

CS for EHB 1845

THE STATE SENATE  
Monday, April 11, 2005

Committee Substitute for  
ENGROSSED

House Bill No. 1845

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1845 - By: WORTHEN  
and BALKMAN of the House and PRUITT of the Senate.

An Act relating to mental health; amending 43A O.S. 2001, Sections 1-103, as last amended by Section 2, Chapter 394, O.S.L. 2003, 1-104, 1-107, as last amended by Section 1, Chapter 113, O.S.L. 2004, 1-108, as amended by Section 2, Chapter 113, O.S.L. 2004, 1-109, as last amended by Section 6, Chapter 168, O.S.L. 2004, Section 1, Chapter 187, O.S.L. 2003, as amended by Section 4, Chapter 113, O.S.L. 2004, 2-101, 2-202, as last amended by Section 7, Chapter 113, O.S.L. 2004, 2-207, 2-219, as amended by Section 7, Chapter 46, O.S.L. 2003, 2-220, as amended by Section 8, Chapter 46, O.S.L. 2003, 2-303, 3-103, 3-108 and 3-109 (43A O.S. Supp. 2004, Sections 1-103, 1-107, 1-108, 1-109, 1-109.1, 2-202, 2-219 and 2-220), which relate to the Mental Health Law; updating language; deleting obsolete terms; amending 43A O.S. 2001, Section 3-316, which relates to the Unified Community Mental Health Services Act; updating language; amending 43A O.S. 2001, Sections 3-415, as amended by Section 24, Chapter 488, O.S.L. 2002, 3-416, 3-426, 3-428 and Section 12, Chapter 113, O.S.L. 2004 (43A O.S. Supp. 2004, Sections 3-415 and 3-453.1), which relate to the Oklahoma Alcohol and Drug Abuse Services Act; updating language; modifying requirement for certain standards; amending 43A O.S. 2001, Section 3-601, as last amended by Section 24, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 3-601), which relates to narcotic treatment programs; updating language; amending Section 21, Chapter 3, O.S.L. 2002, as last amended by Section 27, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 3-701a), which relates to inmates of correctional facilities; updating language; amending 43A O.S. 2001, Sections 4-102, 4-103.1, as amended by Section 14, Chapter 113, O.S.L. 2004, 4-104, 4-105, as amended by Section 29, Chapter 46, O.S.L. 2003, 4-106, as amended by Section 30, Chapter 46, O.S.L. 2003 and

1 4-108, as amended by Section 30, Chapter 488, O.S.L. 2002  
2 (43A O.S. Supp. 2004, Sections 4-103.1, 4-105, 4-106 and 4-  
3 108), which relate to care and treatment of consumers;  
4 updating language; amending 43A O.S. 2001, Sections 4-201,  
5 4-203, as amended by Section 31, Chapter 46, O.S.L. 2003, 4-  
6 204, as amended by Section 32, Chapter 46, O.S.L. 2003, 4-  
7 205, as amended by Section 33, Chapter 46, O.S.L. 2003, and  
8 4-206, as amended by Section 34, Chapter 46, O.S.L. 2003  
9 (43A O.S. Supp. 2004, Sections 4-203, 4-204, 4-205 and 4-  
10 206), which relate to expenses of care and treatment;  
11 updating language; amending 43A O.S. 2001, Section 5-102,  
12 which relates to admission to facilities; updating language;  
13 amending 43A O.S. 2001, Sections 5-203 and 5-204, which  
14 relate to rights of detained or confined persons; updating  
15 language; amending 43A O.S. 2001, Section 5-208, as last  
16 amended by Section 36, Chapter 46, O.S.L. 2003 (43A O.S.  
17 Supp. 2004, Section 5-208), which relates to emergency  
18 detention and protective custody; updating language;  
19 amending 43A O.S. 2001, Sections 5-302, 5-303, 5-304, as  
20 amended by Section 35, Chapter 488, O.S.L. 2002, 5-305, as  
21 amended by Section 36, Chapter 488, O.S.L. 2002, 5-306, as  
22 amended by Section 38, Chapter 46, O.S.L. 2003, 5-307, 5-  
23 308, 5-309 and 5-310 (43A O.S. Supp. 2004, Sections 5-304,  
24 5-305 and 5-306), which relate to the Mental Hospital  
25 Voluntary Admission Procedures Act; updating language;  
26 amending 43A O.S. 2001, Sections 5-415, as amended by  
27 Section 42, Chapter 488, O.S.L. 2002, and 5-416, as amended  
28 by Section 43, Chapter 488, O.S.L. 2002 (43A O.S. Supp.  
29 2004, Sections 5-415 and 5-416), which relate to involuntary  
30 commitment procedure; updating language; amending 43A O.S.  
31 2001, Section 5-501, as last amended by Section 1, Chapter  
32 130, O.S.L. 2003 (43A O.S. Supp. 2004, Section 5-501), which  
33 relates to the Inpatient Mental Health and Substance Abuse  
34 Treatment of Minors Act; updating language; amending 43A  
35 O.S. 2001, Sections 6-101, 6-102 and 6-104, which relate to  
36 the transfer and release of consumers; updating language;  
37 amending 43A O.S. 2001, Section 6-201, which relates to the  
38 Interstate Compact on Mental Health; updating language;  
39 amending 43A O.S. 2001, Sections 7-101, as amended by  
40 Section 39, Chapter 46, O.S.L. 2003, 7-102, as last amended  
41 by Section 40, Chapter 46, O.S.L. 2003, 7-103, 7-104, 7-105,  
42 7-106, 7-107, 7-108 and 7-112 (43A O.S. Supp. 2004, Sections  
43 7-101 and 7-102), which relate to discharge and release of  
44 patients; updating language; amending 43A O.S. 2001,  
45 Sections 8-104, 8-105, 8-106, 8-107 and 8-108, which relate  
46 to private hospitals and institutions; updating language;

1 amending 43A O.S. 2001, Sections 9-101, as amended by  
2 Section 47, Chapter 488, O.S.L. 2002, 9-102, as amended by  
3 Section 48, Chapter 488, O.S.L. 2002, and 9-103, as amended  
4 by Section 49, Chapter 488, O.S.L. 2002 (43A O.S. Supp.  
5 2004, Sections 9-101, 9-102 and 9-103), which relate to the  
6 commitment of alcohol- or drug-dependent persons; updating  
7 language; amending 43A O.S. 2001, Sections 11-105, 11-108  
8 and 11-110, which relate to the Advance Directives for  
9 Mental Health Treatment Act; updating language; repealing  
10 43A O.S. 2001, Sections 3-104, which relates to certain  
11 petty cash fund; 4-109, which relates to transfer of certain  
12 patients, and 8-102, which relates to definitions; and  
13 declaring an emergency.

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

15 SECTION 1. AMENDATORY 43A O.S. 2001, Section 1-103, as  
16 last amended by Section 2, Chapter 394, O.S.L. 2003 (43A O.S. Supp.  
17 2004, Section 1-103), is amended to read as follows:

18 Section 1-103. When used in this title, unless otherwise  
19 expressly stated, or unless the context or subject matter otherwise  
20 requires:

21 1. "Department" means the Department of Mental Health and  
22 Substance Abuse Services;

23 2. "Chair" means the chair of the Board of Mental Health and  
24 Substance Abuse Services;

25 3. "Mental illness" means a substantial disorder of thought,  
26 mood, perception, psychological orientation or memory that  
27 significantly impairs judgment, behavior, capacity to recognize  
28 reality or ability to meet the ordinary demands of life;

1           4. "Board" means the "Board of Mental Health and Substance  
2 Abuse Services" as established by this law;

3           5. "Commissioner" means the individual selected and appointed  
4 by the Board to serve as Commissioner of Mental Health and Substance  
5 Abuse Services;

6           6. "Indigent person" means a person who has not sufficient  
7 assets or resources to support the person and to support members of  
8 the family of the person lawfully dependent on the person for  
9 support;

10          7. "Facility" means any hospital, school, building, house or  
11 retreat, authorized by law to have the care, treatment or custody of  
12 the mentally ill or drug-dependent or alcohol-dependent persons  
13 including, but not limited to, public or private hospitals,  
14 community mental health centers, clinics, satellites or ~~institutions~~  
15 facilities; provided that facility shall not mean a child guidance  
16 center operated by the State Department of Health;

17          8. "~~Patient~~ Consumer" means a person under care or treatment in  
18 a facility pursuant to the Mental Health Law, or in an outpatient  
19 status;

20          9. "Care and treatment" means medical care and behavioral  
21 health services, as well as food, clothing and maintenance,  
22 furnished to a person;

1           10. Whenever in this law or in any other law, or in any rule or  
2 order made or promulgated pursuant to this law or to any other law,  
3 or in the printed forms prepared for the admission of ~~patients~~  
4 consumers or for statistical reports, the words "insane",  
5 "insanity", "lunacy", "mentally sick", "mental disease" or "mental  
6 disorder" are used, such terms shall have equal significance to the  
7 words "mental illness";

8           11. "Licensed mental health professional" means:

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

- 1 f. a licensed marital and family therapist as defined in  
2 Chapter 44A of Title 59 of the Oklahoma Statutes,  
3 g. a licensed behavioral practitioner as defined in  
4 Chapter 44B of Title 59 of the Oklahoma Statutes, or  
5 h. an advanced practice nurse as defined in Chapter 12 of  
6 Title 59 of the Oklahoma Statutes specializing in  
7 mental health;

8 12. "Mentally incompetent person" means any person who has been  
9 adjudicated mentally or legally incompetent by an appropriate  
10 district court;

11 13. a. "Person requiring treatment" means:

12 (1) a person who because of a mental illness of the  
13 person represents a risk of harm to self or  
14 others,

15 (2) a person who is a drug- or alcohol-dependent  
16 person and who as a result of dependency  
17 represents a risk of harm to self or others, or

18 (3) a person who appears to require inpatient  
19 treatment:

20 (a) (i) for a previously diagnosed history of  
21 schizophrenia, bipolar disorder, or  
22 major depression with suicidal intent,  
23 or

1 (ii) due to the appearance of symptoms of  
2 schizophrenia, bipolar disorder, or  
3 major depression with suicidal intent,  
4 and

5 (b) for whom such treatment is reasonably  
6 believed will prevent progressively more  
7 debilitating mental impairment.

