

State of Arkansas *As Engrossed: H3/5/25 H3/31/25*

95th General Assembly

A Bill

Regular Session, 2025

HOUSE BILL 1653

By: Representatives Cavanaugh, Wooldridge

By: Senator Irvin

For An Act To Be Entitled

AN ACT TO MOVE LICENSING AND REGULATION OF
PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FROM THE
CHILD WELFARE AGENCY REVIEW BOARD TO THE DEPARTMENT
OF HUMAN SERVICES; TO SET STANDARDS FOR THE LICENSING
AND REGULATION OF PSYCHIATRIC RESIDENTIAL TREATMENT
FACILITIES; TO DECLARE AN EMERGENCY; AND FOR OTHER
PURPOSES.

Subtitle

TO SET STANDARDS FOR LICENSING AND
REGULATION OF PSYCHIATRIC RESIDENTIAL
TREATMENT FACILITIES; AND TO DECLARE AN
EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*SECTION 1. Arkansas Code § 20-8-107(c) and (d), concerning the
expansion of facilities or services permitted by Health Services Permit
Agency, are amended to read as follows:*

*(c) ~~In no event shall the requirements of this subchapter apply to any
facility licensed or approved as of March 1, 2003, by the Child Welfare
Agency Review Board pursuant to the Child Welfare Agency Licensing Act, § 9-
28-401 et seq., and as specifically exempted by § 9-28-407(a)(3).~~*

*~~(d)~~ Beginning July 1, 2005, the Health Services Permit Agency may not
accept applications or requests for permits of approval to add new beds or to
expand existing bed capacity of residential care facilities.*

(d)(1) The Health Services Permit Agency shall recognize an exception



1 to the moratorium regarding bed capacity and beds in a psychiatric
2 residential treatment facility.

3 (2) The Health Services Permit Agency shall add to the permitted
4 bed capacity for psychiatric residential treatment facilities:

5 (A) Beds that are not currently permitted by the Health
6 Services Permit Agency but are licensed by the Child Welfare Agency Review
7 Board for the purpose of operating as a psychiatric residential treatment
8 facility before the effective date of this subsection; and

9 (B) Beds that are fully constructed and could be used for
10 the purpose of operating a psychiatric residential treatment facility as of
11 January 1, 2025.

12 (3) The total amount of additional beds authorized under this
13 subsection shall not exceed nine hundred (900) beds for the purpose of
14 operating as a psychiatric residential treatment facility.

15 (4) The Health Services Permit Agency shall require prior
16 approval under § 20-8-109 for any new construction of a psychiatric
17 residential treatment facility and for any renovation project that exceeds
18 two hundred fifty thousand dollars (\$250,000) for an existing psychiatric
19 residential treatment facility.

20 (5) Any increase or decrease in the total number of authorized
21 beds under this section shall be reviewed and approved by the Legislative
22 Council before receiving a permit from the Health Services Permit Agency or a
23 license from the Office of Long-Term Care.

24 (6) For the purposes of this section, beds used for both in-
25 state and out-of-state clients shall be counted in capacity for the purpose
26 of obtaining a permit from the Health Services Permit Agency.

27
28 SECTION 2. Arkansas Code § 20-10-101(1), concerning the definition of
29 "administrative remedy" relating to long-term care facilities and services,
30 is amended to read as follows:

31 (1) "Administrative remedy" means temporary management, denial
32 of payment for all new admissions, transfer of residents, termination or
33 suspension of license, termination of provider agreement, directed plan of
34 correction, directed in-service training, and remedies established by
35 Arkansas law, ~~including remedies provided in § 20-10-1408 [repealed];~~
36

1 SECTION 3. Arkansas Code § 20-10-101(9)(A), concerning the definition
2 of "long-term care facility" relating to long-term care facilities and
3 services, is amended to read as follows:

4 (9)(A) "Long-term care facility" means a nursing home,
5 residential care facility, assisted living facility, psychiatric residential
6 treatment facility, post-acute head injury retraining and residential care
7 facility, or any other facility which provides long-term medical or personal
8 care.

