

## CHAPTER 632

## S.B. No. 601

An Act relating to the continuation, operations, powers, duties, name, and composition of the Texas Commission on Alcoholism and the transferal to the commission of the drug abuse programs of the Texas Department of Community Affairs; relating to the duty of certain persons to report abuse or neglect and immunity from liability and to insurance coverage for alcoholism; creating a study task force; providing penalties; amending Chapter 553, Acts of the 65th Legislature, Regular Session, 1977, as amended (Article 5561cc, Vernon's Texas Civil Statutes), by amending Sections 1, 2, 3, 6, 7, 8, and 10 and Subsections (a) and (b) of Section 9 and by adding Sections 12, 13, and 14; amending Sections 1 and 2, Article 3.51-9, Insurance Code; repealing Chapter 411, Acts of the 53rd Legislature, Regular Session, 1953 (Article 5561c, Vernon's Texas Civil Statutes); and making other conforming amendments to reflect the changes in name and authority of the commission.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** The Texas Alcohol and Drug Abuse Services Act is enacted to read as follows:

### TITLE 1. GENERAL PROVISIONS

**Sec. 1.01. PURPOSE.** The purpose of this Act is to prevent broken homes and the loss of lives by creating the Texas Commission on Alcohol and Drug Abuse. The commission shall cooperate with all interested and affected federal, state, and local agencies and develop and coordinate prevention, intervention, treatment, and rehabilitation programs. Alcohol and drug abuse are recognized as preventable and treatable illnesses and public health problems affecting the general welfare and the economy of the state. The need for proper and sufficient facilities, programs, and procedures for prevention, intervention, treatment, and rehabilitation is recognized. It is the policy of this state that an alcohol or drug abuser shall be offered a continuum of services that will enable the person to lead a normal life as a productive member of society.

**Sec. 1.02. SHORT TITLE.** This Act may be cited as the Texas Alcohol and Drug Abuse Services Act.

**Sec. 1.03. DEFINITIONS.** In this Act:

(1) "Alcohol abuse" means the excessive use of alcohol in a manner that interferes with one or more of the following to a less than chronic extent: physical or psychological functioning, social adaptation, educational performance, or occupational functioning.

(2) "Alcoholism" means the loss of self-control with respect to the use of alcohol, or the pathological use of alcohol that chronically impairs social or occupational functioning, or physiological dependence on alcohol as evidenced by tolerance or withdrawal symptoms.

(3) "Alcoholic" means the individual suffering from alcoholism.

(4) "Approved treatment program" means a substance abuse treatment facility approved by the commission to carry out a specific provision of this Act.

(5) "Commission" means the Texas Commission on Alcohol and Drug Abuse.

(6) "Drug abuse" means misuse or abuse of any controlled substance for other than appropriate and duly prescribed medicinal purposes.

(7) "Drug dependent person" means a person who is using a controlled substance and who is in a state of psychic or physical dependence or both arising from administration of a controlled substance. Drug dependence is characterized by behavioral and other responses that include a strong compulsion to take a controlled substance in order to experience its psychic effects or to avoid the discomfort of its absence.

(8) "Prevention" means constructive methods or programs designed to reduce an individual's risk of abusing or becoming addicted to alcohol or drugs.

(9) "Intervention" means constructive methods or programs designed to interrupt the onset or progression of substance abuse or dependence in the early stages.

(10) "Rehabilitation" means a planned and organized program designed to reestablish the social and vocational life of a substance-free person.

(11) "Treatment" means a planned and organized program designed to initiate and maintain a person's substance-free status.

**Sec. 1.04. COMPOSITION OF COMMISSION.** (a) The Texas Commission on Alcohol and Drug Abuse is composed of nine members appointed by the governor with the advice and consent of the senate.

(b) A person is not eligible for appointment as a member if the person or the person's spouse:

- (1) is licensed by an occupational regulatory agency in the field of alcoholism or drug abuse;
- (2) is employed by or participates in the management of a business entity or other organization regulated by the commission or receiving funds from the commission;

(3) owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the commission.

(c) Appointments to the commission shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointees.

(d) Members serve for staggered terms of six years, with the terms of three members expiring every other year.

(e) The commission shall develop and implement policies that will provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

**Sec. 1.05. APPLICATION OF SUNSET ACT.** The commission is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the commission is abolished and this Act expires effective September 1, 1997.

**Sec. 1.06. REMOVAL OF COMMISSION MEMBERS.** (a) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Section 1.04 of this Act for appointment to the commission;

(2) does not maintain during the service on the commission the qualifications required by Section 1.04 of this Act for appointment to the commission;

(3) violates a prohibition established by Section 1.08 of this Act;

(4) is unable to discharge his duties for a substantial portion of the term for which he was appointed because of illness or disability; or

(5) is absent from more than one-half of the regularly scheduled commission meetings that the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a member of the commission existed.

(c) If the executive director has knowledge that a potential ground for removal exists, he shall notify the chair of the commission of the ground. The chair of the commission shall then notify the governor that a potential ground for removal exists.

**Sec. 1.07. OFFICERS.** (a) The governor will annually appoint one commission member as chair.

(b) The members of the commission shall annually elect one member as vice-chair. The members may either elect one member as secretary or designate as secretary the executive director employed under Section 1.10 of this Act.

**Sec. 1.08. RESTRICTIONS ON COMMISSION MEMBERSHIP AND EMPLOYMENT.** (a) An officer, employee, or paid consultant of an association that has as its primary interest the provision of services or other matters relating to alcohol or drug abuse may not be a member or employee of the commission, nor may a person who cohabits with or is the spouse of an officer, managerial employee, or paid consultant of such an association be a member of the commission or an employee of the commission grade 17 or over, including exempt employees, according to the position classification schedule under the General Appropriations Act.

(b) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a provider of alcohol or drug abuse services, may not serve as a member of the commission or act as the general counsel to the commission.

**Sec. 1.09. MEETINGS, TRAVEL, AND COMPENSATION.** (a) The commission shall meet at least quarterly at the call of the chairperson or at the request of five members. The commission may not meet for more than 24 days in a fiscal year.

(b) The commission may authorize its members to travel within this state and in other states to perform its duties under this Act.

(c) Commission members are entitled to receive the compensatory per diem authorized by the General Appropriations Act for each day spent engaged in the performance of their official duties. Commission members are also entitled to reimbursement for travel expenses and other necessary expenses incurred in performing official duties.

Sec. 1.10. EXECUTIVE DIRECTOR AND PERSONNEL MATTERS. (a) The commission shall employ an executive director who shall hire other necessary employees.

(b) The executive director or the executive director's designee shall develop an intraagency career ladder program, one part of which shall require the intraagency posting of all nonentry level positions concurrently with any public posting.

(c) The executive director or the executive director's designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for commission employees must be based on the system established under this subsection.

(d) The commission shall provide to its members and employees as often as is necessary information regarding their qualifications under this Act and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(e) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The policy statement shall include:

(1) personnel policies including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the commission work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underutilization in the commission work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to address appropriately areas of significant underutilization in the commission work force of all persons for whom federal or state guidelines encourage a more equitable balance.

(f) The policy statements shall be filed with the governor's office, cover an annual period, and be updated at least annually. The governor's office shall develop a biennial report to the legislature based on the information submitted. The report may be made separately or as a part of other biennial reports made to the legislature.

(g) The commission shall develop and implement policies that clearly separate the respective responsibilities of the governing body of the commission and the staff of the commission.

Sec. 1.11. FINANCES. (a) The commission may accept gifts and grants.

(b) All sums of money paid to the commission under this Act shall be deposited in the State Treasury and may be used only for the administration of this Act.

