

CS for EHB 1425

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THE STATE SENATE
Tuesday, April 12, 2005

Committee Substitute for
ENGROSSED
House Bill No. 1425

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1425 - By: JONES
and NANCE of the House and RILEY of the Senate.

An Act relating to mental health; amending 43A O.S. 2001,
Sections 5-501, as last amended by Section 1, Chapter 130,
O.S.L. 2003, 5-502, as last amended by Section 1, Chapter
394, O.S.L. 2003, and 5-503, 5-506, 5-508 and 5-513, as last
amended by Sections 3, 6, 8 and 13, Chapter 130, O.S.L. 2003
(43A O.S. Supp. 2004, Sections 5-501, 5-502, 5-503, 5-506,
5-508 and 5-513), which relate to Inpatient Mental Health
and Substance Abuse Treatment of Minors Act; expanding
legislative intent; modifying definitions; modifying
voluntary admission; providing for emergency detention;
modifying involuntary admission of minors; deleting obsolete
language; modifying individualized treatment plans; amending
Section 7, Chapter 313, O.S.L. 2004 (59 O.S. Supp. 2004,
Section 1876), which relates to licensed alcohol and drug
counselors; modifying certain dates; repealing 43A O.S.
2001, Section 5-505, as last amended by Section 5, Chapter
130, O.S.L. 2003 (43A O.S. Supp. 2004, Section 5-505), which
relates to admission to mental health facility; providing
for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 2001, Section 5-501, as
last amended by Section 1, Chapter 130, O.S.L. 2003 (43A O.S. Supp.
2004, Section 5-501), is amended to read as follows:

Section 5-501. A. Sections 5-501 through 5-513 of this title
shall be known and may be cited as the "Inpatient Mental Health and
Substance Abuse Treatment of Minors Act".

1 B. The Oklahoma Legislature hereby declares that the public
2 policy of this state is to assure adequate treatment of minors
3 needing mental health treatment or treatment for drug or alcohol
4 abuse, to establish behavioral standards for determination of
5 dangerousness of persons in need of such treatment, to require the
6 use of the least restrictive alternative in the determination of the
7 method of treatment, to provide orderly and reliable procedures for
8 admission or commitment of minors alleged to be in need of inpatient
9 mental health treatment or treatment for drug or alcohol abuse
10 consistent with due process of law, and to protect the rights of
11 patients hospitalized pursuant to law.

12 C. It is the intent of the Legislature that:

13 1. Mental health and substance abuse treatment services shall
14 be provided in the manner most likely to preserve, support and
15 strengthen the family of the minor and to assist the minor and the
16 family of the minor;

17 2. Minors needing mental health services or substance abuse
18 treatment shall, to the maximum extent possible, receive those
19 services on an outpatient basis; and

20 3. Inpatient evaluation and treatment services shall be
21 utilized only as necessary to preserve the health or safety of the
22 minor or for the protection of others in the case of a minor who as
23 a result of a demonstrable mental illness or drug or alcohol

1 dependence can be expected to intentionally or unintentionally
2 seriously and physically injure another person.

3 D. A minor may be admitted for inpatient mental health or
4 substance abuse treatment only pursuant to the provisions of the
5 Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

6 SECTION 2. AMENDATORY 43A O.S. 2001, Section 5-502, as
7 last amended by Section 1, Chapter 394, O.S.L. 2003 (43A O.S. Supp.
8 2004, Section 5-502), is amended to read as follows:

9 Section 5-502. As used in the Inpatient Mental Health and
10 Substance Abuse Treatment of Minors Act:

11 1. "Minor" means any person under eighteen (18) years of age;

12 2. "Minor in need of treatment" means a minor:

13 a. who has a demonstrable mental illness or who is drug
14 or alcohol dependent and as a result of that mental
15 illness or dependency can be expected within the near
16 future to inflict or attempt to inflict serious bodily
17 harm to himself or herself or another person, and who
18 has engaged in one or more recent overt acts or made
19 significant recent threats which substantially support
20 that expectation, or

21 b. who has a demonstrable mental illness or is drug or
22 alcohol dependent of sufficient severity to cause
23 substantial impairment or disability in at least two

1 of the following major areas of functioning in the
2 ~~minor's~~ life of the minor:

- 3 (1) family relations,
- 4 (2) school performance,
- 5 (3) social interactions,
- 6 (4) ability to perform independently the basic tasks
7 of personal hygiene, hydration and nutrition, or
- 8 (5) self-protection.

9 A determination regarding the ability of the minor to perform
10 independently such basic tasks shall be based upon the age of the
11 minor and the reasonable and appropriate expectation of the
12 abilities of a minor of such age to perform such tasks.

