

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

As Engrossed: H3/13/23

# A Bill

HOUSE BILL 1446

5 By: Representatives Cavanaugh, Vaught  
6 By: Senator K. Hammer  
7

## For An Act To Be Entitled

9 AN ACT TO PROVIDE STATE OVERSIGHT OF QUALITY OF CARE  
10 PROVIDED TO CHILDREN IN PSYCHIATRIC RESIDENTIAL  
11 *TREATMENT FACILITIES AND OTHER REGULATED FACILITIES;*  
12 *AND FOR OTHER PURPOSES.*  
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## Subtitle

15 *TO PROVIDE STATE OVERSIGHT OF QUALITY OF*  
16 *CARE PROVIDED TO CHILDREN IN PSYCHIATRIC*  
17 *RESIDENTIAL TREATMENT FACILITIES AND*  
18 *OTHER REGULATED FACILITIES.*  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 *SECTION 1. Arkansas Code Title 9, Chapter 28, Subchapter 4, is amended*  
25 *to add a new section to read as follows:*

26 *9-28-416. Admission of children to psychiatric residential treatment*  
27 *facilities.*

28 *(a) A psychiatric residential treatment facility licensed under this*  
29 *subchapter and holding a permit from the Health Services Permit Agency or the*  
30 *Health Services Permit Commission shall not admit a child for psychiatric*  
31 *residential treatment unless the child is:*

32 *(1) An Arkansas resident;*

33 *(2) A child of a parent who is an Arkansas resident;*

34 *(3) A child placed by or on behalf of another state's child*  
35 *welfare agency; or*

36 *(4) A child for whom the facility is being paid by another*



1 state's Medicaid program.

2 (b) The Department of Human Services may promulgate rules to enforce  
3 this section.

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5 SECTION 2. Arkansas Code Title 9, Chapter 28, is amended to add an  
6 additional subchapter to read as follows:

7 Subchapter 13 – Psychiatric Residential Treatment Facilities and Other  
8 Regulated Facilities

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10 9-28-1301. Definitions.

11 As used in this subchapter:

12 (1) “Psychiatric residential treatment facility” means the same  
13 as defined in § 9-28-402; and

14 (2) “Regulated facility” means:

15 (A) A psychiatric residential treatment facility licensed  
16 under § 9-28-401 et seq.; and

17 (B) A psychiatric hospital licensed under the Child  
18 Welfare Agency Licensing Act, § 20-9-201 et seq., that admits a child for the  
19 purpose of providing behavioral health treatment, regardless of whether the  
20 child is placed in an acute, subacute, or otherwise unlicensed bed.

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22 9-28-1302. Quality of care – Quality assurance reviews.

23 (a) The Department of Human Services shall promulgate rules setting  
24 minimum standards and metrics governing the quality of care provided by a  
25 regulated facility to a child.

26 (b) Quality of care standards shall include that a regulated facility  
27 shall provide:

28 (1) Trauma-informed programming and clinical services and, when  
29 applicable, evidence-based treatments;

30 (2) Services that will be short-term, target treatment episodes  
31 to reduce the likelihood of re-entry into residential treatment settings;

32 (3) Services that are family-driven and youth-guided;

33 (4) Mental health services and clinical services provided by  
34 clinical staff as appropriate for the child's needs;

35 (5) Educational services in compliance with state and federal law  
36 and rules of the Department of Education;

1           (6) Coordination of all needs including medical, dental, and  
2 other needs; and

3           (7) Clinical discharge planning throughout the child's stay that  
4 includes the custodian and child involvement.

5           (c)(1) The Department of Human Services and its designees may inspect  
6 and investigate the quality of care for behavioral health provided to any  
7 child admitted to a regulated facility, whether or not the child is an  
8 Arkansas resident.

9           (2) The Department of Human Services or any other public agency  
10 having authority or responsibility with respect to child maltreatment,  
11 including without limitation the Medicaid Fraud Control Unit of the Attorney  
12 General's office, may investigate any alleged or suspected child maltreatment  
13 in any regulated facility.