(c) The commission shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding year. The form of the annual report and the reporting time shall be that provided in the General Appropriations Act.

(d) The State Auditor shall audit the financial transactions of the commission at least once during each biennium.

(e) The commission is designated as the state agency to receive and administer federal funds for alcohol and drug abuse and to promulgate all necessary policies relating to alcohol and drug abuse.

(f) An organization or other entity is not eligible for a grant of state funds from the commission unless the organization or other entity provides a minimum match that is equal to at least five percent of the total grant of state funds from the commission. If the commission determines that this requirement may jeopardize the provision of needed services, the commission may waive the requirement.

Sec. 1.12. RULES. The commission shall adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in the administration of any commission programs.

Sec. 1.13. PUBLIC INTEREST INFORMATION: COMPLAINTS. (a) The commission shall prepare information of public interest describing the functions of the commission and describing the commission's procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the general public and appropriate state agencies.

(b) The commission shall adopt rules establishing methods by which consumers and service recipients can be notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission. The commission may provide for such notification through inclusion of the information:

(1) on each registration form, application, or written contract for services of a person or entity regulated or authorized by this Act;

(2) on a sign that is prominently displayed in the place of business of each person or entity regulated or authorized by this Act; or

(3) in a bill for service provided by a person or entity regulated or authorized by this Act.

(c) If a written complaint is filed with the commission relating to a licensee or entity regulated by the commission, the commission, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless notice would jeopardize an undercover investigation.

(d) The commission shall keep an information file about each complaint filed with the commission relating to a licensee or entity funded by or regulated by the commission.

Sec. 1.14. POWERS AND DUTIES. (a) The commission shall:

(1) provide for research and study of the problems of substance abuse in this state and seek to focus public attention on these problems through public information and education programs;

(2) plan, develop, coordinate, evaluate, and implement programs for the prevention, intervention, treatment, and rehabilitation of substance abuse and alcoholism and drug dependence in cooperation with federal and state agencies, local governments, organizations, and individuals and provide technical assistance, funds, and consultation services for statewide and community-based services;

(3) establish cooperative relationships with and enlist the assistance of other state, federal, and local agencies, hospitals, clinics, public health, welfare, and criminal justice system authorities, and educational and medical agencies and organizations, and other related public and private groups and individuals;

(4) sponsor, promote, and conduct educational programs on the prevention and treatment of substance abuse, alcoholism, and drug dependence and maintain a public information clearinghouse to purchase and provide books, literature, audiovisual, and other educational material for the programs;

(5) sponsor, promote, and conduct training programs for persons delivering prevention, intervention, treatment, and rehabilitation services and for persons in the criminal justice system or otherwise in a position to identify substance abusers, alcoholics, drug dependent persons, and their families in need of services;

(6) require programs rendering services to substance abusers and alcoholics and drug dependent persons to safeguard their legal rights of citizenship and maintain the confidentiality of client records as required by state and federal law;

(7) maximize the use of available funds for direct services rather than administrative services;

(8) consistently monitor the expenditure of funds and the provision of services of all grant and contract recipients to assure that the services are effective and properly staffed and meet the standards adopted under this Act, and shall make the monitoring reports a matter of public record;

(9) license facilities that treat alcohol or alcohol and drug dependent persons;

(10) use funds appropriated to the commission to carry out the mandate of this Act, and maximize the overall state allotment of federal funds; and

(11) establish minimum criteria that peer assistance programs must meet to be governed by and entitled to the benefits of a law that authorizes licensing and disciplinary authorities to establish or approve peer assistance programs for impaired professionals.

(b) The commission may establish regional alcohol advisory committees consistent with the 24 state planning regions.

(c) The commission may appoint advisory committees to assist the commission in performing its duties. State advisory committee members are entitled to receive the per diem and travel expense allowance authorized by the General Appropriations Act for state employees.

Sec. 1.15. COOPERATION BY OTHER DEPARTMENTS. (a) Each department, agency, officer, and employee of the state, when requested by the commission, shall cooperate with the commission in appropriate activities to implement this Act.

(b) This section does not give the commission control over existing facilities, institutions, or agencies or require the facilities, institutions, or agencies to serve the commission inconsistently with their functions, the authority of their offices, or the laws and rules governing their activities.

(c) This section does not give the commission power to make use of a private institution or agency without its consent or to pay a private institution or agency for services that a public institution or agency is willing and able to perform.

## TITLE 2. INVOLUNTARY TREATMENT OF ALCOHOLICS

### SUBTITLE A. EMERGENCY DETENTION

Sec. 2.01. MAGISTRATE ORDER FOR EMERGENCY APPREHENSION AND DETENTION. (a) Any adult person may execute an application for emergency detention for another. The application shall be in writing and shall state:

(1) that the applicant has reason to believe and does believe that the person suffers from alcoholism;

(2) that the applicant has reason to believe and does believe that the person evidences a substantial risk of serious harm to himself or others, which risk of harm shall be specified and described;

(3) that the applicant has reason to believe and does believe that the risk of harm is imminent unless the person is immediately restrained;

(4) that the applicant's beliefs are based on specific recent behavior, overt acts, attempts, or threats, which shall be described in specific detail; and

(5) the relationship, if any, of the applicant to the person sought to be detained.

(b) The application may be accompanied by any relevant information.

(c) The application shall be presented personally to any magistrate who shall examine it and may interview the applicant.

(d) The magistrate shall deny the application unless he or she finds there is reasonable cause to believe that:

(1) the person suffers from alcoholism;

(2) the person evidences a substantial risk of serious harm to himself or others;

(3) the risk of harm is imminent unless the person is immediately restrained; and

(4) necessary restraint cannot be accomplished without emergency detention.

(e) If the magistrate finds that the person meets all four criteria for emergency detention specified in Subsection (d) of this section, he shall issue a warrant for the immediate apprehension and transportation of the person to an approved treatment program, if one is readily available, or to another appropriate facility for a preliminary examination by a physician. The preliminary examination shall be conducted as soon as possible within 24 hours of the time of apprehension. Copies of the application for warrant and the warrant itself shall be immediately transmitted to the program.

(f) On completion of the preliminary examination, the person shall be released unless the examining physician or the physician's designee provides a written opinion that the person meets the criteria stated in Subsection (d) of this section. A person not admitted following the preliminary examination shall be entitled to reasonably prompt return to the location of his apprehension or other suitable place, unless the person is arrested or objects to the return.

(g) The person so apprehended may be detained in custody for a period which shall not exceed 24 hours from the time the person is presented to the facility, unless a written order for further detention is obtained. However, if the 24-hour period ends on a Saturday or Sunday, or a legal holiday, the period of detention shall end at 12 noon on the first succeeding business day.

**Sec. 2.02. RELEASE FROM EMERGENCY DETENTION.** If during the emergency detention period it is determined by the administrator of the program or the administrator's designee that the criteria set out in Subsection (d) of Section 2.01 of this Act no longer apply, the person shall be released. Arrangements shall be made for the person's return to the location of apprehension or other suitable place, unless the person is arrested or objects to the return.

**Sec. 2.03. RIGHTS OF PERSONS APPREHENDED FOR EMERGENCY DETENTION.** (a) Each person apprehended or detained under this subtitle has the following rights:

(1) the right to be advised of the location of detention, the reasons for detention, and the fact that detention could result in a longer period of involuntary commitment;

(2) the right to contact an attorney of his or her own choosing with a reasonable opportunity to contact that attorney;

(3) the right to be transported back to the location of apprehension, or other suitable place, if not admitted for emergency detention, unless he is arrested or objects to the return;

(4) the right to be released if the administrator of the program determines that any of the four criteria for emergency detention set out in Subsection (d) of Section 2.01 of this Act no longer apply; and

(5) the right to be advised that communications to an alcoholism treatment professional may be used in proceedings for further detention.

