

39-1601

Chapter 39.--MENTALLY ILL, INCAPACITATED AND DEPENDENT PERSONS; SOCIAL WELFARE

Article 16.--MENTAL HEALTH REFORM

39-1601. Citation of act. K.S.A. 39-1601 through 39-1612 and amendments thereto shall be known and may be cited as the mental health reform act.

History: L. 1990, ch. 92, § 1; July 1.

39-1602. Definitions. As used in K.S.A. 39-1601 through 39-1612 and amendments thereto:

(a) "Targeted population" means the population group designated by rules and regulations of the secretary as most in need of mental health services which are funded, in whole or in part, by state or other public funding sources, which group shall include adults with severe and persistent mental illness, severely emotionally disturbed children and adolescents, and other individuals at risk of requiring institutional care.

(b) "Community based mental health services" includes, but is not limited to, evaluation and diagnosis, case management services, mental health inpatient and outpatient services, prescription and management of psychotropic medication, prevention, education, consultation, treatment and rehabilitation services, twenty-four-hour emergency services, and any facilities required therefor, which are provided within one or more local communities in order to provide a continuum of care and support services to enable mentally ill persons, including targeted population members, to function outside of inpatient institutions to the extent of their capabilities. Community based mental health services also include assistance in securing employment services, housing services, medical and dental care, and other support services.

(c) "Mental health center" means any community mental health center organized pursuant to the provisions of K.S.A. 19-4001 to 19-4015, inclusive, and amendments thereto, or mental health clinic organized pursuant to the provisions of K.S.A. 65-211 to 65-215, inclusive, and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto.

(d) "Secretary" means the secretary of social and rehabilitation services.

(e) "Department" means the department of social and rehabilitation services.

(f) "State psychiatric hospital" means Osawatomie state hospital, Rainbow mental health facility, Topeka state hospital or Larned state hospital.

(g) "Mental health reform phased program" means the program in three phases for the implementation of mental health reform in Kansas as follows:

(1) The first phase covers the counties in the Osawatomie state hospital catchment area and is to commence on July 1, 1990, and is to be completed by June 30, 1994;

(2) the second phase covers the counties in the Topeka state hospital catchment area and is to commence on July 1, 1992, and is to be completed by June 30, 1996; and

(3) the third phase covers the counties in the Larned state hospital catchment area and is to commence on July 1, 1993, and is to be completed by June 30, 1997.

(h) "Screening" means the process performed by a participating community mental health center, pursuant to a contract entered into with the secretary under K.S.A. 39-1610 and amendments thereto, to determine whether a person, under either voluntary or involuntary procedures, can be evaluated or treated, or can be both evaluated and treated, in the community or should be referred to the appropriate state psychiatric hospital for such treatment or evaluation or for both treatment and evaluation.

(i) "Osawatomie state hospital catchment area" means, except as otherwise defined by rules and regulations of the secretary adopted pursuant to K.S.A. 39-1613 and amendments thereto, the area composed of the following counties: Allen, Anderson, Atchison, Bourbon, Butler, Chautauqua, Cherokee, Cowley, Crawford, Elk, Franklin, Jefferson, Johnson, Labette, Leavenworth, Linn, Miami, Montgomery, Neosho, Wilson, Woodson and Wyandotte.

(j) "Topeka state hospital catchment area" means, except as otherwise defined by rules and regulations of the secretary adopted pursuant to K.S.A. 39-1613 and amendments thereto, the area composed of the following counties: Brown, Chase, Clay, Cloud, Coffey, Dickinson, Doniphan, Douglas, Ellsworth, Geary, Greenwood, Harvey, Jackson, Jewell, Lincoln, Lyon, Marion, Marshall, McPherson, Mitchell, Morris, Nemaha, Osage, Ottawa, Pottawatomie, Republic, Riley, Saline, Sedgwick, Shawnee, Wabaunsee and Washington.

(k) "Larned state hospital catchment area" means, except as otherwise defined by rules and regulations of the secretary adopted pursuant to K.S.A. 39-1613 and amendments thereto, the area composed of the following counties: Barber, Barton, Cheyenne, Clark, Comanche, Decatur, Edwards, Ellis, Finney, Ford, Gove, Graham, Grant, Gray, Greeley, Hamilton, Harper, Haskell, Hodgeman, Kearny, Kingman, Kiowa, Lane, Logan, Meade, Morton, Ness, Norton, Osborne, Pawnee, Phillips, Pratt, Rawlins, Reno, Rice, Rooks, Rush, Russell, Scott, Seward, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Trego, Wallace and Wichita.

