment as provided by Section 11-110 of this title.

C. An advance directive for mental health treatment remains valid until:

1. Revoked, expired or superseded by a subsequent advance directive for mental health treatment; or

2. Superseded by a court order.

D. A court order shall supersede an advance directive for mental health treatment in all circumstances.

E. Mental health treatment instructions contained in a declaration executed in accordance with this act shall supersede any contrary or conflicting instructions given by an attorney-in-fact specifically for mental health treatment decisions unless the authority given to the attorney-in-fact in the advance directive for mental health treatment expressly provides otherwise.

F. Except as provided by subsection E of this section, in the event that more than one valid advance directive for mental health treatment has been executed and not revoked, the last advance directive for mental health treatment executed shall be construed to be the mental health treatment wishes of the declarant and shall become operative as provided by subsection B of this section.

G. In the absence of an advance directive for mental health treatment, the powers vested in a guardianship of the person, or grant of general health care decision-making authority or designation of health care proxy contained in an advance directive for health care or durable power of attorney with health care decision-making authority shall be deemed to include mental health treatment.

§ 11-108. Responsibility of Declarant to Provide for Delivery of Advance Directive for Treatment

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 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.

§ 11-109. Advance Directive Revoked by Following Methods – Effectiveness

A. An advance directive for mental health treatment may be revoked in whole or in part by the declarant at any time while the declarant is capable by any of the following methods:

1. By being destroyed by the declarant or by some person in the declarant's presence and at the declarant's direction;

2. By a written revocation signed and dated by the declarant expressing the declarant's intent to revoke;

3. By a declarant's unambiguous verbal expression, in the presence of two witnesses eighteen (18) years of age or older, of an intent to revoke the declaration; or

4. By a declarant's unambiguous verbal expression to an attending physician or psychologist.

B. The revocation shall become effective upon communication to the attending physician or psychologist by the declarant or by both witnesses. The attending physician or psychologist shall record the time, date, and place when the notification of the revocation was received.

C. In the absence of actual notice of the revocation of an advance directive for mental health treatment, no attending physician or psychologist, health care facility or other person acting under the direction of an attending physician or psychologist shall be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of the provision of medical treatment to a declarant in accordance with the Advance Directives for Mental Health Treatment Act unless the absence of actual notice resulted from the negligence of the health care provider, physician, or other person.

§ 11-110. Examination – Examiner's Certificate

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 declaration of the consumer or having knowledge that the declaration is part of the medical record of the consumer, 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 appointment of the consumer 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 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 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 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 _____, 20__

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

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

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

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

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

§ 11-111. Petition for Appointment of Guardian

Any person may petition the district court for appointment of a guardian for a declarant when the person has good reason to believe that the provision of mental health treatment in a particular case:

1. Is contrary to the most recent expressed wishes of a declarant who was capable at the time of expressing the wishes;

2. Is being proposed pursuant to an advance directive for mental health treatment that has been falsified, forged, or coerced; or

3. Is being considered without the benefit of a revocation which has been unlawfully concealed, destroyed, altered or canceled.

§ 11-112. Persons Not Subject to Criminal Liability or Discipline for Unprofessional Conduct

A. In the absence of knowledge of the revocation of an advance directive for mental health treatment, a person is not subject to civil or criminal liability or discipline for unprofessional conduct for carrying out the advance directive for

mental health treatment pursuant to the requirements of the Advance Directives for Mental Health Treatment Act.

B. A physician or psychologist whose actions under the Advance Directives for Mental Health Treatment Act are in accord with reasonable medical standards or standards of mental health treatment, is not subject to criminal or civil liability or discipline for unprofessional conduct with respect to those actions.

C. An individual designated as an attorney-in-fact pursuant to the provisions of this act, to make mental health treatment decisions for a declarant and whose decisions regarding the declarant are made in good faith pursuant to the Advance Directives for Mental Health Treatment Act, is not subject to criminal or civil liability, or discipline for unprofessional conduct with respect to those decisions.

§ 11-113. Penalties

A. Any person who willfully conceals, cancels, defaces, alters, or obliterates the advance directive for mental health treatment of another without the declarant's consent, or who falsifies or forges a revocation of an advance directive of another, shall be, upon conviction, guilty of a misdemeanor.

B. A person who in any way falsifies or forges the advance directive for mental health treatment of another person, or who willfully conceals or withholds personal knowledge of a revocation of an advance directive for mental health treatment, shall be, upon conviction, guilty of a misdemeanor.

C. A person who requires or prohibits the execution of an advance directive for mental health treatment as a condition for being insured for, or receiving, health care services shall be, upon conviction, guilty of a misdemeanor.

D. A person who coerces or fraudulently induces another person to execute a declaration or revocation shall be, upon conviction, guilty of a felony.

E. The sanctions provided in this section do not displace any sanction applicable under any other law.

SUICIDE PREVENTION ACT

§ 12-101. Short Title

Sections 12-101 through 12-105 of this title shall be known and may be cited as the "Suicide Prevention Act".

§ 12-102. Purpose

The purpose of the Suicide Prevention Act is to facilitate the translation of suicide-related data into comprehensive public policy that is directed toward reducing the number of attempted suicides and suicides in Oklahoma by:

1. Improving methods of identifying minors and adults who are at risk of dying by suicide;

2. Improving awareness of and access to existing mental health services for individuals identified as needing those services; and

3. Coordinating and developing community resources to prevent attempted suicide and suicide among minors and adults.

§ 12-103. Definitions

As used in the Suicide Prevention Act:

1. "Attempted suicide" means the voluntary and intentional injury to one’s own body with the goal of ending one’s own life; and

2. "Suicide" means the voluntary and intentional taking of one's own life.