(b) Each person apprehended or detained under this title shall be advised within 24 hours of admission, orally and in writing, in simple, nontechnical terms, of the rights of patients provided by this section.

## SUBTITLE B. COURT-ORDERED TREATMENT

**Sec. 3.01. COURT IN WHICH PROCEEDINGS TO BE HELD.** A proceeding pursuant to this title shall be held in the statutory or constitutional court of the county exercising the jurisdiction of a probate court in alcoholism matters.

**Sec. 3.02. APPLICATION FOR COURT-ORDERED TREATMENT.** (a) A sworn application for court-ordered treatment may be filed by any adult person, or by the county or district attorney, with the county clerk in the county in which the proposed patient resides or in which the proposed patient is found or in which the patient is receiving treatment services by court order. However, on request of the proposed patient or his attorney, the court may in its discretion for good cause shown transfer the application to the county of the proposed patient's residence, if not initially filed there.

(b) The application must be in writing and must state the following based on the information and belief of the applicant:

(1) the name and address of the proposed patient, including county of residence in this state;

(2) that the proposed patient suffers from alcoholism and as a result, the person:

(A) is likely to cause serious harm to himself or others; or

(B) will continue to suffer abnormal mental, emotional, or physical distress, will continue to deteriorate in ability to function independently if not treated, and is unable to make a rational and informed choice as to whether or not to submit to treatment; and

(3) that the proposed patient is not charged with a criminal offense that involves an act, attempt, or threat of serious bodily injury to another person (not including a juvenile alleged to be a child engaged in delinquent conduct or conduct indicating a need for supervision as defined in Section 51.03, Family Code).

(c) The application shall be styled using the proposed patient's initials and not the full name.

(d) On the filing of an application, the court shall set a date for the hearing on the merits, which hearing must be held not less than five days and no more than 14 days from the filing of the application. Immediately after the judge sets the date for the hearing, the expert shall give written notice of the hearing and a copy of the application to the proposed patient and his or her attorney in such manner as the court shall direct. The court may proceed to hear the cause at the stated time, with or without the presence of the proposed patient and with or without an answer by the proposed patient, provided the notice is received at least three days prior to the hearing and provided the proposed patient is represented by an attorney if the right of legal counsel is not waived. If the proposed patient is not represented by an attorney of his own choosing, the court shall appoint an attorney. The court shall inform relatives of the proposed patient and other persons to appear at the hearing to give evidence in the cause. The judge may, in his discretion or on request, require the proposed patient to be examined by a physician and the results of the examination shall be considered by the court at the hearing on the application for commitment.

(e) The judge may order any peace officer or other designated person to take the proposed patient to an approved facility or other suitable place for detention pending the order of the court if:

(1) a certificate of medical examination for alcoholism is filed showing that the proposed patient has been examined within five days of the filing of the certificate; and

(2) the certificate states the opinion of the examining physician that the proposed patient is an alcoholic and:

(A) is likely to cause serious harm to himself or others if not immediately restrained; or

(B) will continue to suffer abnormal mental, emotional, or physical distress and will continue to deteriorate in ability to function independently if not treated, and that the proposed patient is unable to make a rational and informed choice as to whether or not to submit to treatment.

(f) If the proposed patient is detained under Subsection (e) of Section 3.02 of this Act, the court shall set a probable cause hearing to be held within 72 hours of the time detention begins, unless the right to hearing is waived by the proposed patient. However, if that 72-hour period ends on a Saturday or Sunday or a legal holiday, the probable cause hearing shall be held on the first succeeding business day.

(g) If the proposed patient admits the allegations of the application or if, at the hearing on the merits, the court finds that the material allegations of the application have been proven by clear and convincing evidence, it shall commit the patient to an approved treatment program for a period not to exceed 90 days.

**Sec. 3.03. APPEAL.** (a) All appeals from orders requiring court-ordered treatment shall be filed in the court of appeals for the county in which the order was entered.

(b) Notice of appeal shall be filed within 10 days from the date any such order is signed.

(c) When the notice of appeal is filed, the clerk shall immediately send a certified transcript of the proceedings to the court of appeals.

(d) Pending the appeal, the trial judge in whose court the cause is pending may stay the order and release the person from custody if the judge is satisfied that the person does not meet the criteria for protective custody pursuant to this Act. The judge may require an appearance bond in an amount to be determined by the court.

(e) These cases shall be advanced on the docket and given a preference setting over all other cases in the court of appeals and the supreme court. The courts may suspend all rules concerning the time for filing briefs and the docketing of cases.

Sec. 3.04. **HABEAS CORPUS.** This Act does not abridge the right of any person to a writ of habeas corpus.

Sec. 3.05. **DISCHARGE FROM COURT-ORDERED TREATMENT.** (a) The administrator of a facility to which a person has been committed for treatment shall discharge the patient on expiration of the court order.

(b) The administrator of a facility may, at any time prior to the expiration of an order for treatment, discharge the patient upon his or her determination that the patient no longer meets the criteria for court-ordered treatment. A discharge under this subsection terminates the court order. Any person discharged under this subsection may not again be compelled to submit to involuntary treatment except pursuant to a new order entered in accordance with the provisions of this Act.

(c) On discharging a person under this section, the administrator of the facility shall prepare a certificate of discharge and file it with the court that entered the order.

Sec. 3.06. **COSTS OF COMMITMENT AND SUPPORT.** (a) The laws relating to payment of costs of commitment and support and to securing reimbursement of actual costs that are applicable for court-ordered mental health services apply to each item of expense incurred by the state in connection with the commitment, care, custody, treatment, and rehabilitation of a person receiving care and treatment under this Act.

(b) Any person admitted to an approved treatment program who has sufficient funds shall be required to pay for his or her maintenance at the same rate charged other patients for maintenance at such facility. All of the provisions of Chapter 152, Acts of the 45th Legislature, Regular Session, 1937 (Article 3196a, Vernon's Texas Civil Statutes), are applicable to any person admitted to a state hospital under the provisions of this Act.

Sec. 3.07. **COMMITMENT BY COURTS IN CRIMINAL PROCEEDINGS; ALTERNATIVE SENTENCING.** (a) The judge of any court having jurisdiction of misdemeanor cases may remand the defendant to an approved treatment program for care and treatment not to exceed 90 days, in lieu of incarceration or fine, if:

(1) the court or a jury has found the defendant guilty of an offense;

(2) the court finds that such violation resulted from or was related to the defendant's abuse of alcohol; and

(3) an approved treatment program, as defined in this Act, is available to treat the person, and the facility agrees in writing to admit the defendant under this section.

(b) A defendant who, in the opinion of the court, is mentally ill is not eligible for sentencing under this section. An order of sentencing by the court is treated as a final conviction and an appeal from the order may be taken in the same manner as provided for appeals from any other judgment of that court.

(c) If a juvenile court finds that a child has engaged in delinquent conduct or conduct indicating a need for supervision resulting from or related to the child's abuse of alcohol or drugs, the court may remand the child to an approved treatment program for care and treatment for not more than 90 days after the date on which the child is remanded if:

- (1) an approved treatment program is available to treat the child; and
- (2) the program agrees in writing to receive the child under this section.

**SECTION 2.** Section 1, Chapter 553, Acts of the 65th Legislature, Regular Session, 1977 (Article 5561cc, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. **DEFINITIONS.** In this Act:

"(1) 'Commission' means the Texas Commission on *Alcohol and Drug Abuse* [Alcoholism].