(l) "Catchment area" means the Osawatomie state hospital catchment area, the Topeka state hospital catchment area or the Larned state hospital catchment area.

(m) "Participating mental health center" means a mental health center which has entered into a contract with the secretary of social and rehabilitation services to provide screening, treatment and evaluation, court ordered evaluation and other treatment services pursuant to the care and treatment act for mentally ill persons, in keeping with the phased concept of the mental health reform act.

History: L. 1990, ch. 92, § 2; L. 1993, ch. 225, § 2; L. 1996, ch. 167, § 51; Apr. 18.

39-1603. Powers and duties of secretary of social and rehabilitation services. In addition to powers and duties otherwise provided by law, the secretary shall have the following powers and duties:

(a) To function as the sole state agency to develop a comprehensive plan to meet the needs of persons who have mental illness;

(b) to evaluate and coordinate all programs, services and facilities for persons who have mental illness presently provided by agencies receiving state and federal funds and to make appropriate recommendations regarding such services, programs and facilities to the governor and the legislature;

(c) to evaluate all programs, services and facilities within the state for persons who have mental illness and determine the extent to which present public or private programs, services and facilities meet the needs of such persons;

(d) to solicit, accept, hold and administer on behalf of the state any grants, devises or bequests of money, securities or property to the state of Kansas for services to persons who have mental illness or purposes related thereto;

(e) to provide consultation and assistance to communities and groups developing local and area services for persons who have mental illness;

(f) to assist in the provision of services for persons who are mentally ill in local communities whenever possible, with primary control and responsibility for the provision of services with mental health centers, and to assure that such services are provided in the least restrictive environment;

(g) to adopt rules and regulations for targeted population members which provide that, within the limits of appropriations therefor, no person shall be inappropriately denied necessary mental health services from any mental health center or state psychiatric hospital and that each targeted population member shall be provided such services in the least restrictive manner;

(h) to establish and implement policies and procedures within the programs and activities of the department of social and rehabilitation services so that funds from the state shall follow persons who are mentally ill from state facilities into community programs;

(i) to provide the least restrictive treatment and most appropriate community based care as well as rehabilitation for Kansas residents who are mentally ill persons through coordinated utilization of the existing network of mental health centers and state psychiatric hospitals;

(j) to establish standards for the provision of community support services and for other community based mental health services provided by mental health centers in consultation with representatives of mental health centers, consumers of mental health services and family members of consumers of mental health services;

(k) to assure the establishment of specialized programs within each mental health center throughout the state in order to provide appropriate care for designated targeted population members;

(l) to establish service requirements for programs within mental health centers which will ensure that targeted population members receive the most effective community treatment possible;

(m) to ensure the development and continuation of high quality community based mental health services, including programs for targeted population members, in each mental health center service delivery area through the provision of technical assistance, consultation and funding;

(n) to establish standards for the provision of community based mental health programs through community programs in consultation with representatives of mental health centers, private and public service providers, families and consumer advocates;

(o) to monitor the establishment and the continuing operation of all state funded community based mental health services to ensure that programs providing these services comply with established standards;

(p) to review and approve the annual coordinated services plan of each mental health center during each fiscal year ending after June 30, 1991, and to withhold state funds from any mental health center which is not being administered substantially in accordance with the provisions of the annual coordinated services plan and budget submitted to the secretary by the mental health center;

(q) to establish state policies for the disbursement of federal funds within the state and for state administration of federal programs providing services or other assistance to persons who have mental illness consistent with relevant federal law, rules and regulations, policies and procedures;

(r) to adopt rules and regulations to ensure the protection of persons receiving mental health services, which shall include an appeal procedure at the state and local levels;

(s) to establish procedures and systems to evaluate the results and outcomes pursuant to K.S.A. 39-1610 and amendments thereto and as otherwise provided for under this act; and

(t) to adopt such rules and regulations as may be necessary to administer the provisions of K.S.A. 39-1601 through 39-1612 and amendments thereto which are consistent with appropriations available for the administration of such provisions.

History: L. 1990, ch. 92, § 3; July 1.

