

ENROLLED SENATE
BILL NO. 634

By: Cain of the Senate

and

Balkman of the House

An Act relating to mental health and substance abuse; amending 43A O.S. 2001, Sections 1-109, as last amended by Section 4 of Enrolled House Bill No. 1266 of the 1st Session of the 49th Oklahoma Legislature, 3-101, as amended by Section 10 of Enrolled House Bill No. 1266 of the 1st Session of the 49th Oklahoma Legislature, Section 18, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, Section 3-318), as amended by Section 17 of Enrolled House Bill No. 1266 of the 1st Session of the 49th Oklahoma Legislature, 3-403, as last amended by Section 18 of Enrolled House Bill No. 1266 of the 1st Session of the 49th Oklahoma Legislature, 3-452, as amended by Section 21 of Enrolled House Bill No. 1266 of the 1st Session of the 49th Oklahoma Legislature and 3-453, as amended by Section 22 of Enrolled House Bill No. 1266 of the 1st Session of the 49th Oklahoma Legislature, which relate to the Mental Health Law; modifying contents of certain releases; modifying and clarifying the facilities within Department; modifying certain certification requirements for certain persons; modifying certain term; modifying contents of discharge plans; modifying authority of court; clarifying language; modifying certain rules; removing certain requirements for certain facilities; modifying course requirements; repealing 43A O.S. 2001, Sections 3-415, as amended by Section 8, Chapter 473, O.S.L. 2002 (43A O.S. Supp. 2002, Section 3-415), which is a duplicate section; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 43A O.S. 2001, Section 1-109, as last amended by Section 4 of Enrolled House Bill No. 1266 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 1-109. A. 1. All mental health and drug or alcohol abuse treatment information, whether or not recorded, and all communications between a physician or psychotherapist and a patient

are both privileged and confidential. In addition, the identity of all persons who have received or are receiving mental health or drug or alcohol abuse treatment services shall be considered confidential and privileged.

2. Such information shall only be available to persons ~~or~~ actively engaged in the treatment of the patient or in related administrative work. The information available to persons actively engaged in the treatment of the consumer or in related administrative work shall be limited to the minimum amount of information necessary for the person or agency to carry out its function.

3. Such information shall not be disclosed to anyone not involved in the treatment or related administrative work without a valid written release or an order from a court of competent jurisdiction.

B. 1. The restrictions on disclosure shall not apply to the following:

- a. communications to law enforcement officers that are directly related to a commission of a crime by a patient on the premises of a facility or against facility personnel or to a threat to commit such a crime, and that are limited to the circumstances of the incident, including the patient status of the individual committing or threatening to commit the crime, the name and address of that individual, and the last-known whereabouts of that individual,
- b. reporting under state law of incidents of suspected child abuse and neglect to the appropriate authorities, and
- c. disclosure of patient-identifying information to medical personnel who have a need for information about a patient for the purpose of treating a condition which poses an immediate threat to the health of any individual and which requires immediate medical intervention.

2. Disclosures under this subsection shall be limited to the minimum information necessary to accomplish the intended purpose of the disclosure.

C. A person who is or has been a patient of a physician, psychotherapist, mental health facility, a drug or alcohol abuse treatment facility or service, other agency for the purpose of mental health or drug or alcohol abuse care and treatment shall be entitled to personal access to such person's mental health or drug or alcohol abuse treatment information unless such access is reasonably likely to endanger the life or physical safety of the patient or another person as determined by the person in charge of the care and treatment of the patient.

D. 1. The restrictions on disclosure of mental health or drug or alcohol abuse treatment information shall not restrict the disclosure of patient-identifying information related to the cause of death of a patient under laws requiring the collection of death or other vital statistics or permitting inquiry into the cause of death. Any other disclosure regarding a deceased patient shall require either a court order or a written release of an executor, administrator, or personal representative appointed by the court, or if there is no such appointment, by the spouse of the patient or, if none, by any responsible member of the family of the patient.