"(2) 'Alcoholic' means *an individual who suffers from alcoholism* [~~any person who chronically and habitually uses alcoholic beverages to the extent that he has lost the power of self-control with respect to the use of the beverage or while chronically and habitually under the influence of alcoholic beverages endangers public morals, health, safety, or welfare~~].

"(3) 'Alcoholism' means *the loss of self-control with respect to the use of alcohol, the pathological use of alcohol that chronically impairs social or occupational functioning, or physiological dependence on alcohol as evidenced by tolerance or withdrawal symptoms* [~~a condition of abnormal behavior or illness leading directly or indirectly to the chronic and habitual use of alcoholic beverages~~].

"(4) 'Person' includes any individual, partnership, corporation, association, or other public or private legal entity.

“(5) ‘Health care facility’ has the meaning prescribed by the Texas Health Planning and Development Act (Article 4418h, Vernon’s Texas Civil Statutes) [includes, regardless of ownership, a public or private hospital, institution, extended care facility, skilled nursing facility, intermediate care facility, home health agency, outpatient care facility, ambulatory health care facility, health center, alcoholism and drug treatment facility, health maintenance organization, and other specialized facilities where inpatient or outpatient health care services for observation, diagnosis, active treatment, or overnight care for patients with medical, mental or psychiatric, alcoholic, chronic, or rehabilitative conditions are provided requiring daily direct supervision by a physician or a practitioner of the healing arts, but does not include the office of those physicians or practitioners singly or in groups in the conduct of their profession].

“(6) ‘Applicant’ means a person who applies to the commission for a license under this Act.

“(7) ‘Application’ means a written request for consideration for licensure that meets the commission’s requirements for form and content.

“(8) ‘License’ means a license issued by the commission to operate an alcohol or combined alcohol and drug treatment facility in this state.

“(9) ‘Licensee’ means the person named in the license. The term does not include the legal successors of that person.

“(10) ‘Alcohol treatment facility’ means a public or private hospital, clinic, detoxification facility, primary care facility, intermediate care facility, long-term care or outpatient care facility, community mental health center, recovery center, halfway house, ambulatory care facility, or any other facility that purports to provide alcohol or combined alcohol and drug treatment services and rehabilitation services as one of its programs. The term does not include an educational program for intoxicated drivers or the office of a private licensed health care practitioner.

“(11) ‘Governmental unit’ means the state, any political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision of the state. The term does not include any entity of the federal government.”

**SECTION 3.** Section 2, Chapter 553, Acts of the 65th Legislature, Regular Session, 1977 (Article 5561cc, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 2. **LICENSE REQUIREMENT; EXCEPTIONS [LICENSING A FACILITY].** (a) A person who operates an alcohol treatment [a health care] facility that treats alcoholics or alcohol and drug dependent persons must [may] obtain a license issued under this Act.

“(b) This Act does not apply to facilities maintained or operated by the federal government or its agencies or to hospitals operated by the state.”

**SECTION 4.** Section 3, Chapter 553, Acts of the 65th Legislature, Regular Session, 1977, as amended (Article 5561cc, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 3. **LICENSE APPLICATION.** An applicant for a license to operate an alcohol treatment [a health care] facility to treat alcoholics or alcohol and drug dependent persons must:

“(1) file a written application on a form prescribed by the commission; and

“(2) cooperate with the inspection of the [health care] facility.”

**SECTION 5.** Section 6, Chapter 553, Acts of the 65th Legislature, Regular Session, 1977 (Article 5561cc, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 6. **INSPECTIONS.** (a) The commission or its authorized representative may enter upon the premises of a facility at reasonable times to make an inspection the commission considers necessary [to license or renew a license for a facility]. The inspection is subject to the limitations imposed under Chapter 387, Acts of the 65th Legislature, Regular Session, 1977 (Article 4437h, Vernon’s Texas Civil Statutes).

(b) If the applicant or licensee is a health care facility as defined by Chapter 387, Acts of the 65th Legislature, Regular Session, 1977 (Article 4437h, Vernon’s Texas Civil Statutes), on-site inspections by the commission must comply with the provisions of that Act. In cases in which an applicant or licensee is not covered by that Act, the commission may enter into interagency agreements to avoid duplication of efforts and to conserve state resources in relation to its on-site inspections under this Act.”

**SECTION 6.** Section 7, Chapter 553, Acts of the 65th Legislature, Regular Session, 1977 (Article 5561cc, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 7. **RULES [; REGULATIONS;] AND STANDARDS.** [(a)] The commission shall [prescribe forms necessary to perform its duties and] adopt rules [; regulations;] and standards for the following:

“(1) the organizational structure of an alcohol treatment facility, including the governing authority of the facility, board authority, organization, fiscal and policy responsibilities, supervisory lines of authority, and staffing;



"(2) the program conducted by a facility, including services to be provided, admission criteria, client rights, and standards for medication, nutrition, and emergency situations;

"(3) the clinical and fiscal records kept by a facility;

"(4) the general physical plant requirements for a facility, including environmental considerations, fire protection, safety, and other conditions to ensure the health and comfort of the clients; and

"(5) standards relating to other aspects of alcohol or alcohol and drug abuse treatment as necessary to protect the alcoholic or alcohol and drug dependent person

"[(1) the construction of the facility, including plumbing, heating, lighting, ventilation, and other housing conditions which insure the health, safety, and comfort of residents;

"[(2) the sanitary conditions of the facility and the surrounding area, including water supply, sewage disposal, food handling, and general hygiene;

"[(3) the equipment needed for adequate care and treatment;

"[(4) the diet required by the needs of residents, based on good nutritional practice and on recommendations made by physicians attending the residents; and

"[(5) the qualifications of all staff and personnel, including management and nursing personnel, having responsibility for any part of the care given to residents].

"(b) The commission may not adopt rules restricting competitive bidding or advertising by a facility regulated by the commission except to prohibit false, misleading, or deceptive practices by the facility. The commission may not include in its rules to prohibit false, misleading, or deceptive practices by a facility regulated by the commission a rule that:

"(1) restricts the facility's use of any medium for advertising;

"(2) restricts in an advertisement the personal appearance of a person representing the facility or the use of that person's voice;

"(3) relates to the size or duration of an advertisement by the facility; or

"(4) restricts the facility's advertisement under a trade name [The commission may adopt additional regulations for facilities concerning the treatment and care of alcoholics.

"[(c) The rules, regulations, and standards authorized by this Act apply to licensed facilities and to facilities for which a licensed application has been made]."

**SECTION 7.** Section 8, Chapter 553, Acts of the 65th Legislature, Regular Session, 1977 (Article 5561cc, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 8. **DENIAL OR REVOCATION OF LICENSE.** (a) The executive director of the commission may deny, revoke, or refuse to renew a license if the applicant or holder of the license fails to comply with the provisions of this Act or with the rules, regulations, and standards of the commission adopted under this Act.

"(b) A person who is denied a license or whose license is revoked or not renewed is entitled to request reconsideration by the executive director of the commission on the question of the denial, revocation, or nonrenewal of the license. A request for reconsideration must be made during the 14-day period following the date on which notice of the action taken was mailed to the applicant or the holder of a license.

"(c) If reconsideration is not requested, the denial, revocation, or nonrenewal takes effect on the 30th day after the date on which the notice was mailed. If reconsideration is requested, the effective date of the commission's original decision must be postponed to allow the person to participate in the reconsideration.

"(d) The commission shall establish rules and procedures for reconsideration of denial, nonrenewal, or revocation decisions, and shall provide the opportunity for the affected person to present additional evidence or testimony to the commission. The rules must provide for at least 21 days' notice of a reconsideration hearing.