9
10 SECTION 4. Arkansas Code § 20-10-101, concerning definitions relating
11 to long-term care facilities and services, is amended to add an additional
12 subdivision to read as follows:

13 (16)(A) "Psychiatric residential treatment facility" means a
14 standalone, nonhospital facility with a provider agreement with the Arkansas
15 Medicaid Program to provide inpatient services benefits to individuals who
16 are under twenty-one (21) years of age and that:

17 (i) Is accredited by The Joint Commission or any
18 other accrediting organization with comparable standards recognized by this
19 state;

20 (ii) Attests to meeting the conditions of
21 participation found at 42 C.F.R. Part 483, Subpart G, as existing on January
22 1, 2025; and

23 (iii) Attests that all of the residents in the
24 facility meet the certification of need for services requirements as
25 identified under 42 C.F.R. Part 441, Subpart D, as existing on January 1,
26 2025.

27 (B)(i) A survey and certification review of a psychiatric
28 residential treatment facility by the department shall apply to all residents
29 being served by the entity regardless of residency or payment source.

30 (ii) All residents of a psychiatric residential
31 treatment facility shall require intensive inpatient services for psychiatric
32 conditions under the direction of a physician and the services provided shall
33 be reasonably expected to improve the resident's condition or prevent further
34 regression until the services are no longer needed.

35
36 SECTION 5. Arkansas Code § 20-10-110(a)(2), concerning the definition

1 of "long-term care facility" relating to the protection of residents'
2 personal funds, is amended to read as follows:

3 (2) "Long-term care facility" means a nursing home, residential
4 care facility, post-acute head injury retraining and residential care
5 facility, assisted living facility, psychiatric residential treatment
6 facility, or any other facility that provides long-term medical or personal
7 care;

8
9 SECTION 6. Arkansas Code § 20-10-402 is amended to read as follows:

10 20-10-402. License required.

11 (a) It shall be unlawful for any person to act or serve in the
12 capacity of ~~nursing home~~ long-term care facility administrator in this state
13 unless the person has been licensed to do so as authorized in this
14 subchapter.

15 (b) A person who serves as an administrator of a long-term care
16 facility conducted exclusively for persons who rely upon treatment by
17 spiritual means through prayer in accordance with the creed or tenets of a
18 church or religious denomination shall be exempt from subsection (a) of this
19 section and § 20-10-101(1)-(6), § 20-10-203(b), § 20-10-212, §§ 20-10-301 –
20 20-10-303 [repealed], § 20-10-403, ~~§ 20-10-405(b)~~ § 20-10-405(a)(2), § 20-10-
21 406, and § 20-10-407.

22
23 SECTION 7. Arkansas Code § 20-10-404(a), concerning the application
24 and fees for licensure as a long-term care facility administrator, is amended
25 to read as follows:

26 (a) Any person desiring to be licensed as a ~~nursing home~~ long-term
27 care facility administrator shall make application to the Office of Long-Term
28 Care on forms prescribed by the office and shall furnish such information
29 with the application as shall be required by the office.

30
31 SECTION 8. Arkansas Code § 20-10-405 is amended to read as follows:

32 20-10-405. Renewal.

33 (a)(1) Every active nursing home administrator's license shall be
34 renewed on or before July 1 of each year by paying a fee of one hundred
35 dollars (\$100) to the Office of Long-Term Care and by furnishing written
36 documentation that the licensee has attended and accumulated a specific

1 number of continuing education clock hours as established by the office.

2 ~~(b)~~(2) The fee for those nursing home administrators not actively
3 employed by a nursing home facility as an administrator shall be fifty
4 dollars (\$50.00), payable on or before July 1 of each year.