8 b. Person requiring treatment shall not mean:

- 9 (1) a person whose mental processes have been  
10 weakened or impaired by reason of advanced years,  
11 (2) a mentally retarded person as defined in Title 10  
12 of the Oklahoma Statutes,  
13 (3) a person with seizure disorder, or  
14 (4) a person with a traumatic brain injury,  
15 unless the person also meets the criteria set forth in  
16 subparagraph a of this paragraph;

17 14. "Petitioner" means a person who files a petition alleging  
18 that an individual is a person requiring treatment;

19 15. "Executive director" means the person in charge of a  
20 facility as defined in this section;

21 16. "Private hospital or ~~institution~~ facility" means any  
22 general hospital maintaining a neuro-psychiatric unit or ward, or  
23 any private hospital or facility for care and treatment of a person

1 having a mental illness, which is not supported by the state or  
2 federal government, ~~except that the term shall include the Oklahoma~~  
3 ~~Memorial Hospital Neuro-psychiatric Unit.~~ The term "private  
4 hospital" or "~~institution~~ facility" shall not include nursing homes  
5 or other facilities maintained primarily for the care of elderly and  
6 disabled persons;

7 17. "Individualized treatment plan" means a proposal developed  
8 during the stay of an individual in a facility, under the provisions  
9 of this title, which is specifically tailored to the treatment needs  
10 of the individual. Each plan shall clearly include the following:

- 11 a. a statement of treatment goals or objectives, based  
12 upon and related to a clinical evaluation, which can  
13 be reasonably achieved within a designated time  
14 interval,
- 15 b. treatment methods and procedures to be used to obtain  
16 these goals, which methods and procedures are related  
17 to each of these goals and which include specific  
18 prognosis for achieving each of these goals,
- 19 c. identification of the types of professional personnel  
20 who will carry out the treatment procedures, including  
21 appropriate medical or other professional involvement  
22 by a physician or other health professional properly

- 1 qualified to fulfill legal requirements mandated under  
2 state and federal law,
- 3 d. documentation of involvement by the individual  
4 receiving treatment and, if applicable, the  
5 accordance of the individual with the treatment plan,  
6 and
- 7 e. a statement attesting that the executive director of  
8 the facility or clinical director has made a  
9 reasonable effort to meet the plan's individualized  
10 treatment goals in the least restrictive environment  
11 possible closest to the home community of the  
12 individual; and
- 13 18. "Risk of harm to self or others" means:
- 14 a. a substantial risk of physical harm to self as  
15 manifested by evidence or serious threats of or  
16 attempts at suicide or other self-inflicted or bodily  
17 harm,
- 18 b. a substantial risk of physical harm to another person  
19 or persons as manifested by evidence of violent  
20 behavior directed toward another person or persons,
- 21 c. having placed another person or persons in a  
22 reasonable fear of violent behavior directed towards

1           such person or persons or serious physical harm to  
2           them as manifested by serious threats,  
3           d.    a reasonable certainty that without immediate  
4           treatment severe impairment or injury will result to  
5           the person alleged to be a person requiring treatment  
6           as manifested by the inability of the person to avoid  
7           or protect self from such impairment or injury, or  
8           e.    a substantial risk of serious physical impairment or  
9           injury to self as manifested by evidence that the  
10           person is unable to provide for and is not providing  
11           for the basic physical needs of the person and that  
12           appropriate provision for those needs cannot be made  
13           immediately available in the community.

14           SECTION 2.        AMENDATORY        43A O.S. 2001, Section 1-104, is  
15   amended to read as follows:

16           Section 1-104.   The Oklahoma Legislature hereby declares that  
17   the public policy of this state is to assure adequate treatment of  
18   persons alleged to be in need of mental health treatment or  
19   treatment for drug or alcohol abuse, to establish behavioral  
20   standards for determination of dangerousness of persons in need of  
21   such treatment, to allow for the use of the least restrictive  
22   alternative in the determination of the method of treatment, to  
23   provide orderly and reliable procedures for commitment of persons

1 alleged to be in need of treatment consistent with due process of  
2 law, and to protect the rights of ~~patients~~ consumers hospitalized  
3 pursuant to law.

4 SECTION 3. AMENDATORY 43A O.S. 2001, Section 1-107, as  
5 last amended by Section 1, Chapter 113, O.S.L. 2004 (43A O.S. Supp.  
6 2004, Section 1-107), is amended to read as follows:

7 Section 1-107. A. Civil actions for involuntary commitment of  
8 a person may be brought in any of the following counties:

- 9 1. The person's county of residence;
- 10 2. The county where the person was first taken into protective  
11 custody; or
- 12 3. The county in which the person is being held on emergency  
13 detention.

14 B. 1. Hearings in actions for involuntary commitment may be  
15 held within the mental health facility in which the person is being  
16 detained or is to be committed whenever the judge deems it to be in  
17 the best interests of the ~~patient~~ consumer.

18 2. Such hearings shall be conducted by any judge designated by  
19 the presiding judge of the judicial district. Hearings may be held  
20 in an area of the facility designated by the executive director and  
21 agreed upon by the presiding judge of that judicial district.

22 C. The court may conduct any nonjury hearing required or  
23 authorized pursuant to the provisions of this title for detained or

1 confined persons, at the discretion of the judge, by video  
2 teleconferencing after advising the person subject to possible  
3 detention or commitment of his or her constitutional rights. If the  
4 video teleconferencing hearing is conducted, the image of the  
5 detainee or person subject to commitment may be broadcast by secure  
6 video to the judge. A secure video system shall provide for two-way  
7 communications including image and sound between the detainee and  
8 the judge.

9 D. The provisions for criminal venue as provided otherwise by  
10 law shall not be applicable to proceedings encompassed by commitment  
11 statutes referred to in this title which are deemed civil in nature.

12 E. Unless otherwise provided by law, the rules of civil  
13 procedure shall apply to all judicial proceedings provided for in  
14 this title, including, but not limited to, the rules concerning  
15 vacation of orders and appellate review.

16 SECTION 4. AMENDATORY 43A O.S. 2001, Section 1-108, as  
17 amended by Section 2, Chapter 113, O.S.L. 2004 (43A O.S. Supp. 2004,  
18 Section 1-108), is amended to read as follows:

19 Section 1-108. A. Anyone in custody as a person in need of  
20 treatment or a ~~child~~ minor in need of mental health treatment,  
21 pursuant to the provisions of this title, is entitled to a writ of  
22 habeas corpus, upon a proper application made by such person or some

1 relative or friend in the person's behalf pursuant to the provisions  
2 of Sections 1331 through 1355 of Title 12 of the Oklahoma Statutes.

3 B. Upon the return of ~~such a writ of habeas corpus, the fact of~~  
4 ~~the person's mental illness~~ whether the person is a person requiring  
5 treatment as defined by Section 1-103 of this title or whether the  
6 minor is a minor requiring treatment as defined by Section 5-502 of  
7 this title shall be inquired into and determined.

8 C. Notice of hearing on the writ must be given to the guardian  
9 of ~~such patient~~ the consumer, if one has been appointed, to the  
10 person who applied for the original commitment and to such other  
11 persons as the court may direct.

12 D. The medical or other history of the ~~patient~~ consumer, as it  
13 appears in the ~~institutional~~ facility record, shall be given in  
14 evidence, and the executive director of the ~~institution~~ facility  
15 wherein ~~such person~~ the consumer is held in custody, ~~and any proper~~  
16 ~~person,~~ shall ~~be sworn touching~~ testify as to the condition of ~~such~~  
17 ~~person~~ the consumer.

18 E. The executive director shall make available for examination  
19 by physicians selected by the person seeking the writ, the ~~patient~~  
20 consumer whose freedom is sought by writ of habeas corpus.

21 F. Any evidence, including evidence adduced in any previous  
22 habeas corpus proceedings, touching upon the mental condition of the  
23 ~~patient~~ consumer shall be admitted in evidence.

1 SECTION 5. AMENDATORY 43A O.S. 2001, Section 1-109, as  
2 last amended by Section 6, Chapter 168, O.S.L. 2004 (43A O.S. Supp.  
3 2004, Section 1-109), is amended to read as follows:

4 Section 1-109. A. 1. All mental health and drug or alcohol  
5 abuse treatment information, whether or not recorded, and all  
6 communications between a physician or psychotherapist and a ~~patient~~  
7 consumer are both privileged and confidential. In addition, the  
8 identity of all persons who have received or are receiving mental  
9 health or drug or alcohol abuse treatment services shall be  
10 considered confidential and privileged.

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

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

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

- 1           a.    communications to law enforcement officers that are  
2                    directly related to a commission of a crime by a  
3                    ~~patient~~ consumer on the premises of a facility or  
4                    against facility personnel or to a threat to commit  
5                    such a crime, and that are limited to the  
6                    circumstances of the incident, including the ~~patient~~  
7                    consumer status of the individual committing or  
8                    threatening to commit the crime, the name and address  
9                    of that individual, and the last-known whereabouts of  
10                  that individual,  
11           b.    reporting under state law of incidents of suspected  
12                  child abuse and neglect to the appropriate  
13                  authorities,  
14           c.    disclosure of ~~patient~~ consumer-identifying information  
15                  to medical personnel who have a need for information  
16                  about a ~~patient~~ consumer for the purpose of treating a  
17                  condition which poses an immediate threat to the  
18                  health of any individual and which requires immediate  
19                  medical intervention,  
20           d.    disclosure of information when the ~~patient~~ consumer is  
21                  an inmate in the custody of the Department of  
22                  Corrections or a private prison or facility under  
23                  contract with the Department of Corrections and the

1 information is necessary to prevent or lessen a  
2 serious and imminent threat to the health or safety of  
3 a person or the public, and the information is  
4 released to a person or persons reasonably able to  
5 prevent or lessen the threat, including the target of  
6 the threat, and

7 e. disclosure of ~~patient~~ consumer-identifying information  
8 when it appears from all the circumstances that the  
9 individual has escaped from a correctional institution  
10 or from lawful custody and the release is to a law  
11 enforcement authority for the purpose of  
12 identification and apprehension.