"(e) The executive director of the commission shall conduct each reconsideration hearing held under this section. The executive director shall make the final decision in connection with the reconsideration hearing.

"(f) The executive director of the commission shall send the person a copy of the decision made after reconsideration and a copy of the grounds for affirming or reversing the original decision. The executive director shall give written notice of the effective date of the decision as provided by commission rules.

"(g) In addition to the request for reconsideration, a [(b) A] person who is denied a license or whose license is revoked or not renewed is entitled to a hearing before the commission or a hearings officer appointed by the commission on the question of the issuance of the license and is entitled to notice of the date, time, and place of the hearing not later than 21 days before the date of the hearing. A request for a hearing must be made during the 30-day period following the date on which the applicant or the holder of a license received notice that the license was denied

or that it was to be revoked or refused renewal. *This period must be extended if the person requests reconsideration under this section.*

“(h) [(e)] Except as provided in Subsection (j) [(e)] of this section, revocation of a license or an order refusing to renew a license does not take effect until the expiration of 30 days following the date on which the holder of the license received *final* notice of the revocation or order of refusal to renew the license.

“(i) [(d)] If after a hearing the license is denied, revoked, or not renewed, the commission shall send to the applicant or holder of the license a copy of their findings and grounds for decision.

“(j) [(e)] The commission may revoke a license to be immediately effective in a situation where health or safety requires action. The commission must immediately notify the holder and provide an opportunity for a hearing within 14 days after the action takes effect.

“(k) [(f)] The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon’s Texas Civil Statutes) applies to *judicial review of all hearings conducted under [authorized by] this Act.*”

**SECTION 8.** Subsections (a) and (b), Section 9, Chapter 553, Acts of the 65th Legislature, Regular Session, 1977 (Article 5561cc, Vernon’s Texas Civil Statutes), are amended to read as follows:

“(a) The commission may petition a district court to restrain a person who *violates the licensing requirements of this Act or who violates the standards of this Act in a manner that causes immediate threat to the health and safety of individuals treated by the person [falsely represents a health care facility as licensed under this Act]*. A suit for injunctive relief must be brought in Travis County.

“(b) On application for injunctive relief and a finding that a person is *violating [falsely representing a health care facility as licensed under] this Act*, the district court shall grant the injunctive relief the facts may warrant.”

**SECTION 9.** Section 10, Chapter 553, Acts of the 65th Legislature, Regular Session, 1977, as amended (Article 5561cc, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 10. **CHARGING OF FEES AND DISPOSITION OF FUNDS.** The commission may charge nonrefundable application and inspection fees for an initial license or a renewal license. *If the General Appropriations Act does not specify the amount of the fee, the commission shall establish reasonable and necessary fees for the administration of this Act. The commission shall set the fees in the amounts necessary for the fees to cover at least 50 percent of the costs of the licensing program by the 1987 fiscal year. The commission may not maintain unnecessary fund balances. Fee amounts shall be set in accordance with this prohibition [in such amounts as are necessary to cover the cost of the licensure program]*. All application and inspection fees collected by the commission under the provisions of this Act shall be placed in a special fund in the State Treasury to be known as the *Alcohol and Drug Abuse [Alcoholism] Treatment Licensure Fund*, and the amounts in such fund may be appropriated only to the commission for the purpose of administering and enforcing this Act.”

**SECTION 10.** Chapter 553, Acts of the 65th Legislature, Regular Session, 1977 (Article 5561cc, Vernon’s Texas Civil Statutes), is amended by adding Sections 12, 13, and 14 to read as follows:

“Section 12. **RIGHTS OF INDIVIDUALS RECEIVING TREATMENT.** *The commission shall adopt rules to protect the rights of individuals receiving services from an alcohol treatment facility and to maintain the confidentiality of client records as required by state and federal law.*

“Section 13. **REPORTS OF ABUSE OR NEGLECT.** (a) *Any person, owner, or employee of an alcohol treatment facility who believes that a resident’s, patient’s, or client’s physical or mental health or welfare has been, is, or will be adversely affected by abuse or neglect caused by any person shall report the facts underlying that belief to the commission.*

“(b) *The commission shall adopt rules prescribing procedures for the investigation of those reports and for coordination with law enforcement agencies or other agencies.*

“(c) *The commission shall contact the alcohol treatment facility by telephone immediately on learning of the alleged abuse or neglect and shall contact the facility in writing not later than the fifth day after the date on which information relating to the alleged abuse or neglect is received.*

“(d) *Any individual who in good faith reports to the commission under this section is immune from civil or criminal liability based on the report. The immunity extends to participation in any judicial proceeding resulting from the report, but does not extend to an individual who caused the abuse or neglect.*

“(e) *The commission may request the attorney general’s office to file a petition for temporary care and protection of a patient, client, or resident of an alcohol treatment facility if it appears that immediate removal is necessary to prevent further abuse.*

"(f) All records made by the commission during its investigation are confidential and may not be disclosed except on court order, or on written consent and request by the person under investigation or that person's authorized attorney.

"Section 14. PENALTIES. (a) A person who establishes, conducts, manages, or operates an alcohol treatment facility without a license commits an offense. An offense under this subsection is a Class C misdemeanor. Each day of violation constitutes a separate offense.

"(b) A person who wilfully, maliciously, or recklessly makes a false report under Section 13 of this Act commits an offense. An offense under this subsection is a Class A misdemeanor.

"(c) A person who fails to report a case of abuse or neglect commits an offense if the person has reasonable grounds to believe that abuse or neglect is occurring and the person is under a legal duty to report. An offense under this subsection is a Class A misdemeanor."

SECTION 11. Subsection (e), Section 132.002, Human Resources Code, is amended to read as follows:

"(e) The governing board of each of the following agencies shall appoint one person to represent that agency on the council:

- "(1) the Texas Department of Human Resources;
- "(2) the Texas Department of Mental Health and Mental Retardation;
- "(3) the Texas Department of Health;
- "(4) the Central Education Agency;
- "(5) the Texas Rehabilitation Commission;
- "(6) the Texas Commission for the Deaf;
- "(7) the State Commission for the Blind;
- "(8) the Texas Department on Aging; and
- "(9) the Texas Commission on Alcohol and Drug Abuse [Alcoholism]."

SECTION 12. Sections 1 and 2, Article 3.51-9, Insurance Code, are amended to read as follows:

"Section 1. PURPOSE. The purpose of this article [Act] is to provide [encourage] consumers with benefits for the care and treatment of alcohol dependency in [to avail themselves of basic levels of benefits provided by] group health insurance policies or [ ] contracts, and group health coverage provided by health maintenance organizations, and all self-funded or self-insured plans (but excluding those self-funded or self-insured plans with 250 or less employees or members), that provide basic hospital, surgical, or major medical expense benefits or coverages or any combination of these coverages, but excluding all individual insurance policies, any individual H.M.O. policies, regardless of the method of solicitation or sale, and excluding all health insurance policies that only provide cash indemnity for hospital or other confinement benefits, or supplemental or limited benefit coverage, or coverage for specified diseases or accidents, or disability income coverage, or any combination thereof [for the care and treatment of alcohol and other drug dependency and to preserve the right of the consumer to select such coverage according to his medical/economic needs].

