

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: S3/23/21

# A Bill

SENATE BILL 466

5 By: Senator Hester  
6 By: Representative C. Fite  
7

## For An Act To Be Entitled

9 AN ACT TO CLARIFY THE REGULATION OF PSYCHIATRIC  
10 RESIDENTIAL TREATMENT FACILITIES; AND FOR OTHER  
11 PURPOSES.  
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### Subtitle

15 TO CLARIFY THE REGULATION OF PSYCHIATRIC  
16 RESIDENTIAL TREATMENT FACILITIES.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 9-28-402, concerning definitions applicable  
22 to the Child Welfare Agency Licensing Act, is amended to add an additional  
23 subdivision to read as follows:

24 (29) "Operation" means a child welfare agency or exempt child  
25 welfare agency that is open and actively engaged in at least one (1) of the  
26 activities described in subdivisions (8)(A)-(D) of this section.  
27

28 SECTION 2. Arkansas Code § 9-28-407(a), concerning licenses required  
29 and issued under the Child Welfare Agency Licensing Act, is amended to read  
30 as follows:

31 (a)(1) It shall be unlawful for any person, partnership, group,  
32 corporation, association, or other entity or identifiable group of entities  
33 having a coordinated ownership of controlling interest to operate or assist  
34 in the operation of a child welfare agency that has not been licensed by the  
35 Child Welfare Agency Review Board from licensing ~~pursuant to~~ under this  
36 subchapter.



1 (2) This license shall be required in addition to any other  
2 license required by law for all entities that fit the definition of a child  
3 welfare agency and are not specifically exempted, except that no  
4 nonpsychiatric residential treatment facility or agency licensed or exempted  
5 pursuant to ~~under~~ this subchapter shall be deemed to fall within the meaning  
6 of ~~§ 20-10-101~~ § 20-10-101 et seq. for any purpose.

7 (3) Any child welfare agency capacity licensed ~~or permitted~~ by  
8 the board as of March 1, 2003, whether held by the original licensee or by a  
9 successor in interest to the original licensee, is exempted from:

10 (A) Obtaining any license or permit from the Office of  
11 Long-Term Care; and

12 (B)(i) Obtaining any permit from the Health Services  
13 Permit Agency or the Health Services Permit Commission to operate at the  
14 capacity licensed by the board as of March 1, 2003, except as required under  
15 subdivision (a)(3)(B)(ii) of this section.

16 (ii)(a) If a licensee is operating at less than or  
17 at the capacity licensed by the board as of March 1, 2021, the licensee shall  
18 obtain a permit from the Health Services Permit Agency or the Health Services  
19 Permit Commission for any increase in capacity.

20 (b) For the purposes of subdivision  
21 (a)(3)(B)(ii)(a) of this section, both in-state and out-of-state clients  
22 shall be counted in capacity for the purpose of obtaining a license from the  
23 board and a permit from the Health Services Permit Agency or the Health  
24 Services Permit Commission. ~~and~~

25 ~~(C) Obtaining any permit from the Health Services Permit~~  
26 ~~Agency or the Health Services Permit Commission to operate at any future~~  
27 ~~expanded capacity serving only non-Arkansas residents unless a permit is~~  
28 ~~required by federal law or regulation.~~

29 (4) Any ~~further~~ new license or expansion of capacity by a an  
30 existing licensee of the board shall require a license ~~or~~ and permit from the  
31 Office of Long-Term Care ~~and~~ or the Health Services Permit Agency ~~unless the~~  
32 ~~bed expansion is exempted under subdivisions (a)(3)(A)-(C) of this section.~~

33 (5)(A) ~~Subdivisions (a)(3) and (4) of this section shall be~~  
34 ~~construed to include a child welfare agency that is licensed or permitted by~~  
35 ~~the board as a residential facility as of March 1, 2003, if the licensee then~~  
36 ~~met and continues to meet the following criteria:~~

1 ~~(i) The licensee is a nonhospital based residential~~  
2 ~~facility that specializes in providing treatment and care for seriously~~  
3 ~~emotionally disturbed children under eighteen (18) years of age who have co-~~  
4 ~~occurring substance abuse and psychiatric disorders;~~

5 ~~(ii) The licensee possesses accreditation from at~~  
6 ~~least one (1) of the following national accreditation entities:~~

7 ~~(a) The Commission on Accreditation of~~  
8 ~~Rehabilitation Facilities, Inc.;~~

9 ~~(b) The Council on Accreditation for Children~~  
10 ~~and Family Services, Inc.; or~~

11 ~~(c) The Joint Commission on Accreditation of~~  
12 ~~Healthcare Organizations, Inc.;~~

13 ~~(iii) The licensee is licensed by the Division of~~  
14 ~~Aging, Adult, and Behavioral Health Services of the Department of Human~~  
15 ~~Services or its successor; and~~

16 ~~(iv) The licensee is operating a nontraditional~~  
17 ~~program that is approved by the Division of Elementary and Secondary~~  
18 ~~Education A license issued by the board under this subchapter is effective~~  
19 ~~unless revoked, suspended, or terminated by the board.~~

20 ~~(B)(i) Licensees described in subdivision (a)(5)(A) of~~  
21 ~~this section shall be eligible for reimbursement by the Arkansas Medicaid~~  
22 ~~Program under the same methodology and at the same reimbursement rates as~~  
23 ~~residential treatment facilities that do not specialize in treating children~~  
24 ~~with co-occurring substance abuse and psychiatric disorders In addition to~~  
25 ~~any other basis provided by law or rule, the board shall terminate the~~  
26 ~~license of a licensee that has not been in operation for a consecutive~~  
27 ~~twelve-month period.~~

28 ~~(ii) However, Medicaid payments shall be reduced by~~  
29 ~~payments received from other payors in connection with Medicaid covered care~~  
30 ~~and treatment furnished to Medicaid recipients.~~

31 ~~(C) The Department of Human Services may recommend to the~~  
32 ~~board the revocation, suspension, or termination of a license for any basis~~  
33 ~~provided by law or rule, including without limitation the failure to be in~~  
34 ~~operation or in substantial compliance for a consecutive six-month period.~~

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*/s/Hester*