2. "Responsible family member" means the parent, adult child, adult sibling, or other adult relative who was actively involved in providing care to or monitoring the care of the deceased patient as verified by the physician, psychologist or other person responsible for the care and treatment of such person.

E. A valid written release for disclosure of mental health or drug or alcohol abuse treatment information shall have, at a minimum, the following elements:

1. The specific name or general designation of the program or person permitted to make the disclosure;

2. The name or title of the individual or the name of the organization to which disclosure is to be made;

3. The name of the patient whose records are to be released;

4. The purpose of the disclosure;

5. A description of the information to be disclosed;

6. The dated signature of the patient ~~and, if a guardian has been appointed for the patient, the guardian of the patient and, when required for a patient who is a minor, the signature of a person authorized to give consent~~ or authorized representative or both when required;

7. A statement of the right of the patient to revoke the release in writing and a description of how the patient may do so;

8. An expiration date, event or condition if not revoked before, which shall ensure the release will last no longer than reasonably necessary to serve the purpose for which it is given; and

9. If the release is signed by a person authorized to act for a patient, a description of the authority of such person to act.

SECTION 2. AMENDATORY 43A O.S. 2001, Section 3-101, as amended by Section 10 of Enrolled House Bill No. 1266 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 3-101. The facilities within the Department of Mental Health and Substance Abuse Services, which shall be maintained for residents of the state, are:

1. Griffin Memorial Hospital, Norman;
2. Oklahoma Forensic Center, Vinita;
3. Oklahoma Youth Center, Norman;
4. Tulsa Center for Behavioral Health;
5. Carl Albert Community Mental Health Center, McAlester;
6. Jim Taliaferro Community Mental Health Center, Lawton;
7. Central Oklahoma Community Mental Health Center, Norman;
8. Bill Willis Community Mental Health and Substance Abuse Services Center, Tahlequah;
9. Northwest Center for Behavioral Health; and
10. Oklahoma County Crisis Intervention Center.

SECTION 3. AMENDATORY Section 18, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2002, Section 3-318), as amended by Section 17 of Enrolled House Bill No. 1266 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 3-318. A. The Board of Mental Health and Substance Abuse Services shall promulgate rules and standards for certification of behavioral health case managers who are employed by the state or by behavioral services providers contracting with the state to provide behavioral health services. Such rules and standards shall address criteria for certification and renewal, including minimum education requirements, examination and supervision requirements, continuing education requirements, and rules of professional conduct.

B. Application for certification as a behavioral health case manager shall be made to the Department of Mental Health and Substance Abuse Services on prescribed forms. The Board, or the Commissioner of Mental Health and Substance Abuse Services upon delegation by the Board, may certify the behavioral health case manager for a period of two (2) years subject to renewal as provided in the rules promulgated by the Board.

C. The Board is authorized to establish an application and renewal fee of no more than One Hundred Dollars (\$100.00) to defray the costs incurred in the certification process.

D. Behavioral health case managers certified by the Board or the Commissioner shall only use the title "certified behavioral health case manager" if employed by the state or by ~~private,~~ ~~nonprofit~~ behavioral services providers contracting with the state to provide behavioral health services. This section shall not be construed to permit the certified behavioral health case manager to practice any of the following professions or use the following titles unless also licensed or accredited by the appropriate

authority: physician, psychologist, clinical social worker, professional counselor, marital and family therapist, behavioral practitioner, or alcohol and drug counselor.

E. Failure to comply with rules and standards promulgated by the Board shall be grounds for revocation, suspension or nonrenewal of certification.

