

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 HOUSE BILL 3867

By: Boatman of the House

5 and

6 **Hall** of the Senate

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8
9 AS INTRODUCED

10 An Act relating to psychiatric and chemical
11 dependency service; amending 63 O.S. 2021, Section 1-
12 880.6, which relates to psychiatric and chemical
dependency service requirements; creating exception;
and providing an effective date.

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

16 SECTION 1. AMENDATORY 63 O.S. 2021, Section 1-880.6, is
17 amended to read as follows:

18 Section 1-880.6 A. Every entity desiring to establish a new
19 psychiatric or chemical dependency service or to acquire, lease or
20 expand an existing service whether through construction or
21 conversion of facilities, shall make application to the State
22 Department of Health for a certificate of need in such form and
23 accompanied by such information, including a complete list of
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1 stockholders, partners, and owners, and any other information, as
2 the Board shall prescribe.

3 B. The provisions of the Psychiatric and Chemical Dependency
4 Facility Certificate of Need Act shall not apply to any hospital as
5 defined by Section 1-710 of this title licensed by the State
6 Department of Health on or before December 31, 1990, which has:

7 1. Construction cost overruns or capital expenditures for
8 completion of originally approved beds or completion of previously
9 constructed and shelled space arising out of and based only upon the
10 original certificate of need issued by the Commissioner for said
11 construction, when such construction costs or capital expenditures
12 do not or will not increase the approved number of beds, allow
13 conversion of bed use shall not be deemed new construction or
14 increase pricing structure for treatment or services; or

15 2. Negotiated a contract with an agency of this state, the
16 federal government or a Native American nation duly recognized by
17 the federal government that specifies the number of beds and their
18 uses. A hospital provided for by ~~paragraph 2~~ of this subsection
19 shall be exempt from the certificate of need required by the
20 Psychiatric and Chemical Dependency Facility Certificate of Need Act
21 for the purposes specified in the contract. This exemption shall
22 not apply to Medicare or Medicaid contracts or contracts for
23 inpatient services for children or adolescents.

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1 C. The provisions of the Psychiatric and Chemical Dependency
2 Facility Certificate of Need Act shall not apply to a facility
3 constructed or operated by the University Hospitals Authority or
4 University Hospitals Trust, or by a nonprofit entity which has
5 entered into a joint operating agreement with the University
6 Hospitals Trust or a subsidiary of such an entity.

7 D. The Commissioner of Health is authorized to grant a
8 certificate of need if the entity applying for the certificate has
9 filed a notice on a form prescribed by the State Department of
10 Health which shall include, but not be limited to:

- 11 1. The name and location of the entity;
- 12 2. The name and address of each person having an ownership
13 interest in the entity;
- 14 3. The nature of the acquisition, expansion, addition or
15 conversion, whether by sale, lease or other arrangement;
- 16 4. The parties to the sale, lease or other arrangement;
- 17 5. The size of the acquisition, expansion, addition or
18 conversion;
- 19 6. The approximate cost of the acquisition, expansion, addition
20 or conversion; and
- 21 7. The projected date of completion.

22 ~~D.~~ E. The Commissioner of Health shall be notified, on a form
23 prescribed by the State Department of Health, of the following:
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1 1. Any decrease in the number of beds of a hospital, facility
2 or hospital unit; and

3 2. Any change in the designation for a continuum of care in
4 psychiatric or chemical dependency treatment.

5 ~~E.~~ F. Psychiatric and chemical dependency service for which a
6 certificate of need is required shall include:

7 1. Any capital investment or lease of Five Hundred Thousand
8 Dollars (\$500,000.00) or more, including predevelopment activities
9 such as arrangements and commitments for financing, architectural
10 designs, plans, working drawings, specifications and site
11 acquisition; provided, that this dollar limit shall not apply to a
12 change in bed capacity;

13 2. Acquisition of a facility by purchase, lease, donation or
14 through transfer of stock or corporate merger. If the Department
15 finds that a proposed acquisition is consistent with the criteria
16 and standards for review of such projects, then the Department shall
17 issue a certificate of need. If the Department finds that the
18 proposed acquisition is not consistent with the criteria, the
19 project will be referred to the Commissioner of Health for final
20 determination. The Department's determination to approve the
21 proposed acquisition or to refer it to the Commissioner shall be
22 made no later than fifteen (15) days following the day the
23 application is determined to be complete and review ready, or the
24 proposed acquisition shall be automatically approved. Proposed

1 acquisitions shall be reviewed against standards adopted by the
2 Department which relate only to the acquirer's capability to operate
3 a facility; or

4 3. Inpatient psychiatric and chemical dependency services for
5 persons under eighteen (18) years of age offered or provided by a
6 hospital or other health care facility, including but not limited to
7 any conversion of existing beds, any increase in bed capacity and
8 any new beds for the purpose of offering or providing said services,
9 regardless of any capital or other costs of the project.

10 a. The State Board of Health shall provide by rule for
11 the temporary emergency use of beds ordinarily used
12 for adult patients as psychiatric or chemical
13 dependency beds for children or adolescents.

14 b. Any application to establish or operate inpatient
15 psychiatric or drug or alcohol treatment services for
16 persons under eighteen (18) years of age shall include
17 the establishment, operation and maintenance of a
18 community-based service program or a day treatment
19 program, as those terms are defined by Section ~~1101~~ of
20 ~~Title 10~~ 1-1-105 of Title 10A of the Oklahoma
21 Statutes, as an integral part of the total project.

22 ~~F.~~ G. Promptly upon receipt of any such application, the
23 Department shall examine and transmit the application to reviewers
24 it may select to determine whether the application is complete.

1 Once the Department has determined that the application is complete,
2 it shall notify affected parties and other reviewing bodies and
3 cause a thorough investigation to be made of the need for and
4 appropriateness of such expanded psychiatric or chemical dependency
5 service. The investigation made pursuant to an application for a
6 certificate of need shall include the following:

7 1. The adequacy of psychiatric and chemical dependency services
8 in relation to an optimal target ratio of psychiatric or chemical
9 dependency beds to the population;

10 2. The availability of services which may serve as alternatives
11 or substitutes;

12 3. The adequacy of financial resources for the new or expanded
13 services and for the continued operation thereof;

14 4. The availability of sufficient manpower to properly staff
15 and operate the proposed new or expanded service; and

16 5. Any other matter which the Department deems appropriate.

17 ~~G.~~ H. Each application for a certificate of need applied for
18 pursuant to the provisions of this section except for those
19 applications filed by state agencies shall be accompanied by an
20 application fee in an amount established by the Department.

21 SECTION 2. This act shall become effective November 1, 2022.

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23 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02/16/2022 -
24 DO PASS, As Coauthored.