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

16 C. A person who is or has been a ~~patient~~ consumer of a  
17 physician, psychotherapist, mental health facility, a drug or  
18 alcohol abuse treatment facility or service, other agency for the  
19 purpose of mental health or drug or alcohol abuse care and treatment  
20 shall be entitled to personal access to ~~such~~ the person's mental  
21 health or drug or alcohol abuse treatment information unless ~~such~~  
22 access is reasonably likely to endanger the life or physical safety

1 of the ~~patient~~ consumer or another person as determined by the  
2 person in charge of the care and treatment of the patient.

3 D. 1. The restrictions on disclosure of mental health or drug  
4 or alcohol abuse treatment information shall not restrict the  
5 disclosure of ~~patient~~ consumer-identifying information related to  
6 the cause of death of a ~~patient~~ consumer under laws requiring the  
7 collection of death or other vital statistics or permitting inquiry  
8 into the cause of death.

9 2. Any other disclosure regarding a deceased ~~patient~~ consumer  
10 shall require either a court order or a written release of:

11 a. an executor, administrator, or personal representative  
12 appointed by the court, ~~or~~

13 b. if there is no such appointment, by the spouse of the  
14 ~~patient~~ consumer, or

15 c. if none, by any responsible member of the family of  
16 the ~~patient~~ consumer.

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

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

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

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

8 3. The name of the ~~patient~~ consumer whose records are to be  
9 released;

10 4. The purpose of the disclosure;

11 5. A description of the information to be disclosed;

12 6. The dated signature of the ~~patient~~ consumer or authorized  
13 representative or both when required;

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

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

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

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

6        SECTION 6.        AMENDATORY        Section 1, Chapter 187, O.S.L.  
7 2003, as amended by Section 4, Chapter 113, O.S.L. 2004 (43A O.S.  
8 Supp. 2004, Section 1-109.1), is amended to read as follows:

9        Section 1-109.1 A. 1. Every adult having a mental illness as  
10 defined in Section 1-103 of this title who is under the care of a  
11 licensed mental health professional shall be informed by the  
12 licensed mental health professional or the mental health treatment  
13 facility that the ~~patient~~ consumer has the right to designate a  
14 family member or other concerned individual as a treatment advocate.

15        2. The individual ~~so~~ designated as a treatment advocate shall  
16 act at all times in the best interests of the ~~patient~~ consumer.

17        3. The patient may change or revoke the designation of a  
18 treatment advocate at any time and for any reason.

19        4. The treatment advocate may participate in the treatment  
20 planning and discharge planning of the ~~patient~~ consumer to the  
21 extent consented to by the ~~patient~~ consumer and as permitted by law.

22        B. 1. The Board of Mental Health and Substance Abuse Services  
23 shall promulgate rules for all facilities certified by the

1 Department of Mental Health and Substance Abuse Services as to the  
2 design, contents, and maintenance of a treatment advocate consent  
3 form.

4 2. The contents of the consent form, at a minimum, shall  
5 include a statement indicating that the treatment advocate  
6 understands that all mental health treatment information is  
7 confidential and that the treatment advocate agrees to maintain  
8 confidentiality.

9 C. This section shall not apply to inmates of the Oklahoma  
10 Department of Corrections.

11 SECTION 7. AMENDATORY 43A O.S. 2001, Section 2-101, is  
12 amended to read as follows:

13 Section 2-101. A. 1. There is hereby established in this  
14 state a Department of Mental Health and Substance Abuse Services.

15 2. This Department's governing board shall be the Board of  
16 Mental Health and Substance Abuse Services, and its chief executive  
17 officer shall be the Commissioner of Mental Health and Substance  
18 Abuse Services.

19 3. The Department of Mental Health and Substance Abuse Services  
20 shall exercise all functions of the state in relation to the  
21 administration and operation of all state ~~institutions~~ facilities  
22 for the care and treatment of the mentally ill and drug- or alcohol-  
23 dependent persons.

1 B. All references in the Oklahoma Statutes to the Department of  
2 Mental Health or the Board of Mental Health shall be construed to  
3 refer to the Department of Mental Health and Substance Abuse  
4 Services or the Board of Mental Health and Substance Abuse Services,  
5 respectively.

6 SECTION 8. AMENDATORY 43A O.S. 2001, Section 2-202, as  
7 last amended by Section 7, Chapter 113, O.S.L. 2004 (43A O.S. Supp.  
8 2004, Section 2-202), is amended to read as follows:

9 Section 2-202. A. Except as herein provided, the Commissioner  
10 of Mental Health and Substance Abuse Services shall have charge of  
11 the administration of the Department of Mental Health and Substance  
12 Abuse Services as directed by the Board of Mental Health and  
13 Substance Abuse Services and shall be charged with the duty of  
14 carrying out the provisions of the Mental Health Law.

15 B. The Commissioner may appoint necessary personnel to carry on  
16 the work of the Department, prescribe their titles and duties, and  
17 fix their compensation.

18 C. The Commissioner may prescribe policies for the operation of  
19 the Department. ~~In addition, the~~ The Commissioner shall have the  
20 following additional powers and duties:

21 1. To appoint, with the consent of the Board, an executive  
22 director of each facility within the Department, and fix the  
23 qualifications, duties and compensation of the executive directors;

1 to counsel with the various executive directors about facility needs  
2 and budget requests; and to prepare and submit for appropriate  
3 legislative action budget requests sufficient to carry on the  
4 functions of the Department. These budget requests shall be  
5 submitted to the Board for its recommendations before being  
6 submitted for legislative action;

7 2. To develop, institute and administer such administrative and  
8 professional policies as may be necessary to guarantee effective,  
9 efficient and uniform operation of the Department and its  
10 facilities;

11 3. To prescribe uniform reports to be made by the executive  
12 directors of the facilities and designate forms to be used;

13 4. After conference with the executive director of each  
14 facility, determine the number of employees to be appointed and fix  
15 their respective titles, salaries, and wages which shall be as  
16 uniform as possible for comparable service;

17 5. To aid, assist and cooperate with the State Department of  
18 Health, institutions of higher learning, public schools, and others  
19 interested in public education regarding the issue of mental hygiene  
20 in the establishment of a sound mental health program in the State  
21 of Oklahoma;

22 6. To visit each facility in the Department at least once each  
23 calendar year. During such visits, the Commissioner shall have

1 access to any or all facilities and records and shall have the  
2 privilege of interviewing all personnel and ~~patients~~ consumers  
3 within the facility. The purpose of ~~such~~ the visits to the facility  
4 shall be:

- 5 a. to review and evaluate the professional and
- 6 administrative activity of such facilities,
- 7 b. to ensure compliance with medical and administrative
- 8 policies and procedures established by the Department,
- 9 c. to modify and revise existing operating procedure to
- 10 improve operational effectiveness,
- 11 d. to institute new policies and procedures to effect
- 12 improvement and economy of overall operation, and
- 13 e. to coordinate the activities of each facility with the
- 14 overall operation of the Department;

15 7. To authorize other members of the Department to visit the  
16 facilities in the Department. ~~Such~~ These persons shall have the  
17 same power to inspect the facility and its records and to interview  
18 personnel and ~~patients~~ consumers as the Commissioner;

19 8. To designate the type of ~~patient~~ consumer that will be cared  
20 for at each facility and designate hospital or community mental  
21 health center districts for the purpose of determining to which of  
22 the facilities within the Department or community mental health

1 centers persons committed from each county shall initially be sent.  
2 These designations may be changed from time to time.

3 a. The Commissioner or a designee of the Commissioner may  
4 establish specific hours for ~~patient~~ consumer  
5 admissions at each facility.

6 b. The Commissioner or a designee of the Commissioner may  
7 delay inpatient admissions when such admissions would  
8 cause facilities to exceed their authorized capacity.

9 ~~Patients~~

10 c. Consumers may be transferred from one facility to  
11 another within the Department on the authority of the  
12 Commissioner as provided for in the Mental Health Law.

13 d. Permanent transfer of a ~~patient~~ consumer may be made  
14 when it is apparent that the ~~patient's~~ general  
15 welfare, care, and treatment of the consumer can be  
16 more effectively provided at another facility,  
17 provided the parents or guardian are notified as soon  
18 as possible of the transfer.

19 e. Temporary transfer of a ~~patient~~ consumer may be made  
20 in order that a ~~patient~~ consumer may have the  
21 advantage of special services not available at the  
22 facility of ~~such patient's~~ the present residence of  
23 the consumer.

1           f.   Requests for transfer shall be initiated by the  
2                           executive director of the facility in which the  
3                           ~~patient~~ consumer resides.

4           g.   Sufficient supporting information from the ~~patient's~~  
5                           records of the consumer shall be submitted by the  
6                           executive director to the Commissioner to warrant a  
7                           decision as to the advisability of the transfer;

8           9.   To call meetings of the executive directors of the  
9           facilities in the Department, and act as chair of such meetings, to  
10          discuss common problems in order to obtain uniformity and bring  
11          about coordination of the facilities for the maximum service to the  
12          state. ~~Such-called~~ Called meetings may or may not be held jointly  
13          with the Board;

14          10. To be the chair of a Board of Psychiatric Examiners to  
15          review the case of any ~~patient~~ consumer, and to examine any ~~patient~~  
16          consumer when the executive director of any facility concludes that  
17          a ~~patient~~ consumer within such facility is subject to discharge but  
18          such executive director is unwilling to discharge the ~~patient~~  
19          consumer as provided in the Mental Health Law.

20          a.   The Board of Psychiatric Examiners shall be composed  
21                           of the Commissioner and two members selected by the  
22                           Board. ~~Such members~~ Members of the Board of  
23                           Psychiatric Examiners shall be selected from persons

1           who are qualified examiners according to the Mental  
2           Health Law.

3           b.   The Commissioner may designate a third qualified  
4           examiner to act as chair when circumstances warrant  
5           and when the Commissioner deems it necessary;

6           11. To keep a list of all nonresidents admitted to a facility  
7           within the Department and to make every effort possible to make  
8           arrangements with other states so that mentally ill persons who are  
9           being cared for at public expense in any facility in this state and  
10          who are citizens or residents of such other states may be  
11          transferred at the expense of this state to similar facilities in  
12          such other states.