"Section 2. AVAILABILITY OF COVERAGE FOR ALCOHOL [AND OTHER DRUG] DEPENDENCY. Insurers, nonprofit hospital and medical service plan corporations subject to Chapter 20 of this code, [and] health maintenance organizations providing group health coverage, and all employer, trustee, or other self-funded or self-insured plans or arrangements transacting health insurance or providing other health coverage or services in this state shall provide [offer and make available], under such group insurance policies or [ ] contracts [ ] and such plans or arrangements [plans] providing hospital and medical coverage or services on an expense incurred, service, or prepaid basis, benefits for the necessary care and treatment of alcohol [and other drug] dependency that are not less favorable than for physical illness generally, subject to the same durational limits, dollar limits, deductibles, and coinsurance factors. [Such offer of benefits shall be subject to the right of the group policy or contract holder to reject the coverage or to select any alternative level of benefits if such right is offered by or negotiated with such insurer, service plan corporation, or health maintenance organization.]

"This section does not apply to any employer, trustee, or any other self-funded or self-insured plans or arrangements with 250 or less employees or members, or any individual insurance policies regardless of the method of solicitation or sale, or any individual H.M.O. policies or to any health insurance policies that only provide cash indemnity for hospital or other confinement benefits, or disability income coverage, or any combination thereof.

"Any benefits so provided shall be determined as if necessary care and treatment in an alcohol [or other drug] dependency treatment center were care and treatment in a hospital. For purposes of this article [Act], the term 'alcohol [or other drug] dependency treatment center'

means a facility which provides a program for the treatment of alcohol [or other drug] dependency pursuant to a written treatment plan approved and monitored by a physician and which facility is also:

“(1) affiliated with a hospital under a contractual agreement with an established system for patient referral; [;] or

“(2) accredited as such a facility by the Joint Commission on Accreditation of Hospitals; [;] or

“(3) licensed as an alcohol treatment program by the Texas Commission on *Alcohol and Drug Abuse*; [*Alcoholism*]; or

“(4) [~~certified as a drug dependency treatment program by the Texas Department of Community Affairs in accordance with such standards, if any, as may be adopted pursuant to Subsection (e) of Section 5.12 of the Texas Controlled Substances Act (Article 4476/15, Vernon's Texas Civil Statutes); by the Executive Director of the Texas Department of Community Affairs; or (5)~~] licensed, certified, or approved as an alcohol [or other drug] dependency treatment program or center by any other state agency having legal authority to so license, certify, or approve.”

**SECTION 13.** Subsection (b), Section 6b, Article 42.12, Code of Criminal Procedure, 1965, is amended to read as follows:

“(b) A court granting probation to a defendant convicted of an offense under Article 67011-1, Revised Statutes, and punished under Subsection (d), (e), or (f) of that article shall require as a condition of probation that the defendant submit to:

“(1) 72 hours of detention in a jail if the defendant was convicted under Subsection (d) of Article 67011-1, Revised Statutes, as amended; 10 days of detention in a jail if the defendant was convicted under Subsection (e) of Article 67011-1, Revised Statutes, as amended; or 30 days of detention in a jail if the defendant was convicted under Subsection (f) of Article 67011-1, Revised Statutes, as amended; and

“(2) an evaluation by a probation officer, by a person approved by the probation department, or by a program or facility approved by the Texas Commission on *Alcohol and Drug Abuse* [*Alcoholism*] for the purpose of having the facility prescribe a course of conduct necessary for the rehabilitation of the defendant's drug or alcohol dependence condition.”

**SECTION 14.** Subsection (b), Section 6b, Article 42.13, Code of Criminal Procedure, 1965, is amended to read as follows:

“(b) A court granting probation to a defendant convicted of an offense under Article 67011-1, Revised Statutes, and punished under Subsection (d), (e), or (f) of that article shall require as a condition of probation that the defendant submit to:

“(1) 72 hours of detention in a jail if the defendant was convicted under Subsection (d) of Article 67011-1, Revised Statutes, as amended; 10 days of detention in a jail if the defendant was convicted under Subsection (e) of Article 67011-1, Revised Statutes, as amended; or 30 days of detention in a jail if the defendant was convicted under Subsection (f) of Article 67011-1, Revised Statutes, as amended; and

“(2) an evaluation by a probation officer, by a person approved by the probation department, or by a program or facility approved by the Texas Commission on *Alcohol and Drug Abuse* [*Alcoholism*] for the purpose of having the facility prescribe a course of conduct necessary for the rehabilitation of the defendant's drug or alcohol dependence condition.”

**SECTION 15.** Section 6c, Article 42.13, Code of Criminal Procedure, 1965, is amended to read as follows:

“Section 6c. If a person convicted of an offense under Article 67011-1, Revised Civil Statutes of Texas, 1925, as amended, is punished under Subsection (c) of that article, and is placed on probation, the court shall require, as a condition of the probation, that the defendant attend and successfully complete before the 181st day after the day probation is granted an educational program jointly approved by the Texas Commission on *Alcohol and Drug Abuse* [*Alcoholism*], the Texas Department of Public Safety, the Traffic Safety Section of the State Department of Highways and Public Transportation, and the Texas Adult Probation Commission designed to rehabilitate persons who have driven while intoxicated. The Texas Commission on *Alcohol and Drug Abuse* [*Alcoholism*] shall publish the jointly approved rules and regulations and shall monitor and coordinate the educational programs. Persons who have successfully completed an approved educational program or who are currently under an order to attend an educational program shall not be eligible for attendance upon a subsequent offense. The judge may waive the educational program requirement, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider, but is not limited to: the offender's school and work schedule, the offender's health, the distance which the offender must travel to attend an educational program, and the fact that the offender resides out-of-state, has no valid

driver's license or does not have access to transportation. The judge shall set out the finding of good cause in the judgment. If a person is required, as a condition of probation, to attend an educational program, the court clerk shall immediately report such fact to the Texas Department of Public Safety, on a form prescribed by the department, for inclusion in the person's driving record. The report must include the beginning date of the person's probation. Upon the successful completion of the educational program, the person shall give notice to the probation department. The probation department shall then forward the notice to the court clerk. The court clerk shall then report the date of successful completion of the educational program to the Texas Department of Public Safety for inclusion in the person's driving record. If the department does not receive notice that a person required to complete an educational program has successfully completed the program within the period required by this section, as shown on department records, the department shall suspend the person's driver's license, permit, or privilege, or prohibit the person from obtaining a license or permit, as provided by Subdivision (2), Subsection (g), Section 24, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes)."

**SECTION 16.** Subdivision (6), Section 3, Texas Hospital Equipment Financing Act (Article 4437e-3, Vernon's Texas Civil Statutes), is amended to read as follows:

"(6) 'Health facility' means and includes any health-care facility which is utilized in providing medical care, medical research, or the training or teaching of health-care personnel, any one or all, within this state and, without limiting the generality of the foregoing, shall include a public or private hospital, kidney disease treatment facility, radiation therapy facility, and alcoholism and drug treatment facility, so long as such health-care facility shall be licensed by the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, or the Texas Commission on *Alcohol and Drug Abuse* [~~Alcoholism~~] or any successor or successors to such entities, and health facility shall also include any facility or building related to any health-care facility such as a pharmacy, laboratory, laundry facility, and food service and preparation facility."

**SECTION 17.** Section 1, Chapter 387, Acts of the 65th Legislature, Regular Session, 1977, as amended (Article 4437h, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. The purpose of this Act is to require that state agencies, including the Texas Department of Health, the Texas Department of Human Resources, the Texas Department of Mental Health and Mental Retardation, the Texas Commission on *Alcohol and Drug Abuse* [~~Alcoholism~~], and those agencies with which each contracts, who perform surveys, inspections, and investigations of health care facilities, do not duplicate their procedures or subject such health care facilities to duplicitous rules and regulations."

