

Courts & Rehab: Some local, state officials at odds over how to treat drug offenders

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The 18 men at Anniston Fellowship House lead a regulated life.

They sit through five hours of substance-abuse treatment classes each week.

They take psychological examinations. They must go to weekly Alcoholics or Narcotics Anonymous meetings.

There is much more they must do, because the residential rehabilitation program requires it as part of their treatment. Fifteen of the men are guilty of crimes and ordered there by the court system, said director Hank Waide.

Every year, Calhoun County judges send hundreds of people who plead guilty to drug crimes to in-patient rehabilitation facilities rather than to prison. It's a move, court officials say, necessitated by prison overcrowding and aimed at addressing the root of many of these offenders' problems: addiction.

But judges aren't just sending these defendants to places like Anniston Fellowship House, state-certified programs with highly regulated requirements for treatment. Local judges are also approving the placement of drug offenders in rehab programs that don't follow state or federal guidelines for substance abuse care and have zero oversight from the state Department of Mental Health, the agency in charge of certifying such facilities.

Court and health care officials are mired in debate over the practice: Many have different opinions about the legality and effectiveness of requiring people who commit drug crimes to undergo treatment in unregulated facilities, by way of court order.

Judges say it's necessary for them to do this, because state prisons are too crowded to incarcerate every drug offender. And there are lengthy waiting lists at local state-certified programs.

Others involved with court-ordered substance abuse treatment on the local, state and federal levels — including those same judges — also worry that sending drug offenders to uncertified rehabs gives rise to inconsistent treatment methods, levels of care and the existence of programs more focused on running a business than rehabilitating addicts.

“You see a lot of these different programs pop up, some of them are pretty permanent and have some pretty dedicated people in them,” said Malcolm Street, presiding circuit judge at the Calhoun County Courthouse. “But ... it's sort of a free, unregulated market out there.”

Certification process and the law

Court officials say it's legal for judges to approve attorneys' requests for guilty clients to stay in uncertified rehabs as a stipulation of their probations — even if some, like Street, are leery of the practice. But officials with the Department of Mental Health have a different opinion: They say the law requires that all programs, faith-based or not, undergo certification before providing treatment.

Rehab center operators must meet a number of standards to earn state certification. They must provide a certain amount of living space for each patient. They must have staff who are trained in addiction treatment and licensed by a state board.

Those standards differ depending on what kind of facility it is — whether it's outpatient or a residential rehab, how many people it expects to house and the severity of those people's addiction problems.

Anniston Fellowship House, for example, is certified as an 18-bed residential facility.

To keep that certification, the program must meet the following requirements, to name a few: It must have 80 square feet of open floor space per person. The counseling staff must have at least two years of experience and be licensed by the state Board of Addiction Counselors. Everyone who enters the program has to undergo a psychological evaluation by a person with a master's degree. All of its addiction classes are evidence-based, meaning they are supported by national mental health research.

“The program standards are fairly strict,” director Waide said.

That helps to ensure people receive safe, effective and accurate treatment, according to Robin Bridges, who runs New Directions, the Calhoun-Cleburne Mental Health Board's certified outpatient program.

“There's accountability, because if you're certified, you're going to be reviewed and inspected,” Bridges said.

Mental health officials inspect certified rehabs at least twice per year and also have the authority to show up for an inspection unannounced.

On the other hand, there is no real oversight mechanism to ensure programs that aren't certified are providing those same standards of treatment — other than the already-overburdened court system, officials said.

“We're working on all of these investigations that come through the court ... because we're shorthanded, most of our focus goes for sex offenders and violent offenders first,” said Ed Turner, who oversees all of the probation offices in Calhoun, Cleburne and Etowah counties. “Some of the rehabs are good, some of them do fine, some of them are in it to make money.”

Court officials: Certification not required

Court officials point to a portion of Alabama's law that governs mental health

practices as the exception in state law that allows faith-based rehabs to forgo the standards of care, living space requirements and other regulations the Department of Mental Health imposes on certified agencies.

In other words, they say faith-based programs can run rehabs without certification.

State law section 22-50-17 states no one can operate a substance abuse treatment facility without certification “provided that nothing in this section shall be construed so as to require ... that a church or ministry be certified which provides only religious services.”

It’s an exception that upholds the basic separation between church and state, Circuit Judge Debra Jones said, and allows religious organizations to share the costs of treating drug offenders who want to take a faith-based approach to their recovery.

Circuit judges, like Jones, Street and Brian Howell, are quick to point out that they don’t decide which programs drug offenders attend. They let the defendants and their attorneys make a suggestion for a specific rehab and either approve or deny that suggestion as a court probation order.

But all three judges say they allow drug offenders to go to uncertified residential rehab programs — ones the judges say they keep an eye on themselves. Jones said she gives nearly every drug defendant who pleads guilty in her courtroom a chance at probation, provided they spend a year at a residential rehab facility. Street and Howell describe processes that each work on a more case-by-case basis.

All of the judges know of facilities they’ve had bad experiences with, do not think work and will not send people to — though none of them agreed to mention specific programs by name. Jones said she sends people to uncertified rehabs that she thinks work, because she believes the state should not regulate treatment.

“Many of the faith-based programs are very good, teaches them life skills,” she said. “We’ve been dependent on the state for far too long.”