13          a.   The Commissioner shall not prevail upon relatives or  
14          friends of such mentally ill person or any other  
15          person to defray ~~such~~ transfer expenses.

16          b.   Mentally ill persons who are being cared for at public  
17          expense in hospitals for mentally ill or facilities of  
18          other states, other than persons who have been  
19          transferred from penal institutions and the terms of  
20          whose sentences to such penal institutions shall not  
21          have expired, and who are citizens or residents of  
22          this state, may be transferred at the expense of such  
23          other states to similar facilities in this state.

1           c.   Removal of a nonresident to the nonresident's state  
2                           may be authorized by the Commissioner and all expenses  
3                           of such transfer shall be taken from the Travel Fund  
4                           of the facility if the transfer is to be at public  
5                           expense. ~~Patients~~

6           d.   Consumers returned to this state pursuant to these  
7                           provisions shall be delivered directly to the hospital  
8                           designated by the Commissioner and shall be admitted  
9                           in accordance with these provisions;

10          12. To prescribe the official forms of any and all papers not  
11 specifically described in the Mental Health Law including those to  
12 be used in ordering a person to a facility within the Department,  
13 except that when a person is ordered to a facility by a court, the  
14 order to hospitalize or admit such person may be on such form as the  
15 court deems proper;

16          13. To utilize the services of employees of the Department of  
17 Central Services, the State Department of Health, and the Department  
18 of Human Services when authorized by the director or commissioner  
19 thereof. When employees of those agencies are used, the  
20 Commissioner of Mental Health and Substance Abuse Services may  
21 authorize payment of their traveling expenses as provided by law;

22          14. To make contracts and agreements with other departments of  
23 this state to carry out these provisions;

1           15. To make a written report annually to the Governor  
2 concerning the administration of the Department and submit copies  
3 thereof to members of the Legislature. ~~Such~~ The report shall be  
4 presented one (1) month prior to the convening of any regular  
5 session of the Legislature and shall include:

- 6           a. specific information regarding the number of ~~patients~~  
7                 consumers admitted, treated, and discharged,
- 8           b. the methods of treatment used and an appraisal of the  
9                 success thereof,
- 10          c. the financial condition and needs of each facility in  
11                 the Department,
- 12          d. any long-range plans or recommendations for the  
13                 utilization and improvement of facilities, equipment,  
14                 and personnel and for the care and treatment of  
15                 ~~patients~~ consumers,
- 16          e. any recommendations requiring legislation, and
- 17          f. major findings, in summarized form, obtained by visits  
18                 made pursuant to the provisions of paragraph 6 of this  
19                 section;

20           16. To designate as peace officers qualified personnel in the  
21 fire and safety officer, security officer and correctional officer  
22 job classifications.



1 of paragraph 2 of subsection A of Section 510 of Title  
2 57 of the Oklahoma Statutes and be of good moral  
3 character;

4 17. To establish a Forensics Review Board to annually review  
5 the case of every ~~patient~~ consumer ordered to the custody of the  
6 Department through a "not guilty by reason of insanity" verdict.  
7 The Forensics Review Board shall be composed of three (3) licensed  
8 mental health professionals, at least one of whom is licensed as a  
9 Doctor of Medicine, a Doctor of Osteopathy, or a licensed clinical  
10 psychologist, who shall be selected by the Commissioner; and

11 18. Any other power necessary to implement the provisions of  
12 the Mental Health Law.

13 SECTION 9. AMENDATORY 43A O.S. 2001, Section 2-207, is  
14 amended to read as follows:

15 Section 2-207. The Commissioner of Mental Health and Substance  
16 Abuse Services, with the consent of the Board of Mental Health and  
17 Substance Abuse Services, may employ persons to assist in collecting  
18 the amount due the state for the care and treatment of ~~patients~~  
19 consumers, and may employ counsel to institute such actions or  
20 proceedings as ~~he~~ the Commissioner may deem proper to enforce the  
21 claim of the state for the care and treatment of a ~~patient~~ consumer  
22 against ~~such patient~~ the consumer.

1 SECTION 10. AMENDATORY 43A O.S. 2001, Section 2-219, as  
2 amended by Section 7, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004,  
3 Section 2-219), is amended to read as follows:

4 Section 2-219. Any officer or employee of a facility who  
5 maliciously assaults, beats, batters, abuses, or uses mechanical  
6 restraints, or willfully aids, abets, advises or permits any ~~patient~~  
7 consumer confined therein to be maliciously assaulted, beaten,  
8 battered, abused, or mechanically restrained shall be guilty of a  
9 felony, and on conviction thereof shall be punished by imprisonment  
10 in the State Penitentiary for not more than five (5) years, or a  
11 fine not exceeding Five Hundred Dollars (\$500.00), or both ~~such~~ fine  
12 and imprisonment.

13 SECTION 11. AMENDATORY 43A O.S. 2001, Section 2-220, as  
14 amended by Section 8, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004,  
15 Section 2-220), is amended to read as follows:

16 Section 2-220. An executive director of a facility who fails to  
17 report to the district attorney of the county in which the facility  
18 is located any officer or employee who shall willfully or  
19 maliciously assault, beat, batter, abuse or use mechanical  
20 restraints without authority or who aids, abets, advises or permits  
21 any ~~patient~~ consumer confined in the facility to be subjected to  
22 such conduct shall be guilty of a misdemeanor.

1 SECTION 12. AMENDATORY 43A O.S. 2001, Section 2-303, is  
2 amended to read as follows:

3 Section 2-303. A. 1. There is hereby created in the State  
4 Treasury a revolving fund for the Department of Mental Health and  
5 Substance Abuse Services to be designated the "Department of Mental  
6 Health and Substance Abuse Services Revolving Fund".

7 2. The fund shall be a continuing fund, not subject to fiscal  
8 year limitations, and shall consist of monies received by each  
9 facility and office of the Department as:

- 10 a. reimbursements from persons and agencies for the care  
11 of ~~patients,~~ consumers,
- 12 b. reimbursements from other state agencies and entities  
13 of government~~,~~
- 14 c. all reimbursements received by the Department from the  
15 United States government or pursuant to proceedings in  
16 district court to enforce claims for the cost of care  
17 and treatment of ~~patients,~~ consumers,
- 18 d. proceeds from enrollment fees for alcohol and drug  
19 substance abuse courses~~,~~
- 20 e. earnings and proceeds in the conduct and management of  
21 the dairy, farm, truck, garden, livestock and any  
22 industries of said facilities~~,~~



1 Health and Substance Abuse Services and shall be operated under the  
2 supervision of the Department of Mental Health and Substance Abuse  
3 Services.

4 B. The Department of Mental Health and Substance Abuse Services  
5 is authorized to effect the transfer of property, records,  
6 equipment, supplies and funds to include, if appropriate, revolving  
7 funds, and encumbrances from ~~Central State~~ Griffin Memorial Hospital  
8 to the ~~institution~~ facility designated in subsection A above.

9 C. There is hereby created a petty cash fund at the Central  
10 Oklahoma Community Mental Health and Substance Abuse Services  
11 Center, Norman, Oklahoma. The Director of State Finance and the  
12 Commissioner of Mental Health and Substance Abuse Services are  
13 authorized to fix the maximum amount of the petty cash fund and the  
14 Director of State Finance shall prescribe the rules and procedures  
15 for the administration of the petty cash fund.

16 SECTION 14. AMENDATORY 43A O.S. 2001, Section 3-108, is  
17 amended to read as follows:

18 Section 3-108. The Commissioner of Mental Health and Substance  
19 Abuse Services is hereby authorized and directed to establish an  
20 appropriate room or ward for proper treatment and rehabilitation of  
21 ~~minor~~ addicts of regulated narcotic drugs who are minors, with  
22 special emphasis to the rehabilitation of a ~~patient~~ consumer during

1 treatment and provide an adequate program for reestablishment into  
2 society upon release.

3 SECTION 15. AMENDATORY 43A O.S. 2001, Section 3-109, is  
4 amended to read as follows:

5 Section 3-109. There may be established and maintained at each  
6 of the ~~institutions~~ facilities within the ~~department~~ Department of  
7 Mental Health and Substance Abuse Services a canteen. Any profits  
8 from ~~an institution's~~ the canteen of a facility shall be used for  
9 the benefit of the ~~patients~~ consumers of the ~~institution~~ facility.

10 SECTION 16. AMENDATORY 43A O.S. 2001, Section 3-316, is  
11 amended to read as follows:

12 Section 3-316. The Department of Mental Health and Substance  
13 Abuse Services shall establish within an existing state mental  
14 health hospital or hospitals a program for the care of violent  
15 ~~patients~~ consumers who are unable to function outside of a secure  
16 and structured environment.

17 SECTION 17. AMENDATORY 43A O.S. 2001, Section 3-415, as  
18 amended by Section 24, Chapter 488, O.S.L. 2002 (43A O.S. Supp.  
19 2004, Section 3-415), is amended to read as follows:

20 Section 3-415. A. 1. The Board of Mental Health and Substance  
21 Abuse Services shall promulgate rules and standards for  
22 certification for private facilities and organizations which provide  
23 treatment, counseling and rehabilitation services directed toward

1 alcohol- and drug-dependent persons. These facilities and  
2 organizations shall be known as "Certified Services for the Alcohol  
3 and Drug Dependent". Only certified facilities may receive and  
4 assist alcohol- and drug-dependent persons by providing treatment  
5 and rehabilitation.

6 2. Any person violating the requirement that only certified  
7 facilities may receive and assist alcohol- and drug-dependent  
8 persons by providing treatment to alcohol- and drug-dependent  
9 persons, upon conviction, shall be guilty of a misdemeanor.

10 B. Applications for certification as a certified service for  
11 the alcohol- and drug-dependent person pursuant to the provisions of  
12 this section shall be made to the Department of Mental Health and  
13 Substance Abuse Services on prescribed forms.

14 C. The Board, or the Commissioner of Mental Health and  
15 Substance Abuse Services upon delegation by the Board, may certify  
16 the facility for a period of thirty-six (36) months subject to  
17 renewal as provided.