5 ~~(e)~~(3) If the annual licensure fee in full along with the renewal
6 application and satisfactory documentation of compliance with continuing
7 education requirements is not postmarked or received by the office on or
8 before July 1, the licensee shall be ineligible to perform the duties of
9 nursing home administrator, and the license shall be deemed suspended
10 effective July 2.

11 ~~(d)~~(4) No request for renewal postmarked or received by the office
12 after July 1 shall be considered unless, in addition to other requirements
13 imposed by law or rule, the licensee tenders a late charge in the amount of
14 fifty dollars (\$50.00).

15 ~~(e)~~(5) Any nursing home administrator license not renewed on or before
16 September 1 shall expire effective September 2.

17 (b) An administrator for a long-term care facility other than a
18 nursing home shall be required to renew his or her license as follows:

19 (1) Every active administrator license shall be renewed on or
20 before January 1 of each year by submitting a renewal application to the
21 Department of Human Services and by furnishing written documentation that the
22 licensee has attended and accumulated a specific number of continuing
23 education clock hours as established by the department;

24 (2) If the renewal application and satisfactory documentation of
25 compliance with continuing education requirements is not postmarked or
26 received by the department on or before January 1, the licensee shall be
27 ineligible to perform the duties of long-term care facility administrator,
28 and the license shall be deemed suspended effective January 2;

29 (3) A request for renewal postmarked or received by the
30 department after January 1 shall not be considered unless the licensee
31 complies with all of the requirements imposed by law or rule; and

32 (4) Any long-term care facility administrator license not
33 renewed on or before March 1 shall expire effective March 2.
34

35 SECTION 9. Arkansas Code § 20-10-407(a), concerning the denial,
36 revocation, or suspension of a long-term care facility administrator's

1 license, is amended to read as follows:

2 (a) The Department of Human Services may refuse to issue or renew a
3 long-term care facility administrator's license or may revoke or suspend the
4 license of a long-term care facility administrator if the department finds
5 that the applicant or licensee does not qualify for licensure or has violated
6 § 20-10-101(1)-(6), § 20-10-203(b), § 20-10-212, §§ 20-10-402 and 20-10-403,
7 ~~§ 20-10-405(b)~~ § 20-10-405(a)(2), § 20-10-406, and this section or rules of
8 the department relating to the proper administration and management of a
9 long-term care facility.

10
11 SECTION 10. Arkansas Code Title 20, Chapter 46, Subchapter 4 is
12 amended to read as follows:

13 Subchapter 4 – Psychiatric Residential Treatment Facilities

14
15 ~~20-46-401 – 20-46-404. [Repealed.]~~

16
17 20-46-401. Admission of children to psychiatric residential treatment
18 facilities.

19 (a) A psychiatric residential treatment facility licensed under this
20 subchapter and holding a permit from the Health Services Permit Agency or the
21 Health Services Permit Commission shall not admit a child for psychiatric
22 residential treatment unless the child is:

23 (1) An Arkansas resident;

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

25 (3) A child placed by or on behalf of another state's child
26 welfare agency;

27 (4) A child for whom the facility is being paid by another
28 state's Medicaid program;

29 (5) A child of an active-duty member or veteran of the uniformed
30 services as defined in § 6-4-302; or

31 (6) A nonresident child victim of human trafficking when the
32 regulated facility maintains responsibility for the return of the child to an
33 out-of-state custodian.

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

1
2 20-46-402. Licensure – Unlawful acts.

3 (a)(1) It is unlawful for any person, partnership, group, corporation,
4 association, or other entity or identifiable group of entities having a
5 coordinated ownership with controlling interest to operate or assist in the
6 operation of a psychiatric residential treatment facility that has not been
7 licensed by the Office of Long-Term Care under this subchapter.

8 (2) Before obtaining a license under this subchapter, a
9 psychiatric residential treatment facility shall obtain a permit from the
10 Health Services Permit Agency or Health Services Permit Commission to operate
11 in Arkansas.

12 (3) The bed capacity allowed by the permit issued by the Health
13 Services Permit Agency or Health Services Permit Commission includes both in-
14 state and out-of-state clients.