**SECTION 18.** Subsections (a) and (b), Section 4, Chapter 387, Acts of the 65th Legislature, Regular Session, 1977 (Article 4437h, Vernon's Texas Civil Statutes), are amended to read as follows:

"(a) All hospitals licensed by the Texas Department of Health which have been certified under Title XVIII of the Social Security Act, as added July 30, 1965 (Public Law 89-97), by the Texas Department of Mental Health and Mental Retardation, or by the Texas Commission on *Alcohol and Drug Abuse* [~~Alcoholism~~], which have obtained accreditation from the Joint Commission on Accreditation of Hospitals, the American Osteopathic Association, or another national accreditation body for the offered services, shall not be subject to additional licensing inspections under the Texas Hospital Licensing Law (Article 4437f, Vernon's Texas Civil Statutes) or by the licensing agency so long as such certification or accreditation is maintained. Such hospitals shall only be required to annually remit any applicable fees and submit a copy of the most recent survey results or inspection results report from the accreditation body in order to be issued a license by the appropriate licensing agency.

"(b) The Texas Department of Human Resources, the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, and the Texas Commission on *Alcohol and Drug Abuse* [~~Alcoholism~~] shall establish procedures to eliminate or reduce duplication of functions in certifying or licensing hospitals, nursing homes, or other facilities under their jurisdiction for payments under the requirements of the Medical Assistance Program (Chapter 32, Human Resources Code) and federal laws and regulations relating to Titles XVIII and XIX of the Social Security Act. The procedures established under this section shall provide for use by the affected agencies of information collected by those agencies in making inspections for certification purposes and in investigating complaints regarding matters that would affect the certification of a nursing home or other facilities under their jurisdiction."

**SECTION 19.** Subsection (a), Section 2, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), is amended to read as follows:

“(a) ‘Institution’ means an establishment which furnishes (in single or multiple facilities) food and shelter to four or more persons unrelated to the proprietor, and, in addition, provides minor treatment under the direction and supervision of a physician licensed by the Texas State Board of Medical Examiners, or services which meet some need beyond the basic provision of food, shelter, and laundry. Nothing in this Act shall apply to:

“(1) a hotel or other similar place that furnishes only food and lodging, or either, to its guests;

“(2) a hospital;

“(3) an establishment conducted by or for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend exclusively upon prayer or spiritual means for healing, without the use of any drug or material remedy, provided safety, sanitary, and quarantine laws and regulations are complied with;

“(4) an establishment that furnishes only baths and massages in addition to food, shelter and laundry;

“(5) an institution operated by persons licensed by the Texas State Board of Chiropractic Examiners; or

“(6) a facility operated within the jurisdiction of a state or federal governmental agency, including but not limited to the Texas Rehabilitation Commission, the Texas Department of Mental Health and Mental Retardation, the Texas Department of Human Resources, the State Commission for the Blind, the Texas Commission on Alcohol and Drug Abuse [~~Alcoholism~~], the Texas Department of Corrections, and the Veterans’ Administration, where the facility is primarily engaged in training, habilitation, rehabilitation, or education of clients or residents, and such facility has been certified through inspection or evaluation as having met standards established by the state or a federal governmental agency.

“‘Institution’ also means any place or establishment in or at which any person receives, treats or cares for, overnight or longer, within a period of twelve months, four or more pregnant women or women who have within two weeks prior to such treatment or care had a child born to them; provided, however, that this definition shall not include women who receive maternity care in the home of a relative within the third degree of consanguinity or affinity, nor shall it include general or special hospitals licensed in pursuance of or as those terms are defined in the Texas Hospital Licensing Law. Nothing in this Act shall be construed to prohibit an institution, as defined in this subdivision, from simultaneously caring for pregnant women and other women under 50 years of age.

“‘Institution’ also means a foster care type residential facility providing room and board to fewer than four persons unrelated within the second degree of consanguinity or affinity to the proprietor and who, in addition to room and board, because of his physical or mental limitation or both, requires a level of care and services suitable to the needs of the individual which contribute to his health, comfort, and welfare; provided, however, that such institution shall be subject to licensure only upon written application for participation in the intermediate care program provided by Federal law as it now reads or may hereafter be amended.”

**SECTION 20.** Sections 5.11 and 5.12, Texas Controlled Substances Act (Article 4476-15, Vernon’s Texas Civil Statutes), are amended to read as follows:

“Section 5.11. DESIGNATION FOR FEDERAL FUNDS. The Texas Commission on Alcohol and Drug Abuse [~~Department of Community Affairs~~ or its designee as provided in this Act] is hereby designated as the single state agency to administer, apply for, and disperse funds under Public Law 92-255, the Drug Abuse Office and Treatment Act of 1972 and is given all powers necessary to receive these funds.

“Section 5.12. EDUCATION AND RESEARCH. (a) The Texas Commission on Alcohol and Drug Abuse [~~Department of Community Affairs~~], in cooperation with other appropriate state agencies, shall carry out educational programs designed to prevent or deter misuse and abuse of controlled substances. In connection with these programs it may:

“(1) promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

“(2) assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

“(3) consult with interested groups and organizations to aid them in solving administrative and organizational problems;

“(4) evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

“(5) disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them; and

“(6) assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

“(b) The *Texas Commission on Alcohol and Drug Abuse* [~~executive director of the Texas Department of Community Affairs~~] shall encourage research on misuse and abuse of controlled substances. In connection with research, and in furtherance of the enforcement of this Act, *the executive director of the commission* [~~he~~] may:

“(1) establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

“(2) make studies and undertake programs of research to:

“(A) develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this Act;

“(B) determine patterns of misuse and abuse of controlled substances and the social effects thereof; and

“(C) improve methods for preventing, predicting, understanding, and dealing with the misuse and abuse of controlled substances; and

“(3) enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

“(c) The *Texas Commission on Alcohol and Drug Abuse* [~~executive director of the Texas Department of Community Affairs~~] may establish accreditation standards for drug abuse treatment programs and treatment personnel consistent with those required by federal law and regulation and certify those drug abuse treatment programs and treatment personnel meeting accreditation standards. The *commission* [~~Department of Community Affairs~~] may charge reasonable fees for initial certifications and renewal certifications in such amounts as are necessary to cover the costs of the accreditation program. All certification fees collected by the *commission* [~~Texas Department of Community Affairs~~] under the provisions of this Act shall be placed in a special fund in the State Treasury to be known as the Drug Dependency Treatment Program Certification Fund. The fund may be appropriated only to the *commission* [~~Texas Department of Community Affairs~~] for the purpose of administering *and enforcing this Act* [~~the drug dependency treatment certification program~~].”

**SECTION 21.** Subdivision (1), Section 101, R. B. McAllister Drug Treatment Program Act (Article 4476-15a, Vernon’s Texas Civil Statutes), is amended to read as follows:

“(1) ‘Executive director’ means the executive director or his designee of the *Texas Commission on Alcohol and Drug Abuse* [~~Department of Community Affairs~~].”

**SECTION 22.** Subsections (a) and (d), Section 201, R. B. McAllister Drug Treatment Program Act (Article 4476-15a, Vernon’s Texas Civil Statutes), are amended to read as follows:

“(a) The executive director shall establish and supervise a drug dependence treatment program. Within funds appropriated to the *Texas Commission on Alcohol and Drug Abuse* [~~Department of Community Affairs~~], the executive director shall provide integrated health, education, information, and welfare services through appropriate public and private facilities to persons who seek the services voluntarily or who are referred from public or private agencies.”

“(d) The executive director shall utilize and coordinate public and private treatment facilities and resources, wherever practicable, utilizing community mental health centers and *nonprofit organizations* [~~general hospitals~~].”

