

AN ACT concerning crimes, punishment and criminal procedure; relating to diversion agreements; creating a certified drug abuse treatment program for people on diversion; supervision by court services or community corrections; amending K.S.A. 22-2907, 75-5291 and 75-52,144 and K.S.A. 2019 Supp. 22-2909 and repealing the existing sections.

Nick Reinecker

HB2708 House Corrections and Juvenile Justice

Chair: Rep. Jennings

Opponent February 20, 2020



Diagnostic and Statistical Manual fifth edition: SUD Issues

- ▶ DSM-IV
 - ▶ Based on idea that there is a DIFFERENCE IN KIND between substance abuse and dependence/addiction
- ▶ DSM-V inconsistent
 - ▶ Based upon idea that there is only A DIFFERENCE IN DEGREE between abuse and addiction based on number of symptoms.
- ▶ THIS CRITICAL DIFFERENCE IS ALSO A BREAK IN THE DEVELOPMENT OF THE FUNDAMENTAL CONCEPT OF ADDICTION BEGINNING WITH DSM-III
- ▶ Wednesday January 13 2016
 - ▶ DSM-V Informational Hearing
 - ▶ Senate Public Health and Welfare
 - ▶ Dr. Allen Frances
 - ▶ Chair DSM IV development


11 Criteria for SUD/Severity/Remission

Example Caffeine

- Larger amounts
- Desire to stop
- Time
- **Cravings-added to DSM-V**
- Life management
- Relationships
- Activities
- Danger
- Worsening conditions
- Tolerance
- Withdrawal

Craving + One= Mild SUD
Clinical Discretion

- Severity
 - Mild: Two or three
 - Moderate: Four or five
 - Severe: Six or more
- Remission
 - Early
 - Sustained
 - On maintenance therapy
 - Controlled environment
- Other referral source with billable codes:
ICD-10



Senate Public Health and Welfare: DSM-5 Informational Hearing, January 2016

- ▶ “Law Enforcement officers are becoming armed social workers involved in a paradoxical environment of under-treatment and overtreatment of those individuals that are contacted in situations involving less harmful illegal substances and more harmful legal substances and that one could not develop a more irrational approach to mental health than what we have in the United States.”. Dr. Allen Frances
- ▶ Henderson VS US
- ▶ Personal editorial statement- where insurance companies push for diagnosis in a seven minute interface (tele-health or not) all in the name of reimbursement. Where children now have no room for immaturity or cure but rather are subject to invasive marketing, questionable screening practices and free samples fortified by a gluttonous billion dollar antipsychotic and stimulant pharmaceutical industry feeding the largest mental health centers, jails and prisons

Diagnostic Inflation

- ▶ Dr. Allen Frances, *Saving Normal*
- ▶ "it will medicalize normality and result in a glut of unnecessary and harmful drug prescription."^[97] In a December 2, 2012 blog post in *Psychology Today*, Frances provides his "... list of DSM 5's ten most potentially harmful changes":^[98]
- ▶ Disruptive Mood Dysregulation Disorder, for temper tantrums
- ▶ Major Depressive Disorder, includes normal grief
- ▶ Adult Attention Deficit Disorder, encouraging psychiatric prescriptions of stimulants
- ▶ Binge Eating Disorder, for excessive eating
- ▶ Autism, defining the disorder more specifically, possibly leading to decreased rates of diagnosis and the disruption of school services
- ▶ First time drug users will be lumped in with addicts
- ▶ Behavioral Addictions, making a "... mental disorder of everything we like to do a lot."^[98]
- ▶ Generalized Anxiety Disorder, includes everyday worries
- ▶ Post-traumatic stress disorder, changes "... opened the gate even further to the already existing problem of misdiagnosis of PTSD in forensic settings."^[98]
- ▶ **A note on the second amendment**
 - ▶ **Unlawful user and** those addicted to substances listed in the controlled substances act notwithstanding a Dr. order are prohibited
 - ▶ Mental Defect
 - ▶ SPMI
 - ▶ Multiple diagnosis/c-occurring

Thank you Mr. Chairman and committee members for allowing me to submit written testimony regarding this act concerning the Kansas criminal justice coordinating council; relating to the substance abuse policy board; membership and duties; amending K.S.A. 74-9501 and repealing the existing section.

On page 1, line 30

(2) Define and analyze issues and processes in the criminal justice system, identify alternative solutions and make recommendations for improvements.

I have attached a powerpoint concerning Behavioral health and the Controlled Substances Act for the purpose of identifying alternative solutions and recommendations for improvement;

On page 2, line 26

(8) (A) Establish the.....therapeutic courts. Amended from;

(8) (A) Establish the substance abuse policy board to consult and advise the council concerning issues and policies pertaining to the treatment, sentencing, rehabilitation and supervision of substance abuse offenders. The board shall specifically analyze and study driving under the influence and the use of drug courts by other states.