39-1604. Secretary of social and rehabilitation services to adopt state assessment of needs; plan to develop and operate a state system; development by mental health centers of community assessment of needs and plan for community based services; annual review and update of assessment of needs and plan; coordinated services plan. (a) On or

before October 1, 1991, and in accordance with rules and regulations adopted under K.S.A. 39-1603 and amendments thereto, the secretary shall develop and adopt a state assessment of needs and a plan to develop and operate a state system to provide mental health services for persons who are residents of Kansas, including all targeted population members designated by rules and regulations adopted by the secretary. The plan for the state system shall include coordinating and assisting in the provision of community based mental health services in the service delivery areas of mental health centers, including the services provided by state psychiatric hospitals and the provision of state financial assistance. On or before March 1, 1992, the secretary shall adopt a state plan for an integrated system to coordinate and assist in the provision of community based mental health services within Kansas. The assessment of needs and plan for the state shall be reviewed and updated by the secretary on an annual basis.

(b) The secretary shall assist and coordinate the development by each mental health center of a community assessment of needs and a plan for the community system to provide community based mental health services for persons who reside in the service delivery area of the mental health center, including all targeted population members. The secretary shall review and approve, or return, with recommendations for revision and resubmittal, all such assessments of needs and plans in accordance with criteria prescribed by rules and regulations adopted under K.S.A. 39-1603 and amendments thereto. If necessary services for a service delivery area cannot be provided by the mental health center or in order to ensure that a continuum of services will be provided in a service delivery area, the secretary may require the provision of services for a service delivery area through contracts between two or more mental health centers.

(c) Each mental health center shall annually review and update such assessment of needs and plan for the service delivery area. If the assessment of needs or the plan for the community system to provide community based mental health services are not in compliance with the criteria prescribed by rules and regulations under K.S.A. 39-1603 and amendments thereto, the secretary shall withhold all or part of the state financial assistance provided to the mental health center.

(d) On or before October 1, 1991, and annually on or before such date thereafter, each mental health center shall submit a coordinated services plan addressing the service needs of the targeted population to the secretary of social and rehabilitation services for review and approval. The annual coordinated services plan shall be developed according to the standards established by rules and regulations adopted by the secretary of social and rehabilitation services.

History: L. 1990, ch. 92, § 4; July 1.

39-1605. Governor's mental health services planning council; composition of council; chairperson; terms of members; vacancies; vice-chairperson; compensation. (a) There is hereby established the governor's mental health services planning council. The council shall consist of 25 members.

(b) So the composition of the council is in compliance with the requirements of public law 102-321 and supplementary federal acts, persons appointed to the council will be in accordance with the following:

(1) Nine members shall be state agency representatives who shall include:

- (A) The commissioner of mental health and developmental disabilities;
- (B) the secretary of social and rehabilitation services shall appoint one member for each of the following areas: vocational rehabilitation, alcohol and drug abuse services, medical services and children and family services;
- (C) the commissioner of juvenile justice;
- (D) the commissioner of education;
- (E) the secretary of corrections; and
- (F) the secretary of commerce. If a commissioner or secretary is unable to participate, the commissioner or secretary shall appoint a designee as the official member of the council.

(2) The governor shall appoint the following persons to the council:

(A) One member shall be a person licensed to practice medicine and surgery with board certification in psychiatry;

(B) two members shall be executive directors of mental health centers; and

(C) 13 members shall be individuals who are not state employees or providers of mental health services. Of the 13 members, four members shall be adult consumers with serious and persistent mental illness; three members shall be immediate family members of adult consumers with serious and persistent mental illnesses; four members shall be family members of minor children or youth with severe emotional disturbances; and two members shall be members of the general public.

(c) The terms of members who are currently serving on the council shall expire on the effective date of this act. At that time, appointees of the governor under subsection (b)(2) shall be appointed to the council by the governor with 1/2 appointed for a term of two years and the other 1/2 for a term of four years as specified by the governor. Thereafter, each member appointed to the council by the governor shall be appointed for a term of four years.

(d) Each member of the council shall serve until a successor is appointed and qualified. In the case of a vacancy on the council, a successor of like qualifications shall be appointed or designated to fill the unexpired term in accordance with subsections (b)(1) and (2).

(e) The governor shall designate the chairperson of the council. The members of the council shall elect a vice-chairperson.

(f) Members of the governor's mental health services planning council attending meetings of the council, or attending a subcommittee meeting thereof authorized by the council, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto.

History: L. 1990, ch. 92, § 5; L. 1997, ch. 73, § 1; L. 2003, ch. 154, § 13; July 1.

39-1606. Meetings of governor's mental health services planning council; duties of council; visits to state psychiatric hospitals and other providers; annual reports. (a) The governor's mental health services planning council shall hold regular quarterly meetings and such other meetings as the chairperson of such council deems advisable, and in addition shall meet at such other times upon the call of the secretary.