13 The term "minor in need of treatment" shall not mean a minor
14 ~~afflicted with~~ who has epilepsy, a developmental disability, organic
15 brain syndrome, or physical handicaps, or a minor who has brief
16 periods of intoxication caused by ~~such~~ substances such as alcohol or
17 drugs, or a minor who is truant or sexually active unless the minor
18 also meets the criteria for a minor in need of treatment pursuant to
19 the provisions of subparagraph a or b of this paragraph;

20 3. "Consent" means the voluntary, express, and informed
21 agreement to treatment in a mental health facility by a minor
22 sixteen (16) years of age or older ~~and~~ or by a parent ~~having custody~~
23 of the minor;

1 4. "Individualized treatment plan" means a specific plan for
2 the care and treatment of ~~an individual~~ a minor who requires
3 inpatient mental health treatment. The plan shall be developed with
4 maximum involvement of the family of the minor, consistent with the
5 desire of the minor for confidentiality and with the treatment needs
6 of the minor, and shall clearly include the following:

7 a. a statement of the presenting problems of the minor,
8 short- and long-term treatment goals, and the
9 estimated date of discharge. The short- and long-term
10 goals shall be based upon a clinical evaluation and
11 shall include specific behavioral and emotional goals
12 against which the success of treatment can be
13 measured,

14 b. treatment methods and procedures to be used to achieve
15 these goals, which methods and procedures are related
16 to each of these goals and which include, but are not
17 limited to, specific prognosis for achieving each of
18 these goals,

19 c. identification of the types of professional personnel
20 who will carry out the treatment procedures including,
21 but not limited to, appropriate licensed mental health
22 professionals, education professionals, and other
23 health or social service professionals, and

1 d. documentation of the involvement of the minor or the
2 ~~minor's~~ parent of the minor or legal custodian in the
3 development of the treatment plan and whether all
4 persons have consented to such plan;

5 5. "Inpatient treatment" means treatment services offered or
6 provided for a continuous period of more than twenty-four (24) hours
7 in residence after admission to a mental health or substance abuse
8 treatment facility for the purpose of observation, evaluation or
9 treatment;

10 6. "Least restrictive alternative" means the treatment and
11 conditions of treatment which, separately and in combination, are no
12 more intrusive or restrictive of freedom than reasonably necessary
13 to achieve a substantial therapeutic benefit to the minor, or to
14 protect the minor or others from physical injury;

15 7. "Less restrictive alternative to inpatient treatment" means
16 and includes, but is not limited to, outpatient counseling services,
17 including services provided in the home of the minor and which may
18 be referred to as "home-based services", day treatment or day
19 hospitalization services, respite care, or foster care or group home
20 care, as defined by Title 10 of the Oklahoma Statutes, through a
21 program established and specifically designed to meet the needs of
22 minors in need of mental health treatment, or a combination thereof;

1 8. "Licensed mental health professional" means a person who is
2 not related by blood or marriage to the person being examined or
3 does not have any interest in the estate of the person being
4 examined, and who is:

- 5 a. a psychiatrist who is a diplomate of the American
6 Board of Psychiatry and Neurology,
- 7 b. a physician licensed pursuant to Chapter 11 or Chapter
8 14 of Title 59 of the Oklahoma Statutes who has
9 received specific training for and is experienced in,
10 performing mental health therapeutic, diagnostic, or
11 counseling functions,
- 12 c. a clinical psychologist who is duly licensed to
13 practice by the State Board of Examiners of
14 Psychologists,
- 15 d. a professional counselor licensed pursuant to Chapter
16 44 of Title 59 of the Oklahoma Statutes,
- 17 e. a person licensed as a clinical social worker pursuant
18 to the provisions of the Licensed Social Workers Act,
- 19 f. a licensed marital and family therapist as defined in
20 Chapter 44A of Title 59 of the Oklahoma Statutes,
- 21 g. a licensed behavioral practitioner as defined in
22 Chapter 44B of Title 59 of the Oklahoma Statutes, or

1 h. an advanced practice nurse, as defined in Chapter 12
2 of Title 59 of the Oklahoma Statutes, specializing in
3 mental health.

