

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1885 of the Regular Session

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

As Engrossed: H3/30/05

A Bill

HOUSE BILL 2812

5 By: Representatives Flowers, Davis, J. Johnson, Willis  
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8 **For An Act To Be Entitled**

9 AN ACT TO AMEND THE LAW REGARDING ASSISTANCE FOR  
10 INDIGENT PERSONS; TO ENSURE APPROPRIATE TREATMENT  
11 OF PROVIDERS; AND FOR OTHER PURPOSES.  
12

13 **Subtitle**

14 AN ACT TO CLARIFY DEFINITIONS FOR  
15 PROVIDERS OF INDIGENT ASSISTANCE.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code Title 20, Chapter 46 is amended to add an  
21 additional subchapter to read as follows:

22 20-46-701. Scope.

23 (a) Except when otherwise specified in federal law or regulation or  
24 state law, this subchapter shall be the exclusive state authority governing  
25 the survey process for psychiatric residential treatment facilities and  
26 outpatient mental health services programs.

27 (b) The scope of any survey or audit shall be limited to determining  
28 whether a facility is in compliance with applicable federal and state  
29 regulations.  
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31 20-46-702. Definitions.

32 (a) As used in this subchapter:

33 (1)(A) "Brief hold" means holding a resident without undue force  
34 for twenty (20) minutes or less in order to calm or comfort the resident.

35 (B) In no event shall a brief hold be construed as a personal



1 restraint;

2 (2) "Department" means the Department of Human Services;

3 (3) "Director" means the Director of the Department of Human  
4 Services or his or her designee;

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6 (4) "Program provider" means any psychiatric residential treatment  
7 facility for children, or outpatient mental health services funded by a  
8 medical care program for indigents;

9 (5)(A) "Seclusion" means a behavior control technique involving  
10 the involuntary confinement of a resident in locked isolation.

11 (B) In no event shall verbal direction be construed as  
12 seclusion;

13 (6) "Serious injury" means any significant impairment of the  
14 physical condition of the resident whether self-inflicted or inflicted by  
15 someone else as determined by the provider's qualified medical personnel,  
16 including, but not limited to:

17 (A) Burns;

18 (B) Lacerations;

19 (C) Bone fractures;

20 (D) Substantial hematoma; and

21 (E) Injuries to internal organs, whether self-inflicted or  
22 inflicted by someone else;

23 (7) "Serious occurrence" means a resident's death, serious  
24 injury, or suicide attempt;

25 (8) "Suicide attempt" means any action taken by a resident for  
26 the purpose of inflicting death or serious injury to the resident as  
27 determined by the provider's qualified medical personnel;

28 (9) "Survey" means any process by which compliance with federal  
29 law and regulations applicable to a program provider is determined;

30 (10) "Survey team" means an individual or individuals employed  
31 by or under contract with the Department of Human Services or its divisions;  
32 and

33 (11)(A) "Time-out" means a behavior management technique that  
34 involves the separation of a resident from other residents for a period of  
35 time to a designated area from which the resident is not physically prevented  
36 from leaving.

1 (B) In no event shall a time-out be construed as a seclusion.

2 (C) In no event shall verbal direction be construed as  
3 time out.

4 (b) The definitions in this section apply to any survey conducted upon  
5 any psychiatric residential treatment facility or outpatient mental health  
6 services funded by a medical care program for indigents.

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8 20-46-703. Surveys of program providers.

9 (a) The survey team shall:

10 (1) Conduct an exit conference during every survey;

11 (2) Allow electronic signatures and dates and dictated dates to  
12 serve as service delivery documentation;

13 (3) To the extent possible, conduct patient interviews in a  
14 manner that does not disrupt patient care or suggest a particular response  
15 from the interviewee;

16 (4) Conduct follow-up surveys on an accelerated schedule only  
17 upon a finding that a program provider is not in substantial compliance with  
18 applicable laws and regulations; and

19 (9)(A) Allow the program provider the option to submit to the  
20 surveyor within one (1) working day of an entrance interview a written  
21 summary of incident and accident reports instead of the actual reports.

22 (B) The requirements of subdivision (a)(10)(A) of this  
23 section shall not prevent the department from accessing all records related  
24 to the survey within any time frames established by federal law or  
25 regulation.

26 (b) A corrective action response shall be submitted to the survey team  
27 within thirty (30) days after the provider receives the report, but the time  
28 allowed for submitting the corrective action response shall be extended up to  
29 sixty (60) days upon request of the provider.

30 (c) For purposes of compliance with the state Medicaid program,  
31 program providers shall be prohibited from reporting serious occurrences to  
32 another entity other than the Department of Human Services and, if  
33 applicable, to the Centers for Medicare and Medicaid Services.

34 (d) The Director of the Department of Human Services shall ensure that  
35 the department complies with the Arkansas Administrative Procedure Act, § 25-  
36 15-201 et seq. and § 20-77-107 in regard to all surveys of program providers.

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*/s/ Flowers, et al*

*APPROVED: 04/08/2005*

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