15 (4) Any expansion of bed capacity by an existing licensee shall
16 require a license from the office and a permit from the Health Services
17 Permit Agency.

18 (5)(A) A license issued by the office under this subchapter is
19 effective unless revoked, suspended, or terminated by the office.

20 (B) In addition to any other basis provided by law or
21 rule, the Department of Human Services shall terminate the license of a
22 psychiatric residential treatment facility licensee that has not been in
23 operation for a consecutive twelve-month period.

24 (C) The department may revoke, suspend, or terminate a
25 license upon any basis provided by law or rule, including without limitation
26 the failure to be in operation or in substantial compliance for a consecutive
27 six-month period.

28 (b) It is unlawful for any person to falsify an application for
29 licensure, to knowingly circumvent the authority of this subchapter, to
30 knowingly violate the orders issued by the department, or to advertise for
31 inpatient psychiatric residential treatment when not licensed under this
32 subchapter to provide those services.

33 (c) Any violation of this section shall constitute a Class D felony.
34

35 20-46-403. Licensure posting and display.

36 If the Department of Human Services issues a license to operate a

1 psychiatric residential treatment facility, the license shall be posted and
2 displayed in a conspicuous place in the facility and must state at a minimum:

3 (1) The full legal name of the person, partnership, group,
4 corporation, organization, association, or other entity or identifiable group
5 of entities having a coordinated ownership with controlling interest holding
6 the license, including the business name, if different;

7 (2) The address of the psychiatric residential treatment
8 facility;

9 (3) The effective date and expiration date of the license, if
10 applicable;

11 (4) The type of psychiatric residential treatment facility the
12 licensee is authorized to operate;

13 (5) The ages and maximum number of children that may receive
14 services from the psychiatric residential treatment facility;

15 (6) The status of the license, whether regular, provisional, or
16 probationary; and

17 (7) Any special conditions or limitations of the license.

18
19 20-46-404. Services provided by psychiatric residential treatment
20 facilities.

21 (a) A psychiatric residential treatment facility licensed under this
22 subchapter shall:

23 (1)(A) Provide a range of comprehensive services to treat the
24 psychiatric condition of residents on an inpatient basis under the direction
25 of a physician.

26 (B) The psychiatric residential treatment facility shall
27 certify that:

28 (i) Ambulatory care services available in the
29 community do not meet the treatment needs of the resident;

30 (ii) Proper treatment of the resident's psychiatric
31 condition requires services on an inpatient basis under the direction of a
32 physician; and

33 (iii) The services can reasonably be expected to
34 improve the resident's condition or prevent further regression so that the
35 services will no longer be needed.

36 (C) The certification required in subdivision (a)(1)(B) of

1 this section shall be made by an independent team that:

2 (i) Includes a physician;

3 (ii) Has competence in diagnosis and treatment of
4 mental illness, preferably in child psychiatry; and

5 (iii) Has knowledge of the resident's situation; and

6 (2) Provide services to a resident according to an individual
7 plan of care that:

8 (A) Is based on a diagnostic evaluation that includes
9 examination of the medical, psychological, social, behavioral, and
10 developmental aspects of the resident's situation and reflects the need for
11 inpatient psychiatric care;

12 (B) Is developed by a team of professionals in
13 consultation with the resident, parents, legal guardians, or other
14 individuals in whose care the resident will be released after discharge;

15 (C) Describes clear and concise treatment objectives;

16 (D) Ensures continuity of care with the resident's family,
17 school and educational requirements, and community upon discharge;

18 (E) Determines that services being provided are or were
19 required on an inpatient basis; and

20 (F) Recommends changes in the plan of care as indicated by
21 the resident's overall adjustment as an inpatient.

22 (b) The Department of Human Services shall promulgate rules to
23 implement this subchapter, which shall include components that ensure quality
24 of care, health and safety of residents and facility staff, and compliance
25 with all educational requirements.