**SECTION 23.** Section 202, R. B. McAllister Drug Treatment Program Act (Article 4476-15a, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 202. **POWERS AND DUTIES OF EXECUTIVE DIRECTOR.** The director shall:

“(1) prescribe by rule those controlled substances that pose a substantial risk of severe psychic or physical dependence and the types of drug dependence for which treatment is feasible and available under this Act;

“(2) require programs receiving funds under this Act to meet [~~established~~] standards *established by the commission*;

“(3) prepare, publish, and distribute throughout the state as often as necessary a list of all public and private treatment facilities the director finds to conform to the established standards and periodically notify the courts of the treatment facilities within their respective jurisdictions and of the types of services offered at each facility;

“(4) evaluate, on a continuing basis, the services provided by treatment facilities funded through this Act to assure that the services are effective, humanely operated, and properly staffed and meet the standards established under this Act, and make the evaluations a matter of public record;

“(5) use funds appropriated through this Act to carry out the mandate of this Act, the Texas Controlled Substances Act, and Public Law 92-255, the Drug Abuse Office and Treatment Act of 1972; and

“(6) use funds to provide matching funds for local programs and to increase the overall state allotment of federal funds.”

**SECTION 24.** Section 203, R. B. McAllister Drug Treatment Program Act (Article 4476-15a, Vernon's Texas Civil Statutes), is amended to read as follows:

“Section 203. **INFORMATION AND PREVENTION SERVICES.** The executive director shall develop prevention services that include:

“(1) information to promote awareness within the general public about controlled substances and inhalants and treatment services for drug dependence;

“(2) education designed to promote a deeper understanding of drug use and abuse and its concomitant problems and to promote the support, participation, and cooperation of selected groups in drug abuse prevention education;

“(3) intervention services to persons who do not require drug dependence treatment but who are risking drug dependence and are not being adequately served by the standard social service institutions; and

“(4) alternatives to drug abuse through the development of public activities that promote positive growth and fulfillment.”

**SECTION 25.** Section 402, R. B. McAllister Drug Treatment Program Act (Article 4476-15a, Vernon's Texas Civil Statutes), is amended to read as follows:

“Section 402. **STATE INTERAGENCY COOPERATION.** The executive director is authorized, within funds appropriated to the Texas Commission on Alcohol and Drug Abuse [~~Department of Community Affairs~~], to facilitate referral of [accept] persons [referred] from the criminal justice system under the terms of bail, probation, conditional discharge, parole, or other conditional release which is not inconsistent with medical or clinical judgment or in conflict with this Act or applicable federal rules, regulations, or standards.”

**SECTION 26.** (a) A task force to study necessary changes in certification, licensure, and commitment procedures for substance abusers, including alcoholics, drug dependent persons, and polydrug abusers, is established. The task force is composed of 18 persons. The chair shall be elected by the membership and shall be a public member. The task force consists of:

(1) three members appointed by the speaker of the house, including two members of the house of representatives and one citizen member;

(2) three members appointed by the lieutenant governor, including two members of the senate and one citizen member;

(3) the commissioner of the Texas Department of Mental Health and Mental Retardation or the commissioner's designee;

(4) three judges with the authority to commit alcoholics and drug dependent persons and who represent both rural and metropolitan areas, appointed by the governor;

(5) three providers of alcoholism services nominated by the Texas Commission on Alcohol and Drug Abuse, appointed by the governor;

(6) three providers of drug dependence services, nominated by the Texas Commission on Alcohol and Drug Abuse, appointed by the governor;

(7) one representative of law enforcement agencies, appointed by the governor; and

(8) one licensed physician who is knowledgeable about the treatment of alcoholism and drug dependence, appointed by the governor.

(b) The Texas Commission on Alcohol and Drug Abuse shall supply the necessary staff for the task force.

(c) The task force shall report to the 70th Legislature and recommend changes in certification, licensure, and commitment procedures for all substance abusers.

(d) This section expires August 31, 1987.

**SECTION 27.** (a) A member of the Texas Commission on Alcoholism who is serving a term as member on August 31, 1985, is entitled to continue to hold the office for the term for which the member was appointed unless removed under other law.

(b) A member of the commission who is serving a term as a member on August 31, 1985, is not required to have the membership qualifications required by Section 1.04 of this Act. The member is not subject to removal for the failure to have the qualifications.

(c) On the effective date of this Act, the governor shall appoint one commissioner for a term expiring August 1, 1987, one commissioner for a term expiring August 1, 1989, and one commissioner for a term expiring August 1, 1991.



(d) All equipment, property, files, records, and funds of the Drug Abuse Prevention Division, Texas Department of Community Affairs, shall be transferred to the Texas Commission on Alcohol and Drug Abuse.

**SECTION 28.** Chapter 411, Acts of the 53rd Legislature, Regular Session, 1953 (Article 5561c, Vernon's Texas Civil Statutes), is repealed.

**SECTION 29.** Subsection (c), Section 6, Texas Housing Agency Act (Article 1269I-6, Vernon's Texas Civil Statutes), is amended to read as follows:

*"(c) The governor shall designate a chairman of the board from among the directors. A director holds the position of chairman at the pleasure of the governor. The chairman [executive director of the Texas Department of Community Affairs; shall, as part of his or her regular duties of office, serve, ex officio, as the chairman of the board; who] shall preside at meetings of the board and perform such other duties as are prescribed by the board and this Act [; except that he or she shall not have a vote]."*

**SECTION 30.** It is the intent of the legislature that the Texas Commission on Alcoholism and the Texas Department of Community Affairs drug abuse prevention division ensure and provide for an orderly and smooth transition to the Texas Commission on Alcohol and Drug Abuse in a manner which is least disruptive to the equitable administration and funding of alcohol and drug abuse programs and contracts and that, to the extent possible, the Texas Commission on Alcohol and Drug Abuse be staffed by the personnel of the Texas Commission on Alcoholism and the Texas Department of Community Affairs drug abuse prevention division.

**SECTION 31.** (a) Except as prescribed by Subsections (b), (c), and (d) of this section, this Act takes effect September 1, 1985.

(b) Sections 2 through 10 of this Act take effect January 1, 1986.

(c) Section 12 of this Act takes effect January 1, 1986, and applies only to group insurance policies, contracts, and plans and to coverage provided by health maintenance organizations sold or delivered or issued for delivery or renewed, extended, or amended in this state on or after January 1, 1986, or subject to collective bargaining agreements applicable to particular policyholders, whichever is later in time. Group insurance policies, contracts, and plans and coverage provided by health maintenance organizations sold or delivered or issued for delivery or renewed, extended, or amended in this state before January 1, 1986, or subject to collective bargaining agreements applicable to particular policyholders entered into before January 1, 1986, are subject to the law as it existed before the effective date of this Act until such time as those policies, contracts, coverages, and agreements are renewed, extended, amended, canceled, expired, or renegotiated, and that law is continued in effect for that purpose. A suit filed under Article 3.51-9, Insurance Code, before the effective date of this Act is governed by the law in effect at the time the suit was filed.

(d) Notwithstanding any other provision of this Act, the transferral to the commission of the powers, duties, funds, and drug abuse programs from the Texas Department of Community Affairs shall take effect January 1, 1986.

**SECTION 32.** The Texas Commission on Alcohol and Drug Abuse shall adopt the policy statements required by Section 1.10, Texas Alcohol and Drug Abuse Services Act not later than November 1, 1985.

**SECTION 33.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 27, 1985, by a viva-voce vote; Senate concurred in House amendments on May 26, 1985, by the following vote: Yeas 15, Nays 13; passed the House, with amendments, on May 25, 1985, by the following vote: Yeas 78, Nays 67, one present not voting.

Approved: June 14, 1985

Effective: September 1, 1985, except for Sections 2-10, 12, which are effective January 1, 1986.