4 For the purposes of this paragraph, "licensed" means that the person
5 holds a current, valid license issued in accordance with the laws of
6 this state;

7 9. "Mental health evaluation" means an examination or
8 evaluation of a minor for the purpose of making a determination
9 whether, in the opinion of the licensed mental health professional
10 making the evaluation, the minor is a minor in need of treatment
11 and, if so, is in need of inpatient treatment and for the purpose of
12 preparing reports or making recommendations for the most appropriate
13 and least restrictive treatment for the minor;

14 10. "Mental health facility" means a public or private hospital
15 or related institution as defined by Section 1-701 of Title 63 of
16 the Oklahoma Statutes offering or providing inpatient mental health
17 services, a public or private facility accredited as an inpatient or
18 residential psychiatric facility by the Joint Commission on
19 Accreditation of Healthcare Organizations, or a facility operated by
20 the Department of Mental Health and Substance Abuse Services and
21 designated by the Commissioner of the Department of Mental Health
22 and Substance Abuse Services as appropriate for the inpatient
23 evaluation or treatment of minors;

1 11. "Mental illness" means a substantial disorder of the
2 child's thought, mood, perception, psychological orientation or
3 memory that demonstrably and significantly impairs judgment,
4 behavior or capacity to recognize reality or to meet the ordinary
5 demands of life. "Mental illness" may include substance abuse,
6 which is the use, without compelling medical reason, of any
7 substance which results in psychological or physiological dependency
8 as a function of continued use in such a manner as to induce mental,
9 emotional, or physical impairment and cause socially dysfunctional
10 or socially disordering behavior;

11 12. "Parent" means:

- 12 a. a biological or adoptive parent who has legal custody
13 of the minor, ~~including either parent if custody is~~
14 ~~shared under a joint decree or agreement~~ or who has
15 visitation rights, or
16 b. a person judicially appointed as a legal guardian of
17 the minor, or
18 c. a relative within the third degree of consanguinity
19 who exercises the rights and responsibilities of legal
20 custody by delegation from a parent, as provided by
21 law;

22 13. "Person responsible for the supervision of the case" means:

1 a. when the minor is in the legal custody of a private
2 child care agency, the Department of Human Services or
3 the Office of Juvenile Affairs, the caseworker or
4 other person designated by the agency to supervise the
5 case, or

6 b. when the minor is a ward of the court and under the
7 court-ordered supervision of the Department of Human
8 Services, the Office of Juvenile Affairs or a
9 statutorily constituted juvenile bureau, the person
10 designated by the Department of Human Services, the
11 Office of Juvenile Affairs or such juvenile bureau to
12 supervise the case;

13 14. "Medical necessity review" means an assessment of current
14 and recent behaviors and symptoms to determine whether an admission
15 for inpatient mental illness or drug or alcohol dependence treatment
16 or evaluation constitutes the least restrictive level of care
17 necessary. The review shall be performed by a licensed mental
18 health professional;

19 15. "Ward of the court" means a minor adjudicated to be a
20 deprived child, a child in need of supervision, or a delinquent
21 child;

22 16. "Treatment" means any planned intervention intended to
23 improve the functioning of a minor in those areas which show

1 impairment as a result of mental illness or drug or alcohol
2 dependence; and

3 17. "Prehearing detention order" means a court order that
4 authorizes a facility to detain a minor pending a hearing on a
5 petition to determine whether the minor is a minor in need of
6 treatment.

7 SECTION 3. AMENDATORY 43A O.S. 2001, Section 5-503, as
8 last amended by Section 3, Chapter 130, O.S.L. 2003 (43A O.S. Supp.
9 2004, Section 5-503), is amended to read as follows:

10 Section 5-503. A. ~~A minor may be admitted for inpatient mental~~
11 ~~health or substance abuse treatment only pursuant to the provisions~~
12 ~~of the Inpatient Mental Health and Substance Abuse Treatment of~~
13 ~~Minors Act.~~

14 ~~B.~~ A parent of a minor or a minor sixteen (16) years of age or
15 older may consent to the voluntary admission of the minor for
16 inpatient mental health or substance abuse treatment ~~or if a minor~~
17 ~~age sixteen (16) years or older refuses or revokes consent to~~
18 ~~inpatient mental health or substance abuse treatment, the parent may~~
19 ~~request that the district attorney file a petition alleging the~~
20 ~~minor to be a minor in need of mental health treatment and require~~
21 ~~inpatient treatment.~~

22 B. Upon the application of a minor sixteen (16) years of age or
23 older or a parent of a minor, a mental health or substance abuse

1 facility may admit the minor for inpatient evaluation or treatment
2 if the person in charge of the facility, or a designee, determines
3 the minor to be clinically eligible for such admission, and:

4 1. After a medical necessity review, a licensed mental health
5 professional determines and states in writing that there is
6 reasonable cause to believe that the minor may be a minor in need of
7 treatment and that an evaluation is necessary to properly determine
8 the condition and treatment needs of the minor, if any; and

9 2. After an outpatient or inpatient mental health evaluation, a
10 licensed mental health professional determines and states in writing
11 that in the opinion of the professional, the minor is a minor in
12 need of treatment and:

13 a. the minor appears to have a mental illness or drug or
14 alcohol dependence serious enough to warrant inpatient
15 treatment and is reasonably likely to benefit from the
16 treatment, and

17 b. based upon the following, inpatient treatment is
18 determined to be the least restrictive alternative
19 that meets the needs of the minor:

20 (1) reasonable efforts have been made to provide for
21 the treatment needs of the minor through the
22 provision of less restrictive alternatives and

1 such alternatives have failed to meet the
2 treatment needs of the minor, or

3 (2) after a thorough consideration of less
4 restrictive alternatives to inpatient treatment,
5 the condition of the minor is such that less
6 restrictive alternatives are unlikely to meet the
7 treatment needs of the minor, and

8 c. the minor has been provided with a clinically
9 appropriate explanation of the nature and purpose of
10 the treatment.