26
27
28 SECTION 11. Arkansas Code § 9-28-402(8), concerning the definition of
29 "child welfare agency" within the Child Welfare Agency Licensing Act, is
30 amended to read as follows:

31 (8) "Child welfare agency" means any person, corporation,
32 partnership, voluntary association, or other entity or identifiable group of
33 entities having a coordinated ownership of controlling interest, whether
34 established for profit or otherwise, that is not excluded under this
35 subchapter and engages in any of the following activities:

36 (A) Receives a total number of six (6) or more unrelated

1 minors for care on a twenty-four-hour basis for the purpose of ensuring the
2 minors receive care, training, education, custody, or supervision, whether or
3 not there are six (6) or more children cared for at any single physical
4 location;

5 (B) Places any unrelated minor for care on a twenty-four-
6 hour basis with persons other than themselves;

7 (C) Plans for or assists in the placements described in
8 subdivision (8)(B) of this section; or

9 (D) Receives, places, plans, or assists in the placement
10 of a child victim of human trafficking in a home or any type of shelter or
11 facility;

12
13 SECTION 12. Arkansas Code § 9-28-402(12), concerning the definition of
14 "exempt child welfare agency" within the Child Welfare Agency Licensing Act,
15 is amended to read as follows:

16 (12) "Exempt child welfare agency" means any person,
17 corporation, partnership, voluntary association or other entity, whether
18 established for profit or otherwise, that otherwise fits the definition of a
19 child welfare agency but that is specifically exempt from the requirement of
20 obtaining a license under this subchapter. Those agencies specifically exempt
21 from the license requirement are:

22 (A) A facility or program owned or operated by an agency
23 of the United States Government;

24 (B)(i) Any agency of the State of Arkansas that is
25 statutorily authorized to administer or supervise child welfare activities.

26 (ii) In order to maintain exempt status, the state
27 child welfare agency shall state every two (2) years in written form signed
28 by the persons in charge that their agency is in substantial compliance with
29 published state agency child welfare standards.

30 (iii) Visits to review and advise exempt state
31 agencies shall be made as deemed necessary by the Child Welfare Agency Review
32 Board to verify and maintain substantial compliance with the standards;

33 (C) A facility or program owned or operated by or under
34 contract with the Division of Correction;

35 ~~(D) A hospital providing acute care licensed pursuant to §~~
36 ~~20-9-201 et seq.;~~

1 ~~(E)~~(D) Any facility governed by the Department of Human
2 Services State Institutional System Board or its successor;

3 ~~(F)~~ Human development centers regulated by the Board of
4 Developmental Disabilities Services pursuant to the Location Act for
5 Community Homes for Individuals with Intellectual and Developmental
6 Disabilities, § 20-48-601 et seq.;

7 ~~(G)~~ Any facility licensed as a family home pursuant to the
8 Location Act for Community Homes for Individuals with Intellectual and
9 Developmental Disabilities, § 20-48-601 et seq.;

10 ~~(H)~~(E) Any boarding school as defined in this section;

11 ~~(I)~~(F) Any temporary camp as defined in this section;

12 ~~(J)~~(G) Any state-operated facility to house juvenile
13 delinquents or any serious offender program facility operated by a state
14 designee to house juvenile delinquents. Those facilities shall be subject to
15 program requirements modeled on nationally recognized correctional facility
16 standards that shall be developed, administered, and monitored by the
17 Division of Youth Services; and

18 ~~(K)~~(H) Any child welfare agency operated solely by a
19 religious organization that elects to be exempt from licensing and that
20 complies within the conditions of the exemption for church-operated agencies
21 as set forth in this subchapter;

22 ~~(L)~~ The Division of Developmental Disabilities Services;
23 and

24 ~~(M)~~ Any intellectual or other developmental disabilities
25 services waiver provider licensed under § 20-48-208 or the Location Act for
26 Community Homes for Individuals with Intellectual and Developmental
27 Disabilities, § 20-48-601 et seq.;

28
29 SECTION 13. Arkansas Code § 9-28-402(18) is repealed.