14           (d) The Department of Human Services shall conduct quality assurance  
15 reviews for each regulated facility, consisting of the following:

16           (1) A review of treatment structure including without  
17 limitation:

18                   (A) Observation of paraprofessional and direct-care staff  
19 interaction with patients;

20                   (B) Review of daily activity structure outside of school  
21 and treatment;

22                   (C) Review of paraprofessional and direct-care staff  
23 training and personnel records;

24                   (D) Review of staff-to-client ratios; and

25                   (E) Completion of client interviews;

26           (2) An analysis of referral data, statistics, and psychotropic  
27 medication prescriptions;

28           (3) An on-site visit of a regulated facility's operation, to be  
29 conducted at least once per year; and

30           (4) Technical assistance and ongoing quality assurance and  
31 collaboration as needed.

32           (e) This subchapter does not require any additional licensure or  
33 certification for a regulated facility.

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35           9-28-1303. Department enforcement authority.

36           (a) The Department of Human Services may initiate an adverse action

1 against a regulated facility that:

2 (1) Fails to comply with the provisions of this subchapter or  
3 any rule of the department relating to quality of care;

4 (2) Furnishes or makes any statement or report to the department  
5 that is false or misleading;

6 (3) Refuses or fails to submit required reports or to make  
7 available to the department any records required by the department in making  
8 an investigation of the agency for quality of care purposes;

9 (4) Refuses or fails to submit to an investigation or to  
10 reasonable inspection by the department;

11 (5) Retaliates against an employee who in good faith reports a  
12 suspected violation of the provisions of this subchapter or the rules  
13 promulgated under this subchapter;

14 (6) Fails to engage in a course of professional conduct in  
15 dealing with clients being served by the regulated facility, as defined by  
16 rules promulgated under this subchapter; or

17 (7) Demonstrates gross negligence in carrying out the duties at  
18 the regulated facility.

19 (b) The department may impose an adverse action as follows:

20 (1) Issue letters of reprimand or caution;

21 (2) Require a corrective action plan; and

22 (3)(A) Impose civil penalties of up to two thousand five hundred  
23 dollars (\$2,500) per violation, with each day of noncompliance and each  
24 client injured as a result of noncompliance constituting a separate  
25 violation.

26 (B) If any person upon whom the department has levied a  
27 civil penalty fails to pay the civil penalty within sixty (60) days of the  
28 decision of the department to impose the penalty, the amount of the fine  
29 shall be considered to be a debt owed the State of Arkansas and may be  
30 collected by civil action by the Attorney General.

31 (C) Civil penalties collected under this section may be  
32 expended only for the purpose of providing technical assistance and training  
33 to regulated facilities.

34 (c)(1) For a regulated facility licensed under the Child Welfare  
35 Agency Licensing Act, § 9-28-401 et seq., the department may petition the  
36 Child Welfare Agency Review Board to deny, suspend, or revoke the regulated

1 facility's license on the basis of any adverse action imposed by the  
2 department under this section.

3 (2) For a regulated facility licensed under § 20-9-201 et seq.,  
4 the department may petition the State Board of Health to deny, suspend, or  
5 revoke the regulated facility's license on the basis of any adverse action  
6 imposed by the department under this section.

7 (d) The department shall notify the regulated facility of the adverse  
8 action of the department in writing and set forth the facts forming the basis  
9 for the adverse action.

10 (e)(1) Adverse action hearings shall comply with the Arkansas  
11 Administrative Procedure Act, § 25-15-201 et seq.

12 (2) Within ten (10) business days after rendering a decision,  
13 the department shall forward to the regulated facility written findings of  
14 fact and conclusions of law articulating the decision of the department.

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16 9-28-1304. Rules.

17 The Department of Human Services shall promulgate rules to implement  
18 this subchapter.

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20 /s/Cavenaugh  
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