11 The consenting parent shall have the opportunity to discuss the
12 findings with a person involved in the treatment of the minor.

13 C. The determinations and written statements of a licensed
14 mental health professional made pursuant to this section shall, upon
15 the admission of the minor for inpatient evaluation or treatment, be
16 made a part of the medical record of the minor.

17 D. Inpatient treatment of a minor admitted under this section
18 may not exceed thirty (30) consecutive days unless continued
19 inpatient treatment has been authorized by appropriate hospital
20 medical personnel, based upon their written findings that the
21 criteria set forth in subsection B of this section continue to be
22 met, after such persons have examined the minor and interviewed the

1 consenting parent and reviewed reports submitted by members of the
2 facility staff familiar with the condition of the minor.

3 ~~C.~~ E. A mental health or substance abuse treatment facility may
4 request that the district attorney file a petition alleging a minor
5 to be a minor in need of treatment and require inpatient treatment
6 when the parent consenting to the admission of a minor or when the
7 minor age sixteen (16) years or older who had previously consented
8 to admission revokes such consent and the person in charge of the
9 facility, or a designee, determines that the condition of the minor
10 is such that the minor should remain in the facility.

11 ~~D.~~ F. A minor who is in the legal custody of the Department of
12 Human Services or the Office of Juvenile Affairs, or who is a ward
13 of a court may be admitted to a hospital or other facility for
14 inpatient mental health or substance abuse treatment only pursuant
15 to the provisions of Section 5-507 of this title.

16 1. A public or private child care agency having legal custody
17 of a minor may request the district attorney to file a petition
18 alleging the minor to be a minor in need of treatment and to require
19 inpatient treatment.

20 2. Nothing in the Inpatient Mental Health and Substance Abuse
21 Treatment of Minors Act shall be interpreted to prohibit or preclude
22 the provision of outpatient treatment or services including, but not
23 limited to, outpatient evaluation, counseling, educational,

1 rehabilitative or other mental health and substance abuse services
2 to the minor, as necessary and appropriate, in the absence of a
3 specific court order for such services.

4 ~~E.~~ G. 1. An order of a court committing a minor to a facility
5 for inpatient mental health or substance abuse evaluation or
6 treatment shall not, by itself, relieve a parent of the obligation
7 to provide for the support of the minor nor of liability for the
8 cost of treatment provided to the minor.

9 2. Nothing in the Inpatient Mental Health and Substance Abuse
10 Treatment of Minors Act shall be interpreted to:

11 a. limit the authority of the court to order a parent to
12 make support payments or to make payments or
13 reimbursements for medical care or treatment,
14 including mental health care or treatment, to the
15 person, institution, or agency having custody of the
16 minor or providing the treatment, or

17 b. abrogate the right of the minor to any benefits
18 provided through public funds for which the minor is
19 otherwise eligible.

20 3. An order committing a minor to a facility for inpatient
21 mental health or substance abuse treatment shall not by itself serve
22 to preclude a subsequent adjudication which finds the minor to be

1 delinquent, in need of supervision or deprived nor shall it cause
2 the vacation of any such order of adjudication previously entered.

3 ~~F. If a peace officer reasonably believes that a minor is a~~
4 ~~minor in need of treatment, the officer shall take the minor into~~
5 ~~protective custody and shall transport the minor to a mental health~~
6 ~~or substance abuse treatment facility for evaluation. Peace~~
7 ~~officers providing such transportation services shall be entitled to~~
8 ~~reimbursement pursuant to Section 1-110 of this title.~~

9 H. If the parent who consented to the admission of a minor
10 under this section revokes such consent at any time, the minor shall
11 be discharged within forty-eight (48) hours unless the district
12 attorney is requested to file a petition alleging the minor to be a
13 minor in need of treatment and to require inpatient treatment in
14 accordance with the provisions of this title.