30 ~~(18)~~ "Psychiatric residential treatment facility" means a
31 residential childcare facility in a nonhospital setting that provides a
32 structured, systematic, therapeutic program of treatment under the
33 supervision of a psychiatrist, for children who are emotionally disturbed and
34 in need of daily nursing services, psychiatrist's supervision, and
35 residential care but who are not in an acute phase of illness requiring the
36 services of an inpatient psychiatric hospital;

1
2 SECTION 14. Arkansas Code § 9-28-402(22), concerning the definition of
3 "residential childcare facility" within the Child Welfare Agency Licensing
4 Act, is amended to read as follows:

5 (22)(A) "Residential childcare facility" means any child welfare
6 agency that is not an excluded child welfare agency under this subchapter and
7 provides care, training, education, custody, or supervision on a twenty-four-
8 hour basis for six (6) or more unrelated children, excluding foster homes
9 that have six (6) or more children who are all related to each other but who
10 are not related to the foster parents.

11 (B) A "residential childcare facility" does not include a
12 facility that provides inpatient psychiatric treatment, which shall not be
13 licensed as a residential childcare facility;
14

15 SECTION 15. Arkansas Code § 9-28-402, concerning the definitions
16 within the Child Welfare Agency Licensing Act, is amended to add an
17 additional subdivision to read as follows:

18 (32) "Excluded child welfare agency" means any person,
19 corporation, partnership, voluntary association, or other entity, whether
20 established for-profit or otherwise, that meets the definition of a child
21 welfare agency or an exempt child welfare agency but is licensed or certified
22 by the Department of Human Services or the Department of Health and is
23 enrolled in the Arkansas Medicaid Program.
24

25 SECTION 16. Arkansas Code § 9-28-403(a), concerning the creation and
26 authority of the Child Welfare Agency Review Board, is amended to read as
27 follows:

28 (a)(1) There is created the Child Welfare Agency Review Board to serve
29 as the administrative body to carry out the provisions of this subchapter.

30 (2) The board shall have the authority to promulgate rules to
31 enforce the provisions of this subchapter.

32 (3) An excluded child welfare agency is not subject to the
33 provisions of this subchapter.
34

35 SECTION 17. Arkansas Code § 9-28-404(a)(5), concerning the membership
36 of the Child Welfare Agency Review Board, is repealed.

~~(5) One (1) representative from a licensed psychiatric
residential treatment facility;~~

SECTION 18. Arkansas Code § 9-28-407(a)(3) and (4), concerning
licenses required and issued by the Child Welfare Agency Review Board, are
repealed.

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

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

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

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

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

~~(4) Any new license or expansion of capacity by an
existing licensee of the board shall require a license and permit from the
Office of Long-Term Care or the Health Services Permit Agency.~~

SECTION 19. Arkansas Code § 9-28-407(a)(5), concerning licenses
required and issued by the Child Welfare Agency Review Board, is amended to
read as follows:

(5)(A) A license issued by the board under this subchapter is
effective unless revoked, suspended, or terminated by the board.

(B) ~~In addition to any other basis provided by law or
rule, the board shall terminate the license of a psychiatric residential
treatment facility licensee that has not been in operation for a consecutive~~

1 ~~twelve-month period.~~

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

6
7 SECTION 20. Arkansas Code § 9-28-407(f)(3)(F), concerning licenses
8 required and issued by the Child Welfare Agency Review Board, is amended to
9 read as follows:

10 (F) The provisions of subsection (a) of this section,
11 ~~including those provisions regarding obtaining licenses or permits from the~~
12 ~~Office of Long-Term Care and regarding obtaining any permits from the Health~~
13 ~~Services Permit Agency or the Health Services Permit Commission, shall apply~~
14 ~~in their entirety to the new owner of the child welfare agency~~

15
16 SECTION 21. Arkansas Code § 9-28-416 is repealed.

