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November 8, 2013

To: Joint Committee on Corrections and Juvenile Justice Oversight
From: Lauren Douglass, Principal Analyst
Re: Legislative History of Statutory Exclusion for "State Institutions" from Substance Abuse Treatment Licensing Requirements

The Alcohol or Other Drug Addiction Treatment Act, KSA 65-4001 *et seq.*, requires treatment facilities to be licensed. For the purposes of that Act, the definition of "treatment facility" is the the same as that used in the Care and Treatment Act for Persons with an Alcohol and Substance Abuse Problem (Care and Treatment Act), KSA 59-29b45 *et seq.* KSA 59-29b45(m)(1) defines "treatment facility" as:

a treatment program, public or private treatment facility, or any facility of the United States government available to treat a person for an alcohol or other substance abuse problem, *but such term shall not include* a licensed medical care facility, a licensed adult care home, a facility licensed under KSA 75-3307b, and amendments thereto, a community-based alcohol and drug safety action program certified under KSA 8-1008, and amendments thereto, and performing only those functions for which the program is certified to perform under KSA 8-1008, and amendments thereto, or a professional licensed by the behavioral sciences regulatory board to diagnose and treat mental disorders at the independent level or a physician, who may treat in the usual course of the behavioral sciences regulatory board licensee's or physician's professional practice individuals incapacitated by alcohol or other substances, but who are not primarily engaged in the usual course of the individual's professional practice in treating such individuals, or *any state institution, even if detoxification services may have been obtained at such institution.* [emphasis added]

Consequently, "state institutions" are not required to be licensed as treatment facilities. This exclusion originated in 1996 HB 3048, which provided that after October 1, 1996, no person would be admitted to a state hospital for drug or alcohol treatment, although Larned State Hospital and Osawatomie State Hospital were allowed to admit individuals for detoxification purposes. The bill stated that, with the exception of Department of Corrections inmates, substance abuse treatment would be conducted by public and private treatment facilities enlisted by the Secretary of Social and Rehabilitation Services.

In this context, the bill amended the definition of "treatment facility" in the Alcoholism and Intoxication Treatment Act, KSA 65-4001 *et seq.*, and the Treatment Act for Drug Abusers, KSA 65-5201 *et seq.*, to exclude "a state institution, even if detoxification services may have been

**Joint Committee on Corrections &
Juvenile Justice Oversight
November 8, 2013
Attachment # 10**

obtained at such institution." The bill also amended the definition of "state institution," which had been "any institution within the department of social and rehabilitation services which offers [drug abuse and drug and alcoholism] treatment programs. In the Alcoholism and Intoxication Treatment Act, it was amended to mean "Larned state hospital and Osawatomie state hospital to the extent that either facility offers alcoholism treatment detoxification programs." In the Treatment Act for Drug Abusers, the definition was amended to read simply "any institution within the department of social and rehabilitation services."

In 1998, the Care and Treatment Act was enacted with the passage of SB 536 and, according to testimony of the Kansas Judicial Council, was modeled upon and designed to compliment the Care and Treatment Act for Mentally Ill Persons, KSA 59-2945 *et seq*, to make it easier to use alone or in combination with the Mental Illness Code. Additionally, 1998 SB 536 combined the Alcoholism and Intoxication Treatment Act and the Treatment Act for Drug Abusers. In so doing, the exclusion of "state institutions" from the definition of "treatment facility" was carried over and subsequently codified at KSA 59-29b45(m), where it is still located. Neither definition of "state institution" was included in 1998 SB 536.

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