

## 2018 Kansas Statutes

**59-29b46. Definitions.** When used in the care and treatment act for persons with an alcohol or substance abuse problem:

(a) "Discharge" means the final and complete release from treatment, by either the head of a treatment facility acting pursuant to K.S.A. 59-29b50, and amendments thereto, or by an order of a court issued pursuant to K.S.A. 59-29b73, and amendments thereto.

(b) "Head of a treatment facility" means the administrative director of a treatment facility or such person's designee.

(c) "Law enforcement officer" means the same as defined in K.S.A. 22-2202, and amendments thereto.

(d) "Licensed addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed by the behavioral sciences regulatory board. Such person shall engage in the practice of addiction counseling in a state-licensed or certified alcohol and other drug treatment program or while completing a Kansas domestic violence offender assessment for participants in a certified batterer intervention program pursuant to K.S.A. 2018 Supp. 75-7d01 through 75-7d13, and amendments thereto, unless otherwise exempt from licensure under subsection (n).

(e) "Licensed clinical addiction counselor" means a person who engages in the independent practice of addiction counseling and diagnosis and treatment of substance use disorders specified in the edition of the American psychiatric association's diagnostic and statistical manual of mental disorders (DSM) designated by the board by rules and regulations and is licensed by the behavioral sciences regulatory board.

(f) "Licensed master's addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed under this act. Such person may diagnose substance use disorders only under the direction of a licensed clinical addiction counselor, a licensed psychologist, a person licensed to practice medicine and surgery or a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of substance abuse disorders or mental disorders.

(g) "Other facility for care or treatment" means any mental health clinic, medical care facility, nursing home, the detox units at either Osawatomie state hospital or Larned state hospital, any physician or any other institution or individual authorized or licensed by law to give care or treatment to any person.

(h) "Patient" means a person who is a voluntary patient, a proposed patient or an involuntary patient.

(1) "Voluntary patient" means a person who is receiving treatment at a treatment facility pursuant to K.S.A. 59-29b49, and amendments thereto.

(2) "Proposed patient" means a person for whom a petition pursuant to K.S.A. 59-29b52 or 59-29b57, and amendments thereto, has been filed.

(3) "Involuntary patient" means a person who is receiving treatment under order of a court or a person admitted and detained by a treatment facility pursuant to an application filed pursuant to K.S.A. 59-29b54(b) or (c), and amendments thereto.

(i) "Person with an alcohol or substance abuse problem" means a person who: (1) Lacks self-control as to the use of alcoholic beverages or any substance as defined in subsection (m); or

(2) uses alcoholic beverages or any substance to the extent that the person's health may be substantially impaired or endangered without treatment.

(j) (1) "Person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment" means a person with an alcohol or substance abuse problem who also is incapacitated by alcohol or any substance and is likely to cause harm to self or others.

(2) "Incapacitated by alcohol or any substance" means that the person, as the result of the use of alcohol or any substance, has impaired judgment resulting in the person:

(A) Being incapable of realizing and making a rational decision with respect to the need for treatment; or

(B) lacking sufficient understanding or capability to make or communicate responsible decisions concerning either the person's well-being or estate.

(3) "Likely to cause harm to self or others" means that the person, by reason of the person's use of alcohol or any substance: (A) Is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty; or

(B) is substantially unable, except for reason of indigency, to provide for any of the person's basic needs, such as food, clothing, shelter, health or safety, causing a substantial deterioration of the person's ability to function on the person's own.

(k) "Physician" means a person licensed to practice medicine and surgery as provided for in the Kansas healing arts act or a person who is employed by a state psychiatric hospital or by an agency of the United States and who is authorized by law to practice medicine and surgery within that hospital or agency.

(l) "Psychologist" means a licensed psychologist, as defined by K.S.A. 74-5302, and amendments thereto.

(m) "Substance" means: (1) The same as the term "controlled substance" as defined in K.S.A. 2018 Supp. 21-5701, and amendments thereto; or

(2) fluorocarbons, toluene or volatile hydrocarbon solvents.

(n) "Treatment" means the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to persons with an alcohol or substance abuse problem.

(o) (1) "Treatment facility" means 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 does not include a licensed medical care facility, a licensed adult care home, a facility licensed under K.S.A. 2015 Supp. 75-3307b, prior to its repeal or under K.S.A. 2018 Supp. 39-2001 et seq., and amendments thereto, a community-based alcohol and drug safety action program certified under K.S.A. 8-1008, and amendments thereto, and performing only those functions for which the program is certified to perform under K.S.A. 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.

(2) "Private treatment facility" means a private agency providing facilities for the care and treatment or lodging

of persons with either an alcohol or other substance abuse problem and meeting the standards prescribed in either K.S.A. 65-4013 or 65-4603, and amendments thereto, and licensed under either K.S.A. 65-4014 or 65-4607, and amendments thereto.

(3) "Public treatment facility" means a treatment facility owned and operated by any political subdivision of the state of Kansas and licensed under either K.S.A. 65-4014 or 65-4603, and amendments thereto, as an appropriate place for the care and treatment or lodging of persons with an alcohol or other substance abuse problem.

(p) The terms defined in K.S.A. 59-3051, and amendments thereto, shall have the meanings provided by that section.

**History:** L. 1998, ch. 134, § 2; L. 2002, ch. 114, § 67; L. 2007, ch. 95, § 15; L. 2009, ch. 32, § 50; L. 2014, ch. 115, § 218; L. 2016, ch. 92, § 81; L. 2018, ch. 71, § 19; July 1.