18 D. For good cause shown including, but not limited to, failure  
19 to comply with rules and standards promulgated by the Board, pending  
20 state or federal investigations, or verified complaints concerning  
21 matters affecting the proper operation or ownership of the facility,  
22 the Board may postpone, deny renewal of, revoke, or suspend the  
23 certification of the facility.

1 E. ~~Licensed~~ The following are exempt from the provisions of the  
2 Oklahoma Alcohol and Drug Abuse Services Act:

3 1. Individual persons in private practice as licensed  
4 physicians, licensed psychologists, licensed social workers,  
5 individual members of the clergy, and certified alcohol or drug  
6 abuse counselors ~~are exempt from the regulations and standards for~~  
7 ~~certification, provided that such exemptions.~~ The exemption shall  
8 apply only to individual professional persons in their private  
9 practice and not to any treatment facility operated by ~~such~~ the  
10 person;

11 2. Properly licensed hospitals,~~programs;~~

12 3. Programs or facilities operated by a state agency,~~programs;~~

13 4. Programs conducted and facilities operated by Alcoholics  
14 Anonymous~~;~~ or

15 5. Programs conducted and facilities operated by the Salvation  
16 Army ~~are also exempt from the provisions of the Oklahoma Alcohol and~~  
17 ~~Drug Abuse Services Act.~~

18 F. Certified services for the alcohol- or drug-dependent person  
19 shall comply with standards adopted by the Board. Such standards  
20 shall require that treatment and therapeutic methods shall be in  
21 compliance with:

22 1. The Joint Commission on Accreditation of Healthcare  
23 Organizations;

1           2. The Commission on Accreditation of Rehabilitation  
2 Facilities; ~~or~~

3           3. The Council on Accreditation (COA); or

4           4. Approved medical and professional standards as determined by  
5 the Board.

6           G. Any facility or organization certified to provide certified  
7 services shall cooperate with inspection personnel of the state and  
8 shall promptly file all reports required by the Board.

9           H. All claims by and accomplishments publicized by any  
10 applicant for certification or any certified alcohol- or drug-  
11 dependent organization, including but not limited to ~~patient~~  
12 consumer count and success rates, shall be documented and verifiable  
13 by the Board.

14          I. The Board is hereby authorized to collect from each  
15 applicant the sum of One Hundred Dollars (\$100.00) annually to help  
16 defray the costs incurred in the certification procedure.

17          J. Any materials or information received by the Department from  
18 an applicant regarding the applicant's financial status shall not be  
19 construed to be open records pursuant to the Oklahoma Open Records  
20 Act.

21          SECTION 18.           AMENDATORY           43A O.S. 2001, Section 3-416, is  
22 amended to read as follows:

1 Section 3-416. In establishing standards for treatment services  
2 and rules of operation, the Authority and approved treatment  
3 facilities shall be guided by the following standards:

4 1. If possible a ~~patient~~ consumer shall be treated on a  
5 voluntary rather than an involuntary basis.

6 2. A ~~patient~~ consumer shall be initially referred to outpatient  
7 treatment or intermediate care unless he is found to require  
8 inpatient treatment.

9 3. A person shall not be denied treatment solely because he has  
10 withdrawn from treatment against medical advice on a prior occasion  
11 or because he has relapsed after earlier treatment.

12 4. No person shall be refused treatment because of sex or age  
13 unless the approved treatment facility which refuses treatment  
14 refers the person to another approved treatment facility with which  
15 it has a written referral agreement and which provides services  
16 appropriate to the person's sex or age group.

17 5. Restrictions on acceptance of persons by an approved  
18 treatment facility shall be published by the facility and made  
19 available to the public.

20 6. An individualized treatment plan shall be prepared and  
21 maintained on a current basis for each ~~patient~~ consumer.

22 7. Family members of the ~~patient~~ consumer shall be included in  
23 the treatment services when possible and appropriate.

1           8. Community-based treatment shall be encouraged and emphasized  
2 to make treatment available to persons in their home communities.

3           9. ~~Patients~~ Consumers shall be encouraged to agree to such  
4 further diagnosis and treatment as will be of benefit to them.

5           SECTION 19.           AMENDATORY           43A O.S. 2001, Section 3-426, is  
6 amended to read as follows:

7           Section 3-426. A. If treatment is provided by an approved  
8 treatment facility to a ~~patient~~ consumer admitted under the  
9 provisions of this act and the ~~patient~~ consumer has not paid the  
10 fees charged for such treatment, the approved treatment facility is  
11 entitled to any payment received:

12           1. By the ~~patient~~ consumer to which he is entitled because of  
13 the services rendered; and

14           2. From any public or private source available to the facility  
15 because of the treatment provided to the ~~patient~~ consumer.

16           B. A ~~patient~~ consumer admitted to an approved treatment  
17 facility under the provisions of this act, the estate of the ~~patient~~  
18 consumer or a person obligated by law to pay for the treatment of  
19 the ~~patient~~ consumer, and financially able to do so, is liable to  
20 the approved treatment facility for the cost of maintenance and  
21 treatment of the ~~patient~~ consumer in the facility in accordance with  
22 the published rates.

1 C. The administrator of the facility shall adopt rules  
2 governing financial ability to pay for maintenance and treatment  
3 which take into consideration the income, savings and other personal  
4 and real property of the person required to pay, and any support  
5 being furnished by him to any person he is required by law to  
6 support. Rates shall be published by the facility in accordance  
7 with regulations of the Authority adopted under the provisions of  
8 the Administrative Procedures Act.

9 SECTION 20. AMENDATORY 43A O.S. 2001, Section 3-428, is  
10 amended to read as follows:

11 Section 3-428. A. An intoxicated person in a public place, as  
12 defined in Section 8 of Title 37 of the Oklahoma Statutes, who  
13 appears to be in need of help, if ~~he~~ the person consents to the  
14 offered help, may be assisted to ~~his~~ :

15 1. His or her home, ~~to an;~~

16 2. An alternative facility pursuant to the provisions of this  
17 section; or ~~to an~~

18 3. An approved treatment facility by a peace officer or an  
19 emergency service patrol.

20 B. 1. A person who appears to be intoxicated, and as a result  
21 of such intoxication is unconscious in a public place or reasonably  
22 appears to be in danger of harming ~~himself~~ himself or herself or  
23 others, may be taken into protective custody by a peace officer or

1 an emergency service patrol and immediately brought to an approved  
2 treatment facility for medical or nonmedical detoxification.

3 2. The peace officer or the emergency service patrol, in  
4 detaining the person and taking ~~him~~ the person to an approved  
5 treatment facility, is taking ~~him~~ the person into protective custody  
6 and shall make every reasonable effort to protect ~~his~~ the person's  
7 health and safety.

8 3. In taking the person into protective custody, the detaining  
9 officer may take reasonable steps ~~to protect himself~~ for self-  
10 protection. No record shall be made which indicates that the person  
11 has been arrested or charged with a crime.

12 C. 1. If the Department of Mental Health and Substance Abuse  
13 Services, or the governing body of any municipality, has approved a  
14 program alternative to statutory or municipal requirements of  
15 prosecution and imprisonment of such person, until the capacity to  
16 accommodate intoxicated persons has been exceeded in the facility  
17 wherein such alternative program is located, the arresting officer  
18 and other public officials involved in an arrest pursuant to this  
19 section shall utilize such alternative treatment program upon the  
20 voluntary approval of the intoxicated person and the receiving  
21 facility rather than proceed under the statutory or municipal laws  
22 pertaining to prosecution and imprisonment of intoxicated persons.

1        2. A facility in which the program is located may make  
2 application to the Department of Mental Health and Substance Abuse  
3 Services for approval, but no such program or facility wherein such  
4 program is located shall claim or advertise to be a certified  
5 treatment facility unless duly certified as such by the Department  
6 of Mental Health and Substance Abuse Services.

7        3. All facilities acquiring ~~such~~ the approval of an alternative  
8 program shall establish their own capacity for the number of persons  
9 to be accommodated in the program.

10       4. It shall be the duty of the State Department of Health to  
11 investigate all complaints concerning general sanitation made in the  
12 form of a sworn affidavit against such municipally approved  
13 alternative facilities.

14       5. In event the complaints are found to be true, the State  
15 Commissioner of Health shall have the power to order improvements or  
16 closure.

17       D. A person who is brought to an alternative facility or an  
18 approved treatment facility may be admitted as a ~~patient~~ consumer by  
19 the administrator in charge of the facility or referred to another  
20 treatment facility.

21       E. 1. A person may not be detained at the approved treatment  
22 facility when ~~he~~ the person either is no longer unconscious, or no  
23 longer appears likely to be of harm ~~himself~~ to self or others.

1        2. If ~~he~~ the person remains unconscious or likely to harm  
2 ~~himself~~ himself or herself or others, ~~he~~ the person may be detained  
3 for no more than twelve (12) hours, excluding weekends and legal  
4 holidays, after admission unless a petition for an order directing  
5 ~~his~~ the commitment of the person to an approved treatment facility  
6 has been filed according to the Mental Health Law provisions and  
7 procedures for commitment ~~of said persons~~. The person may consent  
8 to remain in the facility as long as the administrator or physician  
9 in charge believes appropriate.

10        F. If a person is admitted to an approved treatment facility  
11 under this section, ~~he~~ the person may notify ~~his~~ relatives of ~~his~~  
12 the admission or another person may, with the consent of the  
13 admittee, notify ~~his~~ relatives of ~~his~~ the admission.

14        SECTION 21.        AMENDATORY        Section 12, Chapter 113, O.S.L.  
15 2004 (43A O.S. Supp. 2004, Section 3-453.1), is amended to read as  
16 follows:

17        Section 3-453.1 A. The Attorney General, the Department of  
18 Mental Health and Substance Abuse Services, or the district attorney  
19 of the appropriate district court may bring an action in a court of  
20 competent jurisdiction for an injunction against any individual for  
21 operating an alcohol and drug substance course without the  
22 appropriate certification by the Department of Mental Health and

1 Substance Abuse Services or for a violation of any ~~other~~ order or  
2 determination of the Department.

3 B. ~~In~~ Any findings of the Department, after hearing and due  
4 process, in any action for an injunction brought pursuant to this  
5 section, ~~any findings of the Department, after hearing and due~~  
6 ~~process,~~ shall be prima facie evidence of the facts ~~found therein.~~

7 C. The district court for the county where the facility is  
8 located has jurisdiction to determine the action, to grant the  
9 necessary injunctive relief and to award attorney's fees to the  
10 prevailing party.