Adding , "treatment for substance abuse while in custody" "and other therapeutic courts", would provide a mechanism for study and analysis into practices that would allow unlicensed Doctors and 'by the book-rule of law' taught grunts going for cumulative diagnosis criteria to be able to treat with synthetic, sometimes black-boxed atypical drugs by use of force and through virtual telehealth means with the excuse being public safety. Inalienable rights are no longer a priority if these practices are put into place regarding certain naturally occurring substances. Being hard on crime is not quick dips and sanctions, technical violations or Moral Reconation Therapy. It is a standard of care that starts with the family and no amount of government intervention before during or after conception will ever preserve liberty in our Republic. Having said that, if individuals do not wish to make safe families, then the government, to preserve peace, must intervene and incapacitate nefarious actors for a known and followed time.

Thank You
Nick Reinecker

Table 2.1 Comparison of DSM-IV, DSM-5, and NDDH Substance Use Disorder Assessment

Characteristic	DSM-IV	DSM-5	NDDH
Disorder Class	Substance-related disorders, included only SUDs	Substance-related and addictive disorders class now includes SUDs and gambling disorder (formerly pathological gambling)	Same as DSM-IV
Disorder Types¹	Abuse and dependence hierarchical diagnostic rules meant that people ever meeting criteria for dependence did not receive a diagnosis of abuse for the same class of substance	SUD, substance abuse and dependence have been eliminated in favor of a single diagnosis, SUD	Same as DSM-IV
Substances Assessed	11 classes of substances assessed, plus 2 additional categories <ul style="list-style-type: none"> • Alcohol • Amphetamine and similar sympathomimetics • Caffeine (intoxication only) • Cannabis (no withdrawal syndrome) • Cocaine 	10 classes of substances assessed, plus 2 additional categories <ul style="list-style-type: none"> • Alcohol • Stimulant use disorder, which includes amphetamines, cocaine, and other stimulants • Caffeine (intoxication and withdrawal) • Cannabis (with withdrawal syndrome) • Combined with other stimulants (e.g., amphetamines) under stimulant use disorder 	Modules for 13 substances, plus 2 additional categories <ul style="list-style-type: none"> • Alcohol • Stimulants • Not assessed • Cannabis (no withdrawal syndrome) • Cocaine • Crack • Hallucinogens
	<ul style="list-style-type: none"> • Hallucinogens • Phencyclidine and similar arylcyclohexylamines • Inhalants (no withdrawal syndrome) • Nicotine (dependence only) • Opioids 	<ul style="list-style-type: none"> • Inhalants (no withdrawal syndrome) • Tobacco • Opioids 	<ul style="list-style-type: none"> • Inhalants • Cigarette dependence (measured by two non-DSM-based scales), other tobacco products (use only) • Heroin • Pain reliever
	<ul style="list-style-type: none"> • Sedatives, hypnotics, and anxiolytics 	<ul style="list-style-type: none"> • Merged with hallucinogens • Sedatives, hypnotics, and anxiolytics 	<ul style="list-style-type: none"> • Sedatives • Tranquilizers
	<ul style="list-style-type: none"> • Other drug abuse/dependence • Polysubstance dependence 	<ul style="list-style-type: none"> • Any other SUD • Dropped polysubstance use disorder 	<ul style="list-style-type: none"> • Other drugs (use only) • Polysubstance dependence

(continued)

Reference

- The DSM in Litigation and Legislation
 - Ralph Slovenko
 - Journal of American Academy of Psychiatry and the Law online Feb 2011
 - Impact of the DSM-IV to DSM-V Changes on the National Survey on Drug use and Health
 - SAMHSA
 - Center for Behavioral Health Statistics and Quality
 - June 2016
 - Executive Summary
 - Testimony March 13, 2019
 - HB2337
 - Kansas vs Hendricks (1997)
 - Kansas vs Crane (2002)
- In *Commonwealth v. Montanez*,⁴ the defendant offered expert testimony to show that he suffered from dissociative trance disorder (DTD) at the time he stabbed the victim. The Appeals Court of Massachusetts stated that even though DTD is not a specific diagnostic disorder in the DSM, it is a research category in the DSM and has been the subject of peer-reviewed literature. Therefore, the court ruled, the testimony was admissible. The court commented, “That the condition is not codified as a specific diagnostic category in [the DSM] does not mean that it is not a recognized disorder” (Ref. ⁴, p 796).
 - <http://jaapl.org/content/39/1/6>

Thank You