

## LEGISLATIVE BILL 204

Approved by the Governor May 27, 1977

Introduced by Merz, 1

AN ACT relating to alcoholism; to provide for alcoholism facilities, programs, and services as prescribed; to amend section 83-1009, Revised Statutes Supplement, 1976; to define and redefine terms; to provide severability; to provide an operative date; to repeal the original section; and to declare an emergency. Be it enacted by the people of the State of Nebraska,

Section 1. For purposes of this act, unless the context otherwise requires, the definitions found in sections 2 to 5 of this act shall be used.

Sec. 2. Department shall mean the Department of Public Institutions.

Sec. 3. Director shall mean the Director of the Division on Alcoholism of the Department of Public Institutions.

Sec. 4. Division shall mean the Division on Alcoholism of the Department of Public Institutions.

Sec. 5. Committee shall mean the State Alcoholism Advisory Committee.

Sec. 6. The director shall be responsible for (1) the development of a comprehensive and integrated statewide plan for alcoholism services, (2) establishing minimum standards for the operation of any facility or program providing services funded in whole or in part under the provisions of this act, except that a private facility accredited as an alcoholism program by the Joint Commission on Accreditation of Hospitals shall be deemed to be in compliance with such standards, (3) providing such assistance as may be necessary to place a person suffering from alcoholism in an appropriate facility or program, (4) encouraging research by public and private agencies, institutions of higher learning, and hospitals in the interest of the elimination and amelioration of alcoholism and of the care and treatment of alcoholic persons, (5) requiring budgets to be submitted by each board established pursuant to section 71-5004, which budgets shall detail expected expenditures and projected levels of services and revenue, (6) evaluating submitted budgets to determine the state's share of funding requirements and the services to be rendered, and (7)

promulgating such rules and regulations as are necessary to carry out the provisions of this act. In adopting such rules and regulations, the director shall be governed by the provisions of Chapter 84, article 9. Any standards, rules, and regulations shall be adopted only after consultation with the committee provided for in this act.

Sec. 7. The director may enter into agreements with other departments or agencies of the State of Nebraska that provide alcoholism facilities, programs, or services. Contracts may be made with those organizations designated by the regional boards established pursuant to section 71-5004 to assist in the administration or supervision of all alcoholism programs and services provided for by the provisions of this act within the region. The director shall provide necessary limitations on payment for inpatient services. Programs or services may be provided if community-based programs are not available and the director determines that such programs or services cannot reasonably be provided locally where such services are necessary.

Sec. 8. The director shall take whatever actions as are lawfully required to assure the coordination of the facilities, programs, and services of the various agencies of the State of Nebraska and those in the regions and communities, whether they be public or private, which are supported in whole or in part by state funds provided by the provisions of this act.

Sec. 9. The State Alcoholism Advisory Committee is hereby created. The committee shall review and provide recommendations to the director on any statewide plan, minimum standards, and equitable provision of alcoholism services, including program priorities, research, fee schedules, general fiscal analysis, and other matters as necessary to insure implementation of the provisions of this act.

Sec. 10. The committee shall consist of one member of each regional governing board to be appointed by each board from the membership of the board, and one member of each regional alcoholism advisory council to be appointed by each council from the membership of the council.

Sec. 11. The committee shall elect a chairperson from its members. The committee shall meet not less than once every three months. The members of the committee shall be reimbursed for actual and necessary expenses incurred in carrying out their duties.



Sec. 12. The six regional governing boards established pursuant to section 71-5004 shall provide community alcoholism facilities, programs, and services. The boards shall provide funds for such community-based projects. Federal funding, private sources, third-party payments, and fees collected may be used as sources of necessary funds. The state shall provide seventy-five per cent of the funds required to provide services in each region, exclusive of any funds from federal programs. Regional governing boards shall provide twenty-five per cent of the funds required to provide services in each region, exclusive of any funds from federal programs, of which local, county, and other tax-generated sources shall account for at least ten per cent of the funds. The remaining fifteen per cent of the funds may be accounted for from private sources, third-party payments, and fees collected for services rendered within the region. The regional governing boards shall account for all sources and expenditure of funds for any agency receiving any state funds under the provisions of this act.

Sec. 13. No money appropriated pursuant to this act shall be used by any alcoholism services agency receiving state funds to offset or otherwise replace funds expended from local tax sources during the fiscal year ending June 30, 1977.

Sec. 14. Allocation of state matching funds shall be limited to employment of staff personnel, technical assistance, operation of programs, leasing, renting, maintenance of facilities, and for the initiation and continuation of programs and services. State matching funds or other federal funding sources shall not be considered a part of local or state matching.

Sec. 15. It shall be the responsibility of the department to require annual audits and reports as it deems necessary to supervise and monitor the provisions of this act. It shall be the further responsibility of the department to provide accountability for all sources of funds and all expenditure of funds for all agencies receiving any funds under the provisions of this act.