Street and Howell have a less-enthusiastic view of uncertified programs. They say they send people to programs around Calhoun County that aren’t certified because they have to; there are waiting lists to get into certified places. For example, a person who wants to go to Anniston Fellowship House currently has to wait four to six weeks to get into the program. (What happens to someone during that wait period varies depending on the case circumstances.) So, Street and Howell send defendants to uncertified programs they feel they can trust, after getting to know the directors and learning about their practices. Jones, for her part, also holds meetings with program directors and investigates different methods of uncertified rehabs in Calhoun County.

“I would like to see more standards for rehabs,” Howell said.

Mental health officials: Required but not enforced

Department of Mental Health officials admit it’s hard to enforce the state

requirements for rehabs.

Mental Health Commissioner Zelia Baugh said all programs that provide substance abuse treatment should be certified, regardless of whether a facility is affiliated with a church.

“We are concerned any time our consumers are referred to uncertified programs,” Baugh said in an email when asked to address Calhoun County court practices. “We believe the faith-based community plays a vital role in providing support. However, treatment should be provided by certified providers.”

To support their opinion, Department of Mental Health officials also cite another state law, section 12-23-9, governing drug abuse treatment procedures within the court system.

“The Department of Mental Health and Mental Retardation shall develop policies and procedures which shall be followed in the treatment of offenders,” the law reads. “These programs shall be certified by the Alabama Department of Mental Health and Mental Retardation or the Joint Commission on Accreditation of Health-care Organizations.”

The Department of Mental Health also has the authority to shut down any uncertified rehab in the state, department spokesman Jeff Shackelford said, but that almost never happens.

“Due to the volume of uncertified programs and limited manpower, the process to do so takes a considerable amount of time,” he said. There are more than 400 uncertified rehabs currently open across the southern United States, according to an estimate from the Mental Health Department’s Division of Mental Health and Substance Abuse Services. So far, the department has only closed down one such program — in Winston County seven years ago.

“Generally, the only way our department finds out about an uncertified program is when a concerned private citizen contacts us,” Shackelford said. “When our department discovers there is an uncertified program, we invite them to undergo the certification process.”

Local uncertified, faith-based programs

Center of Hope is one of the largest local examples of an uncertified, faith-based rehab program used by the courts. Executive Director Garry Burns estimated that 141 of the program’s 222 current patients are there under court order. He and Bob McLeod, director of Our Father’s Arms, another faith-based rehab in Jacksonville, both told The Star they were under the impression their programs are exempt from state certification.

Both programs have been around for a while. The Center of Hope began its year-long residential rehab program in 2004, and Our Father’s Arms started its work in 1984.

“It’s different from most of the other places you’ll come in contact with,” Burns said of the Center of Hope. “Everything is Bible-based.”

One of the main differences between the Center of Hope and Our Father's Arms is the treatment process. The Center of Hope provides all of its addiction counseling services through in-house staff — people who typically don't have any licenses in mental health or substance abuse treatment but all of whom successfully have been through the Center of Hope program themselves.

Our Father's Arms also provides in-house counseling for the nine people enrolled, only a couple of whom who are court-ordered there, McLeod said. The Jacksonville faith-based program also provides transportation to and from evidence-based, 12-step treatment programs, like Alcoholics Anonymous, Narcotics Anonymous and Celebrate Recovery.

"We are not a rehab in the traditional sense and not a halfway house," McLeod said. "Although people do get rehab here and find transition here."

The right thing to do?

In spite of the state law, there are also uncertified rehabs in Calhoun County that seemingly have no affiliation with a church or religious organization, operate as for-profit businesses and still receive patients who have been ordered there by the courts.

For example, Oxford-based rehabs Real Life Recovery and Tri-County Outreach are both used by local judges, but they aren't certified and are listed as corporations with the Alabama Secretary of State. The director of Tri-County Outreach didn't want to comment for this story but noted his program was not faith-based. Attempts to reach Real Life Recovery were unsuccessful.

Although Judge Jones didn't want to talk about specific programs, she said the costs of meeting state requirements associated with certification were too burdensome for many local facilities.

"With so many regulations, it would not be really cost-effective to keep one open," she said. In her mind, it's more important to have these various programs around than have them certified. She believes the efforts of local judges, probation officers and attorneys to monitor local rehabs is good enough.

Programs that don't work are naturally weeded out when judges elect to not allow drug offenders to receive treatment there, Jones said.

"It makes no difference to me whether it's a state-approved agency, because I'm familiar with our community," said Jones, who recently visited a local rehab and had the director arrested for testing positive for drugs. "I am fine with these agencies not being licensed."

In a perfect world, Jones and Howell said, all programs would be certified. But currently, the mental health board isn't enforcing it, and these drug offenders need somewhere to go, Howell said. The prisons are too overcrowded; they hold nearly 27,000 inmates but were built for only 13,400. And it's better to have offenders in some sort of rehab program, certified or not, while on probation than receive no treatment at all, court officials say.

"Every day, I am putting a Band-Aid on a bleeding artery, so do I care that this

Band-Aid is sterile and meets the requirements of the health department?" Jones said.

Bridges, the director of New Directions, the certified outpatient service provided by the Calhoun-Cleburne Mental Health Board, has for years watched drug offenders end up in uncertified programs.

"We jump through a lot of hoops to get certification and maintain certification," Bridges said. "The incentive to be certified is remain within the law. I mean, to me, I just think it's the right thing to do."

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