15 I. If a minor sixteen (16) years of age or older who consented
16 to treatment subsequently revokes his or her consent at any time,
17 the minor shall be discharged within forty-eight (48) hours unless
18 the district attorney is requested to file a petition alleging the
19 minor to be a minor in need of treatment and to require inpatient
20 treatment in accordance with the provisions of this title or the
21 parent of the minor subsequently consents to the treatment of the
22 minor.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 5-505.1 of Title 43A, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Any minor who appears to be mentally ill, alcohol-dependent,
5 or drug-dependent to a degree that immediate emergency action is
6 necessary may be taken into protective custody and detained pursuant
7 to the provisions of this section.

8 B. Any peace officer who reasonably believes that a minor is a
9 minor in need of treatment as defined in Section 5-502 of Title 43A
10 of the Oklahoma Statutes shall take the minor into protective
11 custody and shall transport the minor to a mental health or
12 substance abuse treatment facility for evaluation. Peace officers
13 providing such transportation services shall be entitled to
14 reimbursement pursuant to Section 1-110 of Title 43A of the Oklahoma
15 Statutes.

16 C. The officer shall prepare a written affidavit indicating the
17 basis for the belief of the officer that the minor is a minor in
18 need of treatment and the circumstances under which the officer took
19 the minor into protective custody. The officer shall give a copy of
20 the statement to the parent of the minor or the attorney of the
21 minor upon the request of either. If the officer does not make the
22 determination to take an individual into protective custody on the
23 basis of the personal observation of the officer, the officer shall

1 not be required to prepare a written affidavit. However, the person
2 upon whose statement the officer relies shall sign a third-party
3 statement indicating the basis for such belief of the person that
4 the minor is a minor in need of treatment. Any false statement
5 given to the officer by the person upon whose statement the officer
6 relies shall be a misdemeanor and subject to the sanctions of Title
7 21 of the Oklahoma Statutes.

8 D. A minor in protective custody shall be subject to a medical
9 necessity review at the appropriate facility by a licensed mental
10 health professional for the purpose of determining whether emergency
11 detention is warranted.

12 1. If the licensed mental health professional determines that
13 the minor is not a minor in need of treatment or that the condition
14 of the minor is such that emergency detention is not warranted, the
15 minor shall be returned immediately to the point where the minor was
16 taken into protective custody and released or the minor may be taken
17 to the home or residence of the minor or to an alternative facility.

18 2. If the licensed mental health professional determines that
19 the minor is a minor in need of treatment to a degree that emergency
20 detention is warranted, the minor shall be detained in emergency
21 detention for a period not to exceed five (5) days, excluding
22 weekends and holidays. The detention may exceed five (5) days,
23 excluding weekends and holidays, upon a court order authorizing

1 detention pending a hearing on a petition requesting involuntary
2 commitment or treatment.

3 E. If a licensed mental health professional designated to have
4 such responsibility by the executive director of a hospital, or the
5 administrator of a facility designated by the Commissioner of Mental
6 Health and Substance Abuse Services as appropriate for emergency
7 detention believes a minor to be a minor requiring treatment to a
8 degree that emergency action is necessary, the administrator may
9 detain such minor in emergency detention for a period not to exceed
10 five (5) days, excluding weekends and holidays, only on the
11 following conditions:

12 1. The minor sixteen (16) years of age or older or parent of
13 the minor has refused to consent or has withdrawn consent to
14 voluntary treatment;

15 2. The minor has been examined by a licensed mental health
16 professional who has determined that the minor is a minor in need of
17 treatment, the condition of the minor is such that emergency
18 detention is warranted, and an evaluation report has been prepared
19 as provided in Section 5-508 of Title 43A of the Oklahoma Statutes;
20 and

21 3. The administrator or the designee of the administrator
22 provides for a medical necessity review of the minor by a licensed
23 mental health professional.

1 F. Whenever it appears that a person detained as provided by
2 this section will require treatment beyond the period of emergency
3 detention and the minor sixteen (16) years of age or older or parent
4 of the minor has refused to consent to voluntary treatment, a
5 licensed mental health professional conducting a medical necessity
6 review of the minor or the administrator of the facility in which
7 the minor is being detained, or the designee of the administrator,
8 shall immediately file a petition or request the district attorney
9 to file a petition with the district court as provided by Section 5-
10 509 of Title 43A of the Oklahoma Statutes, and may request a court
11 order directing prehearing detention when detention is necessary for
12 the protection of the person or others.

13 SECTION 5. AMENDATORY 43A O.S. 2001, Section 5-506, as
14 last amended by Section 6, Chapter 130, O.S.L. 2003 (43A O.S. Supp.
15 2004, Section 5-506), is amended to read as follows:

16 Section 5-506. A. ~~Upon the application of a parent and~~
17 ~~following~~ Any parent, guardian, or law enforcement officer may
18 request the administrator of a facility or designee to conduct a
19 medical necessity review of a minor to determine whether the minor
20 is a minor requiring treatment.