SECTION 4. AMENDATORY 43A O.S. 2001, Section 3-403, as last amended by Section 18 of Enrolled House Bill No. 1266 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 3-403. As used in the Oklahoma Alcohol and Drug Abuse Services Act:

1. "Approved treatment facility" means any facility which:
 - a. offers either inpatient, intermediate or outpatient treatment to any person suffering from alcohol or drug abuse, or alcohol- or drug-related problems, and
 - b. is certified by the Board of Mental Health and Substance Abuse Services, ~~and~~
 - c. ~~has been licensed by the State Department of Health pursuant to the provisions of the Oklahoma Alcohol and Drug Abuse Services Act;~~

2. An "alcohol-dependent person" is one who uses alcoholic beverages to such an extent that it impairs the health, family life, or occupation of the person and compromises the health and safety of the community;

3. A "drug-dependent person" means a person who is using a controlled substance as presently defined in Section 102 of the Federal Controlled Substances Act and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled substance on an intermittent or continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence;

4. "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as the direct result of the consumption of alcohol or drugs;

5. "Medical detoxification" means diagnostic and treatment services performed by licensed facilities for acute alcohol intoxication, delirium tremens and physical and neurological complications resulting from acute intoxication. Medical detoxification includes the services of a physician and attendant medical personnel including nurses, interns and emergency room personnel, the administration of a medical examination and a medical history, the use of an emergency room and emergency medical equipment if warranted, a general diet of three meals each day, the

administration of appropriate laboratory tests, and supervision by properly trained personnel until the person is no longer medically incapacitated by the effects of alcohol;

6. "Nonmedical detoxification" means detoxification services for intoxicated clients with no apparent physical or neurological symptoms requiring medical treatment as a result of their intoxication. Nonmedical detoxification includes providing a bed, oral administration of fluids, three meals a day and the taking of the client's temperature, blood pressure and pulse at least once every six (6) hours for the duration of the client's stay in the nonmedical detoxification service;

7. "Inpatient treatment" means the process of providing residential diagnostic and treatment services on a scheduled basis;

8. "Intermediate care" means an organized therapeutic environment in which a client may receive diagnostic services, counseling, vocational rehabilitation and/or work therapy while benefiting from the support which a full or partial residential setting can provide. Intermediate care should provide a transition between the inpatient detoxification facility and reintegration into community life. Intermediate care must include provision for a bed, three meals a day and medical support if needed;

9. "Transitional living facility" and "halfway house" means an approved treatment facility which offers or provides temporary residential accommodations, meals, supervision at all times residents are in the facility or on facility premises, and services, including counseling, short-term supportive care, case management, mental health services or treatment services to residents pursuant to a contract with the Department of Mental Health and Substance Abuse Services;

10. "Short-term supportive care" means a service rendered to any person residing in a halfway house or transitional living facility which is sufficient to assist the person to meet or achieve an adequate level of daily living and to learn or develop adequate daily living skills. Daily living skills shall include, but not be limited to, resident participation in meal preparation and routine housekeeping and laundry tasks. Short-term supportive assistance includes, but is not limited to, assistance in the preparation of meals, housekeeping, laundry tasks and personal hygiene. Short-term supportive assistance shall not include medical services or personal care as defined in Section 1-820 of Title 63 of the Oklahoma Statutes; and

11. "Treatment" means the broad range of emergency, inpatient, intermediate and outpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to alcohol-dependent, intoxicated and drug-dependent persons.

SECTION 5. AMENDATORY 43A O.S. 2001, Section 3-452, as amended by Section 21 of Enrolled House Bill No. 1266 of the 1st

Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 3-452. Except as otherwise provided by law, in any case in a municipal or district court of proper jurisdiction wherein the defendant is charged with actual physical control of or operation of a motor vehicle while under the influence of or impaired by alcohol or a drug, the court may:

1. Upon a plea of guilty or nolo contendere, or stipulation by the defendant, or a verdict, but before a judgment of guilt is entered, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings upon the condition that the defendant enroll in, attend and successfully complete, at his own expense, an alcohol and drug substance abuse course or an alcohol and drug substance abuse treatment program or both as identified by an assessment conducted by a certified assessment agency or assessor ~~pursuant to Section 3-453 of this title~~; or

2. Upon a conviction, suspend the execution of sentence, with or without probation, upon the condition that the defendant enroll in, attend and successfully complete, at his own expense, an alcohol and drug substance abuse course or an alcohol and drug substance abuse treatment program as provided by Section 3-453 of this title.