Sec. 16. Each treatment facility approved as meeting the standards set forth by the division and receiving funds pursuant to this act shall file with the division, on request, such data, statistics, schedules, and information as the division reasonably requires. An approved treatment facility that without good cause fails to furnish any data, statistics, schedules, or information as requested or files fraudulent returns of

such information, shall be removed from the list of approved treatment facilities.

Sec. 17. (1) The regional governing boards, created pursuant to section 71-5004, shall appoint a program comptroller within ninety days of the operative date of this act. The comptroller shall be responsible directly to the governing board for the fiscal management of mental health, drug abuse, and alcoholism programs, services, and facilities.

(2) The comptroller shall develop a fiscal management system consistent with rules and regulations promulgated by the Director of Public Institutions.

(3) The governing board may permit the employment of staff by the comptroller as deemed necessary by the governing board.

(4) The comptroller appointed shall meet such minimum qualifications as shall be established by the department.

Sec. 18. Mental health, drug abuse, and alcoholism programs, services, and facilities funded in whole or in part by the governing board shall submit their budget requests to the comptroller. The comptroller shall review such requests and attach his recommendations thereto and submit them to the governing board. Each private provider of services shall submit to the governing board a detail audit for all money received under the provisions of this act, except that in the case of services provided by a hospital licensed under the provisions of section 71-2020 a copy of the hospital's most recently submitted annual Medicare Cost Report may be provided to the governing board in lieu of the submission of a detail audit.

Sec. 19. (1) Upon notification from the department of its final budget as set by the Legislature, each governing board shall prepare a plan of expenditures for the fiscal year for which such budget was set. Such plans of expenditures shall be submitted to the department on forms prescribed by the department not later than July 1 of the fiscal year for which such budget was set.

(2) The department shall review such plans of expenditures to determine whether such plans conform with statewide plans and the minimum standards, rules, and regulations adopted pursuant to the provisions of sections 71-5001 to 71-5014 and pursuant to the provisions of this act. Upon examination, the Director



of Public Institutions shall approve such plans of expenditures or shall require such changes or additional information from any governing board as may be necessary to permit such approval. No state matching funds shall be allocated to a mental health region prior to the approval of a plan of expenditure.

Sec. 20. The division, after holding a hearing, may suspend, revoke, limit, or restrict an approval or refuse to grant an approval for failure to meet its standards.

Sec. 21. The district court may review any violation of sections 6 to 20 of this act, review any denial, restriction, or revocation of approval, and grant other relief required to enforce its provisions.

Sec. 22. Upon petition of the director and after a hearing held upon reasonable notice to the facility, the district court may issue a warrant to an officer or employee of the division authorizing such officer or employee to enter and inspect at reasonable times, and examine the books and accounts of, any approved public or private treatment facility refusing to consent to inspection or examination by the division or which the division has reasonable cause to believe is operating in violation of this act.

Sec. 23. Persons receiving alcoholism services under this act shall be charged fees in accordance with the fee schedule developed by the department pursuant to section 71-5014. The committee shall be consulted on those provisions of the fee schedule addressing alcoholism services. No services provided for under this act will be denied Nebraska residents because of inability to pay scheduled fees.

Sec. 24. Nothing in this act shall be deemed to prevent or prohibit the director from carrying out the duties required by sections 83-159 to 83-169. Nothing in this act shall be deemed to have modified or repealed any portion of the Nebraska Comprehensive Mental Health Services Act.

Sec. 25. Private facilities and institutions will not be considered to be funded in whole or in part under the provisions of this act, nor to be supported in whole or in part by state funds provided under the provisions of this act, solely by the act of providing emergency services to alcoholic persons and receiving reimbursement for such emergency services by public funds, including funds provided by the state, the department, agencies or departments of the state, or the

boards established pursuant to section 71-5004.

Sec. 26. That section 83-1009, Revised Statutes Supplement, 1976, be amended to read as follows:

83-1009. Mentally ill dangerous person shall mean any mentally ill person or alcoholic person who presents:

(1) A substantial risk of serious harm to another person or persons within the near future, as manifested by evidence of recent violent acts or threats of violence or by placing others in reasonable fear of such harm; or

(2) A substantial risk of serious harm to himself within the near future, as manifested by evidence of recent attempts at, or threats of, suicide or serious bodily harm, or evidence of inability to provide for his basic human needs, including food, clothing, shelter, essential medical care, or personal safety.

Sec. 27. For purposes of section 26 of this act, alcoholic person shall mean a person addicted to the use of alcohol.

Sec. 28. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 29. This act shall become operative on the first day of the month following the effective date of this act.

Sec. 30. That original section 83-1009, Revised Statutes Supplement, 1976, is repealed.

Sec. 31. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.