21 B. Following a medical necessity review, a minor ~~sixteen (16)~~
22 ~~years of age or older who objects to admission or revokes his or her~~
23 ~~consent to inpatient treatment~~ may be admitted or detained on an

1 emergency basis in a mental health or substance abuse treatment
2 facility that is willing to admit or detain the minor for a period
3 not to exceed five (5) days from the time of admission or detention,
4 excluding weekends and legal holidays. The admission or detention
5 for an emergency basis may only exceed five (5) days, excluding
6 weekends or holidays, if the facility receives a prehearing
7 detention order authorizing detention pending a hearing on a
8 petition to determine whether the minor is a minor in need of
9 treatment and to require inpatient treatment. ~~If admission or~~
10 ~~transfer from a private facility to a state-operated facility is~~
11 ~~sought, the community mental health center serving the area in which~~
12 ~~the minor resides shall provide the required evaluations and reports~~
13 ~~and shall ensure that the necessary written findings have been made.~~

14 B. C. 1. A minor admitted or detained pursuant to this section
15 shall be evaluated by a licensed mental health professional to
16 determine whether the minor is a minor in need of treatment.

17 a. If the licensed mental health professional determines
18 that the minor is a minor in need of treatment, the
19 licensed mental health professional shall submit a
20 report of the evaluation to the district attorney
21 within forty-eight (48) hours, excluding weekends or
22 holidays, of admission, detention, or revocation of

1 the consent of the minor sixteen (16) years of age or
2 older or to the parent.

3 b. If the licensed mental health professional determines
4 that the minor is not a minor in need of treatment,
5 the minor shall immediately be discharged.

6 2. Upon admission or detention of a minor pursuant to this
7 section, the person requesting the petition shall immediately notify
8 the district attorney. The district attorney shall file a petition
9 as provided in Section 5-509 of this title within three (3) days of
10 receipt of the report and shall request a prehearing detention order
11 from the court authorizing further detention of the child in the
12 facility pending a hearing on a petition alleging the minor to be a
13 minor in need of treatment and to require inpatient treatment and
14 further order of the court.

15 a. If the court finds probable cause exists that the
16 minor is a minor in need of treatment, the court shall
17 issue a prehearing detention order authorizing the
18 facility to detain the minor until the hearing on the
19 petition and to immediately set a date and time for a
20 hearing on the petition. A certified copy of the
21 prehearing detention order shall constitute authority
22 for a facility to detain or continue to detain the
23 minor who is the subject of the order.

1 b. If the court does not find probable cause exists that
2 the minor is a minor in need of treatment, the court
3 shall dismiss the petition and request for a
4 prehearing detention order and order the release of
5 the minor to the minor's parent.

6 ~~C. If the parent who consented to the admission of a minor
7 under this section revokes such consent at any time, the minor shall
8 be released within forty-eight (48) hours to the custody of the
9 parent unless the person in charge of the facility, or a designee,
10 requests the filing of a petition as provided of in this section.~~

11 SECTION 6. AMENDATORY 43A O.S. 2001, Section 5-508, as
12 last amended by Section 8, Chapter 130, O.S.L. 2003 (43A O.S. Supp.
13 2004, Section 5-508), is amended to read as follows:

14 Section 5-508. A. The report of a licensed mental health
15 professional prepared pursuant to Section 5-506 or 5-507 of this
16 title shall include written findings as to whether:

17 1. The minor appears to be a minor in need of treatment and is
18 reasonably likely to benefit from treatment; ~~and~~

19 2. Based upon the following, inpatient treatment is the least
20 restrictive alternative that meets the needs of the minor:

21 a. reasonable efforts have been made to provide for the
22 treatment needs of the minor through the provision of
23 less restrictive alternatives and such alternatives

1 have failed to meet the treatment needs of the minor,
2 or

3 b. after a thorough consideration of less restrictive
4 alternatives to inpatient treatment, the condition of
5 the minor is such that less restrictive alternatives
6 are unlikely to meet the treatment needs of the minor;
7 and

8 3. The minor has been provided with a clinically appropriate
9 explanation of the nature and purpose of the treatment; and

10 ~~4. If the minor is sixteen (16) years of age or older and was
11 admitted to or detained in a mental health or substance abuse
12 treatment facility pursuant to Section 5-506 of this title, the
13 minor has been provided with an explanation of his or her rights
14 pursuant to the Inpatient Mental Health and Substance Abuse
15 Treatment of Minors Act including the right to object to admission
16 or detention.~~

17 B. Any report of a mental health evaluation of a minor alleged
18 to be a minor in need of treatment that recommends that the minor be
19 found to be eligible for inpatient mental health or substance abuse
20 treatment shall be signed by the licensed mental health professional
21 examining the minor.