11 SECTION 22. AMENDATORY 43A O.S. 2001, Section 3-601, as  
12 last amended by Section 24, Chapter 46, O.S.L. 2003 (43A O.S. Supp.  
13 2004, Section 3-601), is amended to read as follows:

14 Section 3-601. A. Any Class II controlled dangerous substance,  
15 when used in this state by an opioid substitution treatment program  
16 for persons with a history of opioid addiction to or physiologic  
17 dependence on controlled dangerous substances, shall only be used  
18 ~~in:~~

19 1. In treating persons with a history of addiction for two (2)  
20 years or more, ~~or;~~

21 2. In treating persons with a one-year history, as defined by  
22 the Code of Federal Regulations, and documentation of attempting  
23 another type of treatment, ~~;~~ or ~~if~~

1        3. If clinically appropriate, the program physician may waive  
2 the requirement of a one-year history of opioid addiction for  
3 ~~patients~~ consumers within six (6) months of release from a penal  
4 institution, for ~~patients~~ consumers with a pregnancy verified by the  
5 program physician, ~~and~~ or for ~~patients~~ consumers having received  
6 treatment within two (2) years of discharge.

7        B. Any conviction for a violation of the provisions of this  
8 section or any rules promulgated pursuant to the provisions of this  
9 section shall be a felony.

10       C. For the purposes of this section, "opioid substitution  
11 treatment program" means a person, private physician, or  
12 organization that administers or dispenses an opioid drug to a  
13 narcotic addict for the purposes of detoxification or maintenance  
14 treatment or provides, when necessary and appropriate, comprehensive  
15 medical and rehabilitation services; ~~provided, a.~~ a. A private  
16 physician who administers buprenorphine with a waiver from the Drug  
17 Enforcement Administration shall not be considered an opioid  
18 substitution treatment program. An opioid substitution treatment  
19 program shall be approved by the Board of Mental Health and  
20 Substance Abuse Services, or the Commissioner of Mental Health and  
21 Substance Abuse Services upon delegation by the Board, and  
22 registered with the federal Drug Enforcement Administration for the  
23 use of an opioid drug to treat narcotic addiction.

1 D. Opioid substitution treatment programs shall notify the  
2 Department of Mental Health and Substance Abuse Services of plans to  
3 close or relocate within a minimum of thirty (30) days prior to  
4 closure or relocation.

5 SECTION 23. AMENDATORY Section 21, Chapter 3, O.S.L.  
6 2002, as last amended by Section 27, Chapter 46, O.S.L. 2003 (43A  
7 O.S. Supp. 2004, Section 3-701a), is amended to read as follows:

8 Section 3-701a. A. 1. On and after February 1, 2002, it shall  
9 be the responsibility of the Department of Corrections or the  
10 primary medical contract provider of the Department of Corrections  
11 to provide such medical and surgical inpatient and outpatient care  
12 as may be required by inmates of the Department of Corrections. The  
13 Department or the primary medical contract provider of the  
14 Department may refer to the University Hospitals, and the University  
15 Hospitals shall accept, those inmate ~~patients~~ consumers who need  
16 services, as determined by the Department of Corrections to be  
17 beyond the professional capabilities of the Department of  
18 Corrections or the primary medical contract provider of the  
19 Department of Corrections.

20 2. The primary medical contract provider shall be a hospital as  
21 defined in Section 1-701 of Title 63 of the Oklahoma Statutes, and  
22 shall be the source of initial referrals, and diagnosis and  
23 treatment where appropriate for inmate care from the Department of

1 Corrections. The Director of the Department of Corrections shall  
2 designate the primary medical contract provider for the Department  
3 of Corrections.

4 B. The Department of Corrections shall be responsible for  
5 transporting to, from, and between hospitals and for providing such  
6 physical security of inmate ~~patients~~ consumers as may be required  
7 beyond that security normal to hospital operation. The Department  
8 of Corrections shall immediately remove from the hospital those  
9 inmate ~~patients as each is~~ consumers when discharged by the  
10 hospital.

11 C. The hospital services provided by Griffin Memorial Hospital  
12 and the University Hospitals shall be without cost to the Department  
13 of Corrections.

14 SECTION 24. AMENDATORY 43A O.S. 2001, Section 4-102, is  
15 amended to read as follows:

16 Section 4-102. There shall be developed during a person's stay  
17 in a mental health facility, an individualized treatment plan which  
18 shall be specifically tailored to such person's treatment needs.  
19 Each plan shall clearly include the following:

20 1. A statement of treatment goals or objectives, based upon and  
21 related to a proper evaluation, which can be reasonably achieved  
22 within a designated time interval;

1           2. Treatment methods and procedures to be used to obtain these  
2 goals, which methods and procedures are related to these goals and  
3 which include specific prognosis for achieving each of these goals;

4           3. Identification of the types of professional personnel who  
5 shall carry out the treatment procedures, including appropriate  
6 medical or other professional involvement by a physician or other  
7 health professional properly qualified to fulfill legal requirements  
8 mandated under state and federal law;

9           4. Documentation of ~~patient~~ consumer involvement and, if  
10 applicable, ~~the patient's~~ accordance with the treatment plan by the  
11 consumer; and

12           5. A statement attesting that the person in charge of the  
13 facility or clinical director has made a reasonable effort to meet  
14 the ~~plan's~~ individualized treatment goals of the plan in the least  
15 restrictive environment possible, closest to the ~~patient's~~ home  
16 community of the consumer.

17           SECTION 25.           AMENDATORY           43A O.S. 2001, Section 4-103.1,  
18 as amended by Section 14, Chapter 113, O.S.L. 2004 (43A O.S. Supp.  
19 2004, Section 4-103.1), is amended to read as follows:

20           Section 4-103.1 The executive director of any ~~institution~~  
21 facility within the Department of Mental Health and Substance Abuse  
22 Services shall have custody and control of a ~~patient~~ consumer within  
23 the ~~institution~~ facility during the period of time the ~~patient~~

1 consumer is detained for observation or treatment or both, and shall  
2 be responsible for the care and treatment of the ~~patient~~ consumer  
3 during the time the ~~patient~~ consumer remains in the ~~institution~~  
4 facility.

5 SECTION 26. AMENDATORY 43A O.S. 2001, Section 4-104, is  
6 amended to read as follows:

7 Section 4-104. Before proceeding with any major operation which  
8 in the judgment of the ~~superintendent~~ executive director of the  
9 ~~institution~~ facility is advisable or necessary, the ~~superintendent~~  
10 executive director shall notify or cause to be notified the spouse,  
11 parent or guardian or one of the next of kin residing in Oklahoma,  
12 if ~~such~~ the information is shown by the records on file with the  
13 ~~superintendent and a~~ executive director. A copy of ~~said~~ the notice  
14 shall be filed in the ~~patient's~~ records, of the consumer, except  
15 ~~that~~ in cases of grave emergency where the medical staff feels that  
16 surgical or other intervention is necessary to prevent serious  
17 consequences or death, authority is hereby given to proceed with  
18 such measure.

19 SECTION 27. AMENDATORY 43A O.S. 2001, Section 4-105, as  
20 amended by Section 29, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004,  
21 Section 4-105), is amended to read as follows:

22 Section 4-105. Any citation, order or process required by law  
23 to be served on a ~~patient~~ consumer of a facility within the

1 Department of Mental Health and Substance Abuse Services shall be  
2 served only by the executive director in charge ~~thereof~~ or by  
3 someone designated by the executive director. Return ~~thereof~~ to the  
4 court from which the ~~same~~ citation, order or process was issued  
5 shall be made by the person making ~~such~~ the service, and such. The  
6 service and return shall have the same force and effect as if it had  
7 been made by the sheriff of the county.

8 SECTION 28. AMENDATORY 43A O.S. 2001, Section 4-106, as  
9 amended by Section 30, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004,  
10 Section 4-106), is amended to read as follows:

11 Section 4-106. Mechanical restraints shall not be applied to a  
12 ~~patient~~ consumer unless it is determined by a physician to be  
13 required by the medical needs of the ~~patient~~ consumer. No  
14 mechanical restraint shall be continued for longer than is  
15 absolutely necessary under the circumstances. Every use of a  
16 mechanical restraint, the reasons and length of time ~~therefor~~, shall  
17 be made a part of the clinical record of the ~~patient~~ consumer under  
18 the signature of the physician.

19 SECTION 29. AMENDATORY 43A O.S. 2001, Section 4-108, as  
20 amended by Section 30, Chapter 488, O.S.L. 2002 (43A O.S. Supp.  
21 2004, Section 4-108), is amended to read as follows:

22 Section 4-108. A. A person receiving treatment for mental  
23 illness or alcohol- or drug-dependency may perform labor which

1 contributes to the operation and maintenance of the facility for  
2 which the facility would otherwise employ someone only if:

3 1. The ~~patient~~ consumer voluntarily agrees to perform the  
4 labor;

5 2. Engaging in the labor would not be inconsistent with the  
6 treatment plan for the ~~patient~~ consumer;

7 3. The amount of time or effort necessary to perform the labor  
8 would not be excessive;

9 4. The ~~patient~~ consumer is compensated appropriately and in  
10 accordance with applicable federal and state minimum wage laws; and

11 5. Discharge and privileges are not conditioned upon the  
12 performance of such labor.

13 B. The provisions of this section shall not apply to bona fide  
14 "work therapy" which is a part of the treatment program.

15 Work therapy shall be:

16 1. In the best interests of the person;

17 2. Therapeutic in nature and purpose;

18 3. Part of the treatment plan of the person;

19 4. Documented in the treatment record with a rationale for the  
20 work therapy;

21 5. Voluntarily entered into by the person;

22 6. Compensated by the facility at a rate derived from the value  
23 of the work performed; and

1           7. Compensated in accordance with federal and state minimum  
2 wage law if the primary benefit is to the facility.