(b) It is the duty of the governor's mental health services planning council to:

(1) Confer, advise and consult with the secretary with respect to the policies governing the management and operation of all state psychiatric hospitals and facilities and community based mental health services;

(2) serve as an advocate for targeted population members and other individuals with mental illness or emotional problems;

(3) monitor, review and evaluate, not less than once each year, the allocation and adequacy of mental health services within the state;

(4) perform such other planning, reviewing and evaluating of mental health services in this state, as may be requested by the secretary or as may be prescribed by law; and

(5) consult with and advise the governor, from time to time, with reference to the management, conduct and operation of state psychiatric hospitals and mental health programs.

(c) A member or members of the governor's mental health services planning council, at least once each year, shall visit each state psychiatric hospital and may visit other providers of community based mental health services for the purpose of inspecting the state psychiatric hospital, mental health center or the facility of other such providers of community based mental health services. Such visits shall be made at such times and in such manner as the council determines at a regular meeting.

(d) The governor's mental health services planning council shall make annual reports to the governor and the members of the legislature and may make such recommendations as it deems advisable for appropriate legislation.

History: L. 1990, ch. 92, § 6; July 1.

39-1607. Mental health and developmental disabilities; certain powers, duties and functions. All those powers, duties, functions of adult services, which were part of the adult services community and day living program, or similar programs prior to March 1, 1991, and which provide mental health services to persons, including persons residing in intermediate care facilities that provide mental health services, are powers, duties and functions of mental health and developmental disabilities.

History: L. 1990, ch. 92, § 7; L. 1995, ch. 234, § 15; Jan. 1, 1996.

39-1608. Mental health centers to develop community assessment of needs and plan to provide community based mental health services; approval by secretary; annual reviews and reports; amendments to plan; rules and regulations; guidelines for conduct of assessments of need, for development and operation of system of services and for periodic reporting to the secretary. (a) On or before October 1, 1991, and in accordance with rules and regulations adopted by the secretary each mental health center shall prepare and adopt a community assessment of needs and a plan to provide community based mental health services for persons who are residents of the service delivery area of the mental health center and shall submit such assessment of needs and plan to the secretary for approval. Among other provisions, such plan shall include the provision of services to all targeted population members who apply therefor.

(b) Each mental health center shall conduct annual reviews of the community assessment of needs for the service delivery area and shall report annually to the secretary the results of such reviews and any amendments to the community assessment of needs or the plan to provide community based mental health services which are adopted. The amendments to such plan shall be subject to approval by the secretary in accordance with criteria prescribed by rules and regulations adopted by the secretary.

(c) Prior to October 1, 1991, the secretary shall adopt rules and regulations prescribing guidelines for the conduct of community assessments of need, for the development and operation of systems to provide community based mental health services within the service delivery area of the mental health center, and

for periodic reporting to the secretary on the operations under such systems in accordance with this act.

History: L. 1990, ch. 92, § 8; July 1.

39-1609. Provision of community based mental health services; technical and financial assistance. (a) Each mental health center may provide community based mental health services under the system established in accordance with this act and approved by the secretary either by directly providing such services or by providing such services through contracts with service providers, including other mental health centers, or both directly and through contracts with such service providers.

(b) Subject to and in accordance with the provisions of this act and appropriations acts, the secretary shall assist in the establishment and development of community based mental health services in each county by providing counties and mental health centers with technical assistance and financial assistance.

History: L. 1990, ch. 92, § 9; July 1.

39-1610. Participating mental health centers; services provided; disbursement of funds for services; mental health reform phased program; admission and discharge criteria for patients; contracts for nonclinical services. (a) Prior to January 1, 1991, for the Osawatomie state hospital catchment area, prior to July 1, 1992, for the Topeka state hospital catchment area and prior to July 1, 1993, for the Larned state hospital catchment area, the secretary shall enter into contracts with mental health centers so that there is a participating mental health center for each area of the state. Each participating mental health center entering into a contract with the secretary under this section shall provide screening, treatment and evaluation, court ordered evaluation and other treatment services pursuant to the care and treatment act for mentally ill persons.

(b) Subject to the provisions of this act and appropriations acts, the secretary shall administer and disburse funds to each mental health center for the coordination and provision of mental health services for all persons who are residents of the service delivery area of such mental health center.

(c) Subject to and in accordance with the provisions of this act and appropriations acts, the secretary shall undertake, in cooperation with participating mental health centers, the establishment and implementation of the mental health reform phased program.