22 C. The parents, all public agencies, and all providers or
23 programs which have treated or are treating the minor shall

1 cooperate with the person conducting a mental health evaluation for
2 the purpose of providing a report to a district attorney or to a
3 district court and shall promptly deliver, as otherwise provided by
4 law, all records related to the treatment or education of the minor.

5 SECTION 7. AMENDATORY 43A O.S. 2001, Section 5-513, as
6 last amended by Section 13, Chapter 130, O.S.L. 2003 (43A O.S. Supp.
7 2004, Section 5-513), is amended to read as follows:

8 Section 5-513. A. Within ten (10) days after the admission of
9 a minor for inpatient treatment, the person in charge of the
10 facility in which the minor is being treated shall ensure that an
11 individualized treatment plan has been prepared by the person
12 responsible for the treatment of the minor. The minor shall be
13 involved in the preparation of the treatment plan to the maximum
14 extent consistent with the ability of the minor to understand and
15 participate. The parent or legal custodian of the minor or, if the
16 minor is in the custody of the Department of Human Services or the
17 Office of Juvenile Affairs, the designated representative of the
18 applicable agency, shall be involved to the maximum extent
19 consistent with the treatment needs of the minor.

20 B. The ~~minor~~ facility shall ~~be discharged from~~ discharge the
21 ~~facility~~ minor when appropriate facility medical staff determine the
22 minor no longer meets the admission or commitment criteria, ~~as~~
23 ~~determined by appropriate medical staff review after such persons~~

1 ~~have examined the minor and reviewed reports submitted by facility~~
2 ~~staff familiar with the condition of the minor.~~ If not previously
3 discharged, a minor committed by a court for inpatient treatment
4 shall be discharged upon the expiration of a court order committing
5 the minor for inpatient treatment or an order of the court directing
6 the discharge of the minor.

7 C. Prior to the discharge of the minor from inpatient
8 treatment, a discharge plan for the minor shall be prepared and
9 explained to the minor and the parent or the person responsible for
10 the supervision of the case. The plan shall include, but not be
11 limited to:

12 1. The services required by the minor in the community to meet
13 the needs of the minor for treatment, education, housing and
14 physical care and safety;

15 2. Identification of the public or private agencies that will
16 be involved in providing treatment and support to the minor;

17 3. Information regarding medication which should be prescribed
18 to the minor; and

19 4. An appointment for follow-up outpatient treatment and
20 medication management.

21 SECTION 8. AMENDATORY Section 7, Chapter 313, O.S.L.
22 2004 (59 O.S. Supp. 2004, Section 1876), is amended to read as
23 follows:

1 Section 1876. A. Unless exempt pursuant to Section ~~3~~ 1872 of
2 this ~~act~~ title, on and after January 1, 2005, any person wishing to
3 practice alcohol and drug counseling in this state shall obtain a
4 certificate or license to practice pursuant to the provisions of the
5 Licensed Alcohol and Drug Counselors Act.

6 B. An application for a certificate or license to practice as a
7 certified or licensed alcohol and drug counselor shall be made to
8 the Oklahoma Board of Licensed Alcohol and Drug Counselors in
9 writing. Such application shall be on a form and in a manner
10 prescribed by the Board. The application shall be accompanied by
11 the fee required by this act, which shall be retained by the Board
12 and not returned to the applicant.

13 C. Each applicant for a certificate or license to practice as a
14 certified or licensed alcohol and drug counselor shall:

- 15 1. Be possessed of good moral character;
- 16 2. Pass an oral and a written examination based on standards
17 established by the International Counselor and Reciprocity
18 Consortium;
- 19 3. Be at least twenty-one (21) years of age;
- 20 4. Not have engaged in, nor be engaged in, any practice or
21 conduct which would be grounds for denying, revoking or suspending a
22 license pursuant to the provisions of this act; and

1 5. Otherwise comply with the rules promulgated by the Board
2 pursuant to the provisions of this act.

3 D. Except as otherwise provided by subsections E and G of this
4 section, on and after January 1, 2005, in addition to the
5 qualifications specified by the provisions of subsection C of this
6 section, an applicant for a license to practice as a licensed
7 alcohol and drug counselor shall have:

8 1. At a minimum, a master's degree in a behavioral science
9 field that is recognized by the Oklahoma Board of Licensed Alcohol
10 and Drug Counselors as appropriate to practice as a licensed alcohol
11 and drug counselor;

12 2. Successfully completed at least one (1) year of full-time
13 supervised work experience. For the purpose of this act, "one (1)
14 year of full-time work experience" shall be defined as two thousand
15 (2,000) hours of work experience, of which at least one thousand
16 (1,000) hours shall consist of providing alcohol and drug counseling
17 services to an individual and/or the individual's family;

18 3. Successfully completed at least one hundred eighty (180)
19 clock hours of education related to alcohol and drug counseling
20 subjects, theory, practice or research; and

21 4. Successfully completed at least three hundred (300) hours of
22 supervised practicum experience in the field of drug and alcohol
23 counseling.