3           C. ~~Subsections~~ The provisions of subsections A and B of this  
4 section shall not apply to ~~matters of~~ personal housekeeping,  
5 personal maintenance, or communal living, ~~nor~~ or tasks oriented to  
6 improving life skills. These activities shall not primarily benefit  
7 the facility.

8           D. Payment pursuant to this section shall not be applied by the  
9 facility to offset the costs of maintenance of persons receiving  
10 treatment in the facility, unless the person authorizes such payment  
11 or offset in writing.

12           SECTION 30.           AMENDATORY           43A O.S. 2001, Section 4-201, is  
13 amended to read as follows:

14           Section 4-201. A ~~patient~~ consumer at ~~an institution~~ a facility  
15 within the Department of Mental Health and Substance Abuse Services  
16 is liable for his or her care and treatment. This claim of the  
17 state for such care and treatment shall constitute a valid  
18 indebtedness against any such ~~patient~~ consumer and ~~his~~ the estate of  
19 the consumer and shall not be barred by any statute of limitations.  
20 At the death of the ~~patient~~ consumer this claim shall be allowed and  
21 paid as other lawful claims against the estate. Provided, further  
22 that no admission or detention of a ~~patient~~ consumer in a state  
23 ~~hospital~~ facility shall be limited or conditioned in any manner by

1 the financial status or ability to pay of a ~~patient~~ consumer, ~~his~~  
2 the estate of the consumer, or any relative of the consumer.

3 SECTION 31. AMENDATORY 43A O.S. 2001, Section 4-203, as  
4 amended by Section 31, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004,  
5 Section 4-203), is amended to read as follows:

6 Section 4-203. A. The Board of Mental Health and Substance  
7 Abuse Services may promulgate rules authorizing the executive  
8 director or designee of a facility within the Department of Mental  
9 Health and Substance Abuse Services at which a ~~patient~~ consumer is  
10 being treated to charge on a sliding scale or waive the liability of  
11 the ~~patient~~ consumer and estate of the ~~patient~~ consumer for the care  
12 and treatment of the ~~patient~~ consumer, if it is determined that the  
13 ~~patient~~ consumer is unable to pay the full amount for such care and  
14 treatment, or that the ~~patient~~ consumer is an indigent person as  
15 defined in this title.

16 B. Before any charge for care and treatment is placed on a  
17 sliding scale or waived there must be a:

18 1. A written application and documentation demonstrating the  
19 ~~patient's~~ income and ~~the~~ of the consumer;

20 2. The number of dependents of the ~~patient~~, and a consumer;

21 3. A statement of any charges to be placed on the sliding scale  
22 or waiver of a ~~patient's~~ indebtedness of the consumer for care and  
23 treatment, ~~;~~ and ~~the~~

1        4. The reasons for the placement on the sliding scale or  
2 waiver. The statement must be signed by the executive director or  
3 designee granting such placement on the sliding scale or waiver.  
4 The statement must also be filed with the ~~patient's~~ records of the  
5 consumer at the facility.

6        C. For the purpose of determining the financial status or  
7 ability to pay of a ~~patient~~ consumer, the estate of the ~~patient~~  
8 consumer, or persons liable for the ~~patient's~~ care and treatment of  
9 the consumer, the Oklahoma Tax Commission is directed to furnish to  
10 the Commissioner of Mental Health and Substance Abuse Services, or  
11 designee, upon request, such information as may be of record in the  
12 Commission relative to ~~patients~~ consumers, and their estates.

13        SECTION 32.        AMENDATORY        43A O.S. 2001, Section 4-204, as  
14 amended by Section 32, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004,  
15 Section 4-204), is amended to read as follows:

16        Section 4-204. The cost of a ~~patient's~~ the care and treatment  
17 of the consumer shall be paid monthly unless the Commissioner ~~of the~~  
18 ~~Department~~ of Mental Health and Substance Abuse Services and any  
19 person agreeing to make the payments may arrange for quarterly or  
20 semiannual payments. The executive director of a facility within  
21 the Department of Mental Health and Substance Abuse Services in  
22 which a ~~patient~~ consumer is held shall issue a statement of the sum  
23 that is due to all persons who are liable for the ~~patient's~~ care and

1 treatment of the consumer, but failure to send or receive this  
2 statement shall not affect the liability of a person who is  
3 otherwise liable for the ~~patient's~~ care and treatment of the  
4 consumer.

5 SECTION 33. AMENDATORY 43A O.S. 2001, Section 4-205, as  
6 amended by Section 33, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004,  
7 Section 4-205), is amended to read as follows:

8 Section 4-205. A. If a guardian has been appointed for the  
9 estate of a ~~patient~~ consumer in a facility within the Department of  
10 Mental Health and Substance Abuse Services, the court shall order  
11 the guardian to pay the amount of the state's claim for care and  
12 treatment.

13 B. If no guardian has been appointed, the claim of the state  
14 against a ~~patient~~ consumer for ~~his~~ the care and treatment of the  
15 consumer may be collected by suit or other proceedings against the  
16 ~~patient~~ consumer brought in the name of the state by the district  
17 attorney of the county from which said ~~patient~~ consumer was sent or  
18 any county in which the ~~patient~~ consumer may have property.

19 C. The claim of the state against a husband, wife, the parents  
20 and the children of any ~~patient~~ consumer for ~~his~~ care and treatment  
21 of the consumer may be collected by suit or other proceedings in the  
22 name of the state against the husband, the wife, a parent, a child,  
23 or any two or more of them.

1 SECTION 34. AMENDATORY 43A O.S. 2001, Section 4-206, as  
2 amended by Section 34, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004,  
3 Section 4-206), is amended to read as follows:

4 Section 4-206. In all suits or proceedings instituted in  
5 accordance with Sections 4-205 and 2-207 of this title, the  
6 executive director of the facility shall furnish proof of the  
7 indebtedness of a ~~patient~~ consumer and the amount due the state for  
8 the care and treatment of the ~~patient~~ consumer. All collected  
9 monies ~~so collected~~ shall be paid to the executive director of the  
10 facility and deposited with the State Treasurer who shall place the  
11 same to the credit of the Department of Mental Health and Substance  
12 Abuse Services revolving fund.

13 SECTION 35. AMENDATORY 43A O.S. 2001, Section 5-102, is  
14 amended to read as follows:

15 Section 5-102. No person shall be accepted into any ~~institution~~  
16 facility without the use of the properly executed official forms  
17 ~~properly executed~~. The properly executed order to hospitalize or  
18 the order of admission ~~when properly executed~~ shall be full and  
19 sufficient authority and protection to the ~~superintendent~~ executive  
20 director or the person acting as such in ~~his~~ the absence of the  
21 executive director for receiving and detaining in the hospital the  
22 person named ~~therein~~ on the form.

1 SECTION 36. AMENDATORY 43A O.S. 2001, Section 5-203, is  
2 amended to read as follows:

3 Section 5-203. A. Upon receiving an order from a district  
4 court to convey a mentally ill, alcohol-dependent, or drug-dependent  
5 female to ~~an institution~~ a facility, the sheriff of such county  
6 shall procure a suitable female to assist in conveying the female to  
7 the ~~institution~~ facility if the sheriff or deputy who will be  
8 conveying the female is male.

9 B. If a female attendant is not available, a male sheriff or  
10 male deputy may convey the mentally ill, alcohol-dependent or drug-  
11 dependent female without a female attendant if the sheriff or deputy  
12 conveying the female notifies the dispatcher of the specific mileage  
13 from the collection point to the destination point, the time of  
14 departure and the estimated time of arrival.

15 C. The sheriff may procure ~~such~~ assistance, and certify the  
16 same to the county clerk as a part of the expense of ~~so doing, and~~  
17 ~~no~~ the conveyance. No bill for the expense of such conveyance shall  
18 be allowed by the commissioners of any county unless it is  
19 accompanied by a certificate of the ~~superintendent~~ executive  
20 director of ~~said institution~~ the facility, showing that ~~such~~ the  
21 person has been duly conveyed to the ~~institution~~ facility by, or  
22 accompanied by a female attendant or as otherwise authorized by this  
23 section.

1        D. Whenever a female ~~patient~~ consumer is transferred from one  
2 ~~institution~~ facility to another within the Department of Mental  
3 Health and Substance Abuse Services or from ~~an institution~~ a  
4 facility within the Department to another ~~institution~~ facility of  
5 like nature elsewhere, ~~she~~ the female must be accompanied by a  
6 female employee of the Department or a suitable relative of ~~said~~ the  
7 female ~~patient~~ consumer.

8        SECTION 37.        AMENDATORY        43A O.S. 2001, Section 5-204, is  
9 amended to read as follows:

10        Section 5-204. A. During 1. Appropriate treatment and  
11 medication, including psychotropic medication, may be administered  
12 to a consenting individual:

13        1. During the detention periods authorized by the Mental Health  
14 ~~and Substance Abuse Services Law, Section 1-101 et seq. of this~~  
15 ~~title, or during;~~

16        2. During the time set forth in the Mental Health ~~and Substance~~  
17 ~~Abuse Services~~ Law for the precommitment screening examination~~;~~; or  
18 ~~while~~

19        3. While in the custody of the Department of Corrections  
20 ~~appropriate treatment and medication, including psychotropic~~  
21 ~~medication, may be administered to a consenting individual.~~

1 B. Treatment and medication may be administered to a  
2 nonconsenting individual upon the written order of ~~a~~ the physician  
3 who ~~has~~ :

4 1. Has personally examined the ~~patient~~ consumer; and ~~who finds such~~  
5 consumer;

6 2. Finds the medication or treatment is necessary to protect  
7 the ~~patient~~ consumer, the facility or others from serious bodily  
8 harm~~;~~ ; and ~~who so notes~~

9 3. Notes in the ~~individual's~~ medication record of the consumer,  
10 with an explanation of the facts leading up to the decision to  
11 administer treatment and medication including psychotropic  
12 medication.

13 C. Any physician who orders medication in good faith and any  
14 employee of the facility who administers medication in good faith  
15 pursuant to the written order of a physician, under the provision of  
16 this section, shall be immune from civil suits for damages that  
17 occur from ~~such~~ the administration of medication.