§ 12-104. Oklahoma Suicide Prevention Council

A. There is hereby created until January 1, 2020, an Oklahoma Suicide Prevention Council. The Council shall assist with the implementation of the Suicide Prevention Act.

B. The Oklahoma Suicide Prevention Council shall be composed of twenty-seven (27) members as follows:

1. One member of the Oklahoma House of Representatives appointed by the Speaker of the House of Representatives;
2. One member of the Oklahoma State Senate appointed by the President Pro Tempore of the Senate;
3. Two representatives of the Department of Mental Health and Substance Abuse Services appointed by the Commissioner of Mental Health and Substance Abuse Services;
4. Two representatives of the State Department of Health appointed by the State Commissioner of Health;
5. One representative of the State Department of Education appointed by the State Superintendent of Public Instruction;
6. One representative of the Office of Juvenile Affairs appointed by the Director of the Office of Juvenile Affairs;
7. One representative of the Oklahoma Commission on Children and Youth appointed by the Director of the Oklahoma Commission on Children and Youth;
8. Two survivors of attempted suicide, one of whom is a minor, who have had experience with attempted suicide or suicide; the minor shall be appointed by the President Pro Tempore of the Senate and the adult shall be appointed by the Speaker of the House of Representatives;
9. Two survivors of suicide, including, but not limited to, parents or other family members of persons who committed suicide, to be appointed by the President Pro Tempore of the Senate;
10. One teacher and one school counselor each to be appointed by the Speaker of the House of Representatives;
11. Three licensed mental health professionals who work in the area of suicide prevention, one with the youth population, one with the adult population, and one with the older adult population appointed by the Governor;
12. Three members of the clergy, one each appointed by the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor;
13. Two members representing military service members, to be appointed by the President Pro Tempore of the Senate;
14. Two members representing Native American/Tribal members, to be appointed by the Speaker of the House of Representatives; and
15. Two members representing the medical community, including but not limited to licensed medical providers or hospital administrators, to be appointed by the Governor.

C. The Commissioner of Mental Health and Substance Abuse Services, or a designee, shall convene the initial meeting of the Council, at which time the Council shall elect a chair and vice-chair from among its membership. Staff assistance to the Council shall be provided by the Department of Mental Health and Substance Abuse Services and the State Department of Health. Members of the Council shall receive no

compensation for their service on the Council but shall be reimbursed by the appointing authority for travel expenses incurred in the performance of their duties pursuant to the State Travel Reimbursement Act.

D. Upon four absences of a Council member within one (1) calendar year, the position shall be considered vacant. The chair may notify the appointing authority of the vacancy and request that another individual be appointed to fill the position.

E. The responsibilities of the Council shall include, but not be limited to, the following:

1. Collaborate with community partnership boards established pursuant to Section 601.11 of Title 10 of the Oklahoma Statutes and other community-level planning bodies to assist in the development and coordination of local resources and building community capacity to address the issue of minor and adult suicide;

2. Provide technical assistance to schools and communities with respect to the best practices in the identification and treatment of minors and adults at risk for suicide;

3. Identify systemic issues and promote strategies to prevent suicide among minors and adults; and

4. Promote public awareness of the problem of minor suicide and the efforts being made in Oklahoma to reduce morbidity and mortality associated with suicide.

F. The Council shall submit a report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Commissioner of Mental Health and Substance Abuse Services and the State Commissioner of Health no later than December 1 of each year. The report shall provide an update of activities and progress in implementing the provisions of the Suicide Prevention Act, and offer policy and legislative recommendations.

§ 12-105. Lead Agency

A. The Department of Mental Health and Substance Abuse Services shall act as the lead agency in implementing the provisions of the Suicide Prevention Act in cooperation with the Oklahoma Suicide Prevention Council.

B. The Department shall have primary responsibility for evaluating the effectiveness of efforts designed to reduce the number of attempted suicides and suicides, and shall submit an evaluation report to the Chair of the Oklahoma Suicide Prevention Council, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Governor no later than July 1 of each year.

MENTAL HEALTH FIRST AID PROGRAM

§ 13-101. Mental Health First Aid Pilot Program - Curriculum - Certification - Authorization - Reporting - Rule Making

A. Contingent upon funding, the Department of Mental Health and Substance Abuse Services shall develop and implement a mental health first aid pilot program. The purpose of the mental health first aid pilot program shall be to train non-mental-health professionals in how to support an individual in a mental health crisis situation until professional help can be obtained.

B. The Department shall adopt a curriculum which, at a minimum, shall include training for individuals on the symptoms, causes and evidence-based treatments for common mental health

problems, including, but not limited to, depression, anxiety disorders, psychosis, and substance abuse disorders. The curriculum shall also address possible crisis situations arising from these mental health problems and steps to support an individual in a crisis situation.

C. The Department shall issue a certificate in mental health first aid to individuals who complete the course of training. The Department shall establish criteria for certification.

D. The Department is authorized to enter into a contract to implement the provisions of this section.

E. On or before December 31, 2009, and annually thereafter, the Department shall submit a report to the Legislature stating the number of participants in the program, the number of individuals who received a certificate in the program, and any recommendations for improvement of the program.

F. The Board of Mental Health and Substance Abuse Services shall promulgate rules as necessary to implement the provisions of this section.