1 E. Effective January 1, 2010, an applicant for a license to
2 practice as a licensed alcohol and drug counselor shall have:

3 1. At least a master's degree in alcohol and substance abuse
4 counseling from a college or university accredited by an agency
5 recognized by the United States Department of Education; or

6 2. a. Possess at least a master's degree in a behavioral
7 science or counseling-related field from a college or
8 university accredited by an agency recognized by the
9 United States Department of Education which is the
10 content-equivalent of a graduate degree in alcohol and
11 substance abuse counseling. In order to qualify as a
12 "content-equivalent" degree, a graduate transcript
13 shall reflect, at a minimum, the following knowledge
14 areas and graduate hours:

15 (1) three courses in foundational knowledge,
16 including one course in alcohol and drug
17 addiction, one course in drug and alcohol
18 counseling theory, and one course in the
19 pharmacology of drugs of abuse,

20 (2) three courses in assessment and treatment of
21 alcohol and drug problems, which may include
22 group dynamics, individual and family counseling
23 skills, specific counseling approaches,

1 assessment methods, community resources and
2 referral, or other courses primarily related to
3 the assessment and treatment of alcohol and drug
4 problems,

5 (3) one course in human development,

6 (4) one course in psychopathology,

7 (5) one course in multicultural and cultural
8 competency issues,

9 (6) one course in family systems theory,

10 (7) one course in ethics, which includes established
11 ethical conduct for alcohol and drug counselors,

12 (8) one course in research methods, and

13 (9) one three-hour practicum/internship in the field
14 of drug and alcohol counseling of at least three
15 hundred (300) clock hours.

16 b. All courses shall be graduate level courses and shall
17 be three (3) semester hours or four (4) quarter credit
18 hours which shall include a minimum of forty-five (45)
19 class hours for each course.

20 F. Effective January 1, 2005, except as provided in subsection
21 G of this section, each applicant for a certificate to practice as a
22 certified alcohol and drug counselor shall have:

1 1. At a minimum, a bachelor's degree in a behavioral science
2 field that is recognized by the Oklahoma Board of Licensed Alcohol
3 and Drug Counselors as appropriate to practice as a certified drug
4 and alcohol counselor in this state;

5 2. Successfully completed at least two (2) years of full-time
6 supervised work experience. For the purpose of this act, "two years
7 of full-time work experience" shall be defined as four thousand
8 (4,000) hours of work experience of which at least two thousand
9 (2,000) hours shall consist of providing alcohol and drug counseling
10 services to an individual and/or the individual's family;

11 3. Successfully completed at least two hundred seventy (270)
12 clock hours of education related to alcohol and drug counseling
13 subjects, theory, practice or research;

14 4. Successfully completed, as part of or in addition to the
15 education requirements established in paragraph 3 of this
16 subsection, a minimum of forty-five (45) clock hours of specialized
17 training approved by the Board in identifying co-occurring disorders
18 and making appropriate referrals for treatment of co-occurring
19 disorders; and

20 5. Successfully completed at least three hundred (300) hours of
21 supervised practicum experience in the field of drug and alcohol
22 counseling.

1 G. 1. Subject to application to the Board, prior to ~~January~~
2 November 1, 2005, any person practicing in the State of Oklahoma at
3 the time of application and holding a certificate in alcohol and
4 drug counseling from any state or nationally recognized certifying
5 body or agency recognized by the Board and issued on or before
6 December 31, 2004, shall be granted a certificate under this act.

7 2. Subject to application to the Board, prior to ~~January~~
8 November 1, 2005, any person practicing in the State of Oklahoma at
9 the time of application and holding a certificate in alcohol and
10 drug counseling from any state or nationally recognized certifying
11 body or agency recognized by the Board and issued on or before
12 December 31, 2004, and a master's degree, as provided in paragraph 1
13 of subsection D of this section, shall be granted a license under
14 this act.

15 SECTION 9. REPEALER 43A O.S. 2001, Section 5-505, as
16 last amended by Section 5, Chapter 130, O.S.L. 2003 (43A O.S. Supp.
17 2004, Section 5-505), is hereby repealed.

18 SECTION 10. This act shall become effective November 1, 2005.

19 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN RESOURCES, dated
20 4-7-05 - DO PASS, As Amended.