SECTION 6. AMENDATORY 43A O.S. 2001, Section 3-453, as amended by Section 22 of Enrolled House Bill No. 1266 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 3-453. A. Alcohol and drug substance abuse courses shall be offered only by nonprofit educational institutions of higher learning, governmental or nonprofit organizations.

B. Enrollment fees for those attending the courses shall be set by the Department of Mental Health and Substance Abuse Services and shall be within a range of not less than Sixty-five Dollars (\$65.00) and not more than:

1. One Hundred Fifty Dollars (\$150.00) for a ten-hour course; and

2. Three Hundred Sixty Dollars (\$360.00) for a twenty-four-hour course.

C. Ten percent (10%) of each fee collected shall be remitted by the institution or organization offering alcohol and drug substance abuse courses to the State Treasurer to be credited to the Department of Mental Health and Substance Abuse Services Revolving Fund in the State Treasury and shall be used to provide substance abuse services to the indigent. Five percent (5%) of each fee collected by the Department shall be used for the administrative costs related to providing such services.

D. Enrollment in the course shall not be limited to persons ordered to enroll, attend and successfully complete the course.

E. All alcohol and drug substance abuse courses related to driver license revocation and course instructors shall be approved and certified by the Department of Mental Health and Substance Abuse Services.

F. The Department of Mental Health and Substance Abuse Services, in consultation with D.U.I. School Administrators of Oklahoma, is authorized to promulgate rules governing:

1. Minimum curriculum requirements for such courses;
2. Facilities, equipment and instructional materials for such courses;
3. Minimum qualifications for course instructors;
4. Grounds for reprimand and for revocation ~~supervision,~~ suspension or nonrenewal of the authority to conduct such courses and for revocation of an instructor's certification;
5. Attendance requirements; and
6. Guidelines for certifying to the Department of Mental Health and Substance Abuse Services and the Department of Public Safety successful completion of such course.

G. The Department shall require that each ten-hour course ~~for a first offense~~ shall be conducted in no less than three sessions of no more than three and one-half (3 1/2) hours each on three (3) separate days. For a twenty-four-hour course, the Department shall require that:

1. Each such course shall consist of at least twenty-four (24) hours;
2. Each such course shall consist of no more than two (2) hours of education on any given day, nor more than four (4) hours in a given week, and shall not contain more than ten percent (10%) films on any one specialized area;
3. Each instructor shall be certified and have at least three (3) years' teaching experience; and
4. No more than twenty-four (24) students shall be allowed in a given class.

H. Any institution or organization authorized under this act to conduct an alcohol and drug substance abuse course shall certify to the Department of Public Safety all persons who successfully complete such course.

~~I. Alcohol and drug substance abuse treatment courses shall be offered by facilities designated for that purpose by the Department of Mental Health and Substance Abuse Services. The facilities shall either be operated by the Department of Mental Health and Substance Abuse Services or shall be certified approved treatment facilities as provided for in the Oklahoma Alcohol and Drug Abuse Services Act.~~

~~J.~~ Any person participating in a substance abuse treatment program recommended as a result of an assessment pursuant to Section 3-460 of this title shall be required to pay all or part of the actual cost incurred for treatment of the person, if the court determines the person has the ability to pay for all or part of the cost of treatment. The court shall determine the amount of reimbursement the person shall pay.

~~K.~~ J. Application fees for certification of course instructors shall be set by the Board to defray the costs of administering the program and shall be:

1. Not less than One Hundred Dollars (\$100.00) and not more than Two Hundred Dollars (\$200.00) upon initial application; and

2. Not less than Twenty-five Dollars (\$25.00) and not more than Fifty Dollars (\$50.00) upon annual renewal.

SECTION 7. REPEALER 43A O.S. 2001, Section 3-415, as amended by Section 8, Chapter 473, O.S.L. 2002 (43A O.S. Supp. 2002, Section 3-415), is hereby repealed.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 30th day of April, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of April, 2003.

Presiding Officer of the House
of Representatives