(1) Beginning with the Osawatomie state hospital catchment area, the secretary shall enter into contracts with participating mental health centers to reduce the rated bed capacity of the Osawatomie state hospital as follows:

(A) One unit of 20 to 30 beds for adults shall be closed by June 30, 1991;

(B) by June 30, 1992, an additional unit or units comprising 20 to 30 beds shall be closed for adolescents; and

(C) by June 30, 1993, an additional unit or units comprising 20 to 30 adult beds shall be closed.

(2) For the Topeka state hospital catchment area, the secretary shall enter into contracts with participating mental health centers to reduce the rated bed capacity of Topeka state hospital as follows:

(A) One or more units comprising 20 to 30 adolescent beds shall be closed by June 30, 1993;

(B) an additional unit or units comprising 20 to 30 adult beds shall be closed by June 30, 1994; and

(C) an additional unit or units comprising 20 to 30 adult beds shall be closed by June 30, 1995.

(3) For the Larned state hospital catchment area, the secretary shall enter into contracts with participating mental health centers to reduce the rated bed capacity of Larned state hospital by closing one or more units comprising 20 to 30 adult beds in each of the fiscal years ending June 30, 1994, June 30, 1995, and June 30, 1996.

(d) The staff of each state psychiatric hospital and the staff of the participating mental health centers in the catchment area of the state psychiatric hospital shall develop and implement admission and discharge criteria for all patients. The provisions of this section shall be incorporated into all contracts entered into between the secretary and the participating mental health centers.

(e) A participating mental health center may expend funds received from the secretary to contract with a contracting agency for the purchase of administrative, financial and other nonclinical services from such contracting agency as may be needed to assist the participating mental health center to carry out the provisions of the contract entered into by the center with the secretary.

History: L. 1990, ch. 92, § 10; L. 1996, ch. 167, § 52; Apr. 18.

39-1611. Pilot project to provide psychiatric and substance abuse services for medicaid eligible residents less than 21 years of age; contract for such services; reports and information. Subject to applicable federal guidelines and regulations and the provisions of appropriations acts, the secretary shall negotiate and enter into a contract for a pilot project to be conducted during the fiscal year ending June 30, 1992. If the secretary conducts a pilot project under this section, the pilot project may be conducted to provide the medicaid services related to psychiatric and substance abuse services for Kansas medicaid eligible residents who are less than 21 years of age on the basis of a described set of such services to a predetermined population as prescribed by the contract. The contract shall not be subject to the competitive bid requirements of K.S.A. 75-3739 and amendments thereto. The services to be provided for such residents under the contract shall include but not be limited to case management services, day treatment, outpatient services and emergency services. The contract may be entered into by the secretary with a single mental health center or with a contracting agency to provide such services through a mental health center or other qualified service providers, or both, within an area of Kansas determined by the secretary. In determining the location of the pilot project and the area in which such services shall be provided, the secretary shall consider both those areas in which such services are being provided currently for such residents by mental health centers and those areas of Kansas in which such

services can be provided for such residents at the time the pilot project is to commence under the contract. The secretary shall submit a preliminary report on the results of the pilot project to the committee on ways and means of the senate and the committee on appropriations of the house of representatives at the beginning of the 1992 regular session of the legislature. The secretary shall submit additional reports and information regarding the pilot project as requested by such committees during such legislative session.

History: L. 1990, ch. 92, § 11; July 1.

39-1612. Act does not require mental health centers to make expenditures not approved by governing board of center. Nothing in the mental health reform act shall authorize the secretary or the department of social and rehabilitation services to require that mental health centers make expenditures other than expenditures approved for the mental health center by the governing board of the center.

History: L. 1990, ch. 92, § 12; July 1.

39-1613. Catchment areas for state psychiatric hospitals; rules and regulations, guidelines. (a) The secretary of social and rehabilitation services is hereby authorized to adopt rules and regulations to define and redefine the Osawatomie state hospital catchment area, Topeka state hospital catchment area and Larned state hospital catchment area as may be necessary in the opinion of the secretary of social and rehabilitation services to accommodate shifts in populations in need of mental health services within available community mental health facility and state institution capacities and resources and in accordance with the following:

(1) Each such catchment area shall be defined by contiguous counties that are designated by name;

(2) no county shall be included in more than one such catchment area;

(3) each county shall be included in the Osawatomie state hospital catchment area, Topeka state hospital catchment area or Larned state hospital catchment area; and

(4) No designated community mental health center shall be included in more than one such catchment area.

(b) Each rule and regulation adopted, amended or revived under this section shall be published in its entirety in the Kansas register in the first issue published after such adoption, amendment or revival.

History: L. 1993, ch. 225, § 1; April 22.