17 ~~9-28-416. Admission of children to psychiatric residential treatment~~
18 ~~facilities.~~

19 ~~(a) A psychiatric residential treatment facility licensed under this~~
20 ~~subchapter and holding a permit from the Health Services Permit Agency or the~~
21 ~~Health Services Permit Commission shall not admit a child for psychiatric~~
22 ~~residential treatment unless the child is:~~

23 ~~(1) An Arkansas resident;~~

24 ~~(2) A child of a parent who is an Arkansas resident;~~

25 ~~(3) A child placed by or on behalf of another state's child~~
26 ~~welfare agency;~~

27 ~~(4) A child for whom the facility is being paid by another~~
28 ~~state's Medicaid program;~~

29 ~~(5) A child of an active-duty member or veteran of the uniformed~~
30 ~~services as defined in § 6-4-302; or~~

31 ~~(6) A nonresident child victim of human trafficking when the~~
32 ~~regulated facility maintains responsibility for the return of the child to~~
33 ~~the out-of-state custodian.~~

34 ~~(b) The Department of Human Services may promulgate rules to enforce~~
35 ~~this section.~~

SECTION 22. Arkansas Code Title 9, Chapter 28, Subchapter 13, is repealed.

~~Subchapter 13 — Psychiatric Residential Treatment Facilities and Other
Regulated Facilities~~

~~9-28-1301. Definitions.~~

~~As used in this subchapter:~~

~~(1) "Psychiatric residential treatment facility" means the same as defined in § 9-28-402; and~~

~~(2) "Regulated facility" means:~~

~~(A) A psychiatric residential treatment facility licensed under the Child Welfare Agency Licensing Act, § 9-28-401 et seq.; and~~

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

~~9-28-1302. Quality of care — Quality assurance reviews.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(E) Completion of client interviews;~~

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

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

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

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

~~9-28-1303. Department enforcement authority.~~

~~(a) The Department of Human Services may initiate an adverse action against a regulated facility that:~~

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

~~(2) Furnishes or makes any statement or report to the department~~

~~that is false or misleading;~~

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

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

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

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

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

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

~~(1) Issue letters of reprimand or caution;~~

~~(2) Require a corrective action plan; and~~

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

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

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

~~(c)(1) For a regulated facility licensed under the Child Welfare Agency Licensing Act, § 9-28-401 et seq., the department may petition the Child Welfare Agency Review Board to deny, suspend, or revoke the regulated facility's license on the basis of any adverse action imposed by the department under this section.~~

~~(2) For a regulated facility licensed under § 20-9-201 et seq., the department may petition the State Board of Health to deny, suspend, or~~

~~revoke the regulated facility's license on the basis of any adverse action imposed by the department under this section.~~

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

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

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

~~9-28-1304. Rules.~~

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

SECTION 23. DO NOT CODIFY. TEMPORARY LANGUAGE. Rules.

(a) Beds within a psychiatric residential treatment facility, whether licensed on the effective date of this act or otherwise, shall not be approved and licensed under the new regulatory structure established in this act until:

(1) The Office of Long-Term Care promulgates a certification manual; and

(2) The Arkansas Medicaid Program promulgates a provider manual for psychiatric residential treatment facility services.

(b) Providers of psychiatric residential treatment facility services in this state shall have one (1) year from the effective date of this act to develop, implement, and operate services that establish the appropriate continuum of care for families as defined by the Department of Human Services.

SECTION 24. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that beds in psychiatric residential treatment facilities have been permitted but are not currently licensed; that these beds in psychiatric residential treatment facilities that are not licensed cannot be used for children in need of healthcare services despite the demand for the beds; that this act would authorize

licensing of the beds in psychiatric residential treatment facilities and therefore allow the use of these beds in psychiatric residential treatment facilities for children in need; and that this act is immediately necessary to provide healthcare services to children in need across this state who are currently not able to be admitted into a psychiatric residential treatment facility. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/Cavanaugh