An Act

ENROLLED HOUSE
BILL NO. 2686

By: West (Rick) and Waldron of the House

and

Burns of the Senate

An Act relating to substance abuse services; creating the Hannah McKenzie Act of 2023; providing short title; amending 43A O.S. 2021, Section 3-601, which relates to opioid substitution treatment programs; requiring opioid substitution treatment programs to comply with certain federal requirements; requiring drug abuse testing to be directly observed; broadening grounds for certain penalties; amending 59 O.S. 2021, Section 478.1, which relates to establishment of physician-patient relationship through telemedicine; adding exception to certain restriction; providing for noncodification; and declaring an emergency.

SUBJECT: Substance abuse services

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Hannah McKenzie Act of 2023".

SECTION 2. AMENDATORY 43A O.S. 2021, Section 3-601, is amended to read as follows:

Section 3-601. A. Any Class II controlled dangerous substance, when used in this state by an opioid substitution treatment program

for persons with a history of opioid addiction to or physiologic dependence on controlled dangerous substances, shall only be used:

1. In treating persons with a history of addiction;

2. In treating persons with a one-year history of opioid addiction to or physiologic dependence on controlled dangerous substances, as defined by the Code of Federal Regulations, and documentation of attempting another type of treatment; or

3. If clinically appropriate, the program physician may waive the requirement of a one-year history of opioid addiction for consumers within six (6) months of release from a penal institution, for consumers with a pregnancy verified by the program physician, or for consumers having previously received treatment for opioid addiction and within two (2) years of discharge from that treatment episode.

B. Any conviction for a violation of the provisions of this section or any rules promulgated pursuant to the provisions of this section shall be a felony.

C. For the purposes of this section, "opioid substitution treatment program" means a person, private physician, or organization that administers or dispenses an opioid drug to a narcotic addict for the purposes of detoxification or maintenance treatment or provides, when necessary and appropriate, comprehensive medical and rehabilitation services. A private physician who administers buprenorphine with a waiver from the Drug Enforcement Administration shall not be considered an opioid substitution treatment program.

D. An opioid substitution treatment program shall be certified by the Board of Mental Health and Substance Abuse Services, or the Commissioner of Mental Health and Substance Abuse Services upon delegation by the Board, and registered with the federal Drug Enforcement Administration for the use of an opioid drug to treat narcotic addiction.

~~D.~~ E. The Board of Mental Health and Substance Abuse Services shall promulgate rules and standards for the certification of all programs, private facilities, and organizations which provide opioid substitution treatment directed to those physiologically dependent on or addicted to opioids. These facilities and organizations shall be known as "Opioid Substitution Treatment Programs". Only

certified facilities may receive and assist opioid-dependent and addicted persons by providing Class II controlled substances in opioid substitution treatment and rehabilitation.

~~E.~~ F. The Board of Mental Health and Substance Abuse Services shall promulgate rules and standards regulating the treatment and services provided by opioid substitution treatment programs. Failure to comply with rules and standards promulgated by the Board shall be grounds for revocation, suspension or nonrenewal of certification.

~~F.~~ G. An opioid substitution treatment program shall comply with all federal requirements for opioid treatment programs provided by 42 C.F.R., Subpart C including but not limited to the requirement to provide drug abuse testing services provided by 42 C.F.R., Section 8.12(f)(6). Drug abuse testing shall be directly observed by an employee or contractor of the opioid substitution treatment program.

H. Opioid substitution treatment programs shall notify the Department of Mental Health and Substance Abuse Services of plans to close or relocate within a minimum of thirty (30) days prior to closure or relocation.

~~G.~~ I. Failure to comply with rules and standards promulgated by the Board of Mental Health and Substance Abuse Services pursuant to this section or failure to comply with the requirements of 42 C.F.R., Subpart C shall be grounds for reprimand, suspension, revocation or nonrenewal of certification.

SECTION 3. AMENDATORY 59 O.S. 2021, Section 478.1, is amended to read as follows:

Section 478.1 A. Unless otherwise prohibited by law, a valid physician-patient relationship may be established by an allopathic or osteopathic physician with a patient located in this state through telemedicine, provided that the physician:

1. Holds a license to practice medicine in this state;

2. Confirms with the patient the patient's identity and physical location; and

3. Provides the patient with the treating physician's identity and professional credentials.

B. Telemedicine encounters shall comply with the Health Insurance Portability and Accountability Act of 1996 and ensure that all patient communications and records are secure and confidential.

C. Telemedicine encounters in this state shall not be used to establish a valid physician-patient relationship for the purpose of prescribing opiates, synthetic opiates, semisynthetic opiates, benzodiazepine or carisprodol, ~~but may be~~ unless the encounter is used to prescribe ~~opioid~~:

1. Opioid antagonists or partial agonists pursuant to Sections 1-2506.1 and 1-2506.2 of Title 63 of the Oklahoma Statutes; or

2. A Schedule III, IV, or V controlled dangerous substance approved by the United States Food and Drug Administration for medication assisted treatment or detoxification treatment for substance use disorder.

D. A physician-patient relationship shall not be created solely based on the receipt of patient health information by a physician. The duties and obligations created by a physician-patient relationship shall not apply until the physician affirmatively:

1. Undertakes to diagnose and treat the patient; or

2. Participates in the diagnosis and treatment of the patient.

SECTION 4. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 10th day of May, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 26th day of April, 2023.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 11th

day of May, 20 23, at 10:48 o'clock a. M.

By: James Cursey

Approved by the Governor of the State of Oklahoma this 15th

day of May, 20 23, at 11:19 o'clock a. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 15th

day of May, 20 23, at 1:53 o'clock p M.

By: Brian Bingman