18 D. Seclusion or restraint may be administered to a  
19 nonconsenting individual upon the written order of a physician who  
20 ~~has personally~~ :

21 1. Personally examined the ~~patient~~ consumer; and ~~who finds~~

22 2. Finds that seclusion or restraint is necessary to protect  
23 the ~~patient~~ consumer, the facility, or other persons. The physician

1 shall note in the chart of the ~~patient~~ consumer an explanation of  
2 the decision to administer seclusion or restraint, including  
3 administration of psychotropic medication. This shall not prohibit  
4 emergency seclusion or restraint pending notification of a  
5 physician.

6 E. If the ~~individual~~ consumer is under the influence of  
7 psychotropic medication during any court hearing held pursuant to  
8 Section 5-401 of this title, the court, and the jury, if any, shall  
9 be advised by the district attorney at the beginning of ~~such~~ the  
10 hearing that ~~such individual~~:

11 1. The consumer is under the influence of psychotropic  
12 medication, ~~the~~;

13 2. The purpose of the medication, ~~and the~~

14 3. The effect which such medication may have on the  
15 ~~individual's~~ actions, demeanor and participation of the consumer at  
16 the hearing.

17 F. If an inmate in the custody of the Department of Corrections  
18 has been properly assigned and committed to the Special Care Unit at  
19 the State Penitentiary the provisions of this section shall apply.

20 SECTION 38. AMENDATORY 43A O.S. 2001, Section 5-208, as  
21 last amended by Section 36, Chapter 46, O.S.L. 2003 (43A O.S. Supp.  
22 2004, Section 5-208), is amended to read as follows:

1 Section 5-208. A. 1. ~~An individual~~ A consumer in protective  
2 custody as provided by Section 5-207 of this title shall be subject  
3 to an emergency examination at the appropriate facility by a  
4 licensed mental health professional within twelve (12) hours of  
5 being placed in protective custody for the purpose of determining  
6 whether emergency detention of the ~~individual~~ consumer is warranted.

7 2. If, upon examination, the licensed mental health  
8 professional determines that the ~~individual~~ consumer is not a person  
9 requiring treatment or that the condition of the ~~individual~~ consumer  
10 is such that emergency detention is not warranted, the ~~individual~~  
11 consumer shall either be returned by an officer immediately to the  
12 point where the ~~individual~~ consumer was taken into protective  
13 custody and released or ~~the individual may be~~ taken to the home or  
14 residence of ~~that individual~~ such consumer or to an alternative  
15 facility. If the home or residence of the ~~individual~~ consumer is a  
16 nursing home or group home, such home shall not refuse the return of  
17 the ~~individual~~ consumer to his or her residence.

18 3. If, upon examination, the licensed mental health  
19 professional determines that the ~~individual~~ consumer is a person  
20 requiring treatment to a degree that emergency detention is  
21 warranted, the licensed mental health professional shall immediately  
22 prepare a statement describing the findings of the examination and  
23 stating the basis for the determination, and the ~~person~~ consumer

1 shall be detained in emergency detention for a period not to exceed  
2 seventy-two (72) hours, excluding weekends and holidays, except upon  
3 a court order authorizing detention pending a hearing on a petition  
4 requesting involuntary commitment or treatment.

5 4. During the emergency detention period:

6 a. a full examination and evaluation of the ~~person~~  
7 consumer shall be conducted by two licensed mental  
8 health professionals and, if the ~~person~~ consumer  
9 appears to have a mental illness or be alcohol- or  
10 drug-dependent and be a ~~person~~ consumer requiring  
11 treatment, the completion of a certificate of  
12 evaluation as provided by Section 5-414 of this title,  
13 and

14 b. reasonable efforts shall be made to determine whether  
15 the ~~individual~~ consumer has a current and unrevoked  
16 advance directive executed pursuant to the Advance  
17 Directives for Mental Health Treatment Act.

18 B. If a licensed mental health professional, designated to have  
19 ~~such~~ the responsibility by the executive director or person in  
20 charge of a hospital, or the executive director or person in charge  
21 of a facility designated by the Commissioner of Mental Health and  
22 Substance Abuse Services as appropriate for emergency detention  
23 believes a voluntary ~~patient~~ consumer to be a person requiring

1 treatment to a degree that emergency action is necessary, the  
2 hospital or facility may detain such ~~patient~~ consumer in emergency  
3 detention for a period not to exceed seventy-two (72) hours,  
4 excluding weekends and holidays, only on the following conditions:

5 1. The ~~individual~~ consumer has refused to consent or has  
6 withdrawn consent to voluntary treatment;

7 2. The ~~individual~~ consumer has been examined by a licensed  
8 mental health professional who has determined that the ~~individual~~  
9 consumer is a person requiring treatment, the condition of the  
10 ~~individual~~ consumer is such that emergency detention is warranted,  
11 and a statement has been prepared as provided in subsection A of  
12 this section; and

13 3. The executive director or person in charge or the designee  
14 shall provide for a full examination and evaluation of the ~~patient~~  
15 consumer by two licensed mental health professionals and, if the  
16 person appears to be a person requiring treatment, the completion of  
17 a certificate of evaluation.

18 C. Whenever it appears that ~~an individual~~ a consumer detained  
19 ~~as provided by~~ pursuant to the provisions of this section is no  
20 longer a person requiring treatment and will not require treatment  
21 beyond the period of detention, the ~~individual~~ consumer shall be  
22 discharged and returned by an officer to the point where ~~the~~  
23 ~~individual~~ he or she was taken into protective custody, or if the

1 ~~individual~~ consumer had not been in protective custody, the  
2 ~~individual may~~ consumer shall be taken to the home or residence of  
3 ~~that individual~~ the consumer or to an alternative facility. If the  
4 home or residence of the ~~individual~~ consumer is a nursing home or  
5 group home, it shall not refuse the return of the ~~individual~~  
6 consumer to his or her residence.

7 D. Whenever it appears that a person detained as provided by  
8 this section will require treatment beyond the period of emergency  
9 detention and the person has refused to consent to voluntary  
10 treatment, a licensed mental health professional conducting an  
11 evaluation of the person or the executive director of the facility  
12 in which the person is being detained, or the designee of the  
13 executive director, shall immediately file a petition or request the  
14 district attorney to file a petition with the district court as  
15 provided by Section 5-410 of this title or Section 9-102 of this  
16 title, and may request a court order directing prehearing detention  
17 when such detention is necessary for the protection of the person or  
18 others.

19 SECTION 39. AMENDATORY 43A O.S. 2001, Section 5-302, is  
20 amended to read as follows:

21 Section 5-302. A. Any person may be admitted to a state mental  
22 hospital or state-operated community mental health center on a  
23 voluntary basis as an informal ~~patient~~ consumer when there are

1 available accommodations and in the judgment of the person in charge  
2 of the facility or ~~his~~ a designee such person may require treatment  
3 therein. Such person may be admitted as an informal ~~patient~~  
4 consumer without making formal or written application therefor and  
5 any such informal ~~patient~~ consumer shall be free to leave such  
6 facility on any day between the hours of 9:00 a.m. and 5:00 p.m. and  
7 at such other times as the person in charge of the facility may  
8 determine.

9 B. No person shall be admitted as an informal ~~patient~~ consumer  
10 pursuant to the provisions of this section to any state mental  
11 hospital or state-operated community mental health center unless the  
12 person in charge of the facility or ~~his~~ a designee has informed such  
13 ~~person~~ consumer in writing of the following:

14 1. The rules and procedures of the facility relating to the  
15 discharge of informal ~~patients~~ consumers;

16 2. The legal rights of an informal ~~patient~~ consumer receiving  
17 treatment from the facility; and

18 3. The types of treatment which are available to the informal  
19 ~~patient~~ consumer at the facility.

20 SECTION 40. AMENDATORY 43A O.S. 2001, Section 5-303, is  
21 amended to read as follows:

22 Section 5-303. ~~Neither the~~ The state ~~nor any of~~ and its agents  
23 ~~is under~~ do not have a legal duty to admit a person as an informal

1 ~~patient~~ consumer, and refusal to admit a person as an informal  
2 ~~patient~~ consumer, if made in good faith, shall not give rise to a  
3 cause of action by anyone damaged as a result of such refusal.

4 SECTION 41. AMENDATORY 43A O.S. 2001, Section 5-304, as  
5 amended by Section 35, Chapter 488, O.S.L. 2002 (43A O.S. Supp.  
6 2004, Section 5-304), is amended to read as follows:

7 Section 5-304. A. The Board of Mental Health and Substance  
8 Abuse Services shall ~~make~~ promulgate rules ~~and regulations~~ for the  
9 reception and retention of voluntary ~~patients~~ consumers by state  
10 facilities.

11 B. The executive director in charge of any state facility or  
12 licensed private hospital for care and treatment of the mentally ill  
13 may at his or her discretion receive and retain therein as a ~~patient~~  
14 ~~any~~ consumer:

15 1. Any person eighteen (18) years of age or over, suitable for  
16 care and treatment, who voluntarily makes written application  
17 ~~therefor, or any;~~

18 2. Any person, suitable for care and treatment at least sixteen  
19 (16) years but not over eighteen (18) years of age, with the consent  
20 of such person's parent or guardian.

21 C. A person ~~thus~~ received at any facility pursuant to this  
22 section shall not be detained for a period exceeding seventy-two  
23 (72) hours, excluding weekends and holidays, from and inclusive of

1 the date of notice in writing of his intention or desire to leave  
2 such hospital or ~~institution~~ facility.

3 D. The form for voluntary application shall be printed or  
4 written on eight and one-half-inch by eleven-inch paper and shall be  
5 substantially as follows:

6 Mental Health Law Form 19.

7 VOLUNTARY APPLICATION FOR ADMISSION TO THE EXECUTIVE DIRECTOR OF  
8 THE FACILITY \_\_\_\_\_ AT \_\_\_\_\_

9 Application is hereby made for my admission to the above named  
10 facility within the Department of Mental Health and Substance Abuse  
11 Services as a voluntary ~~patient~~ consumer under the provisions of the  
12 Oklahoma Mental Health Law.

13 Dated this \_\_\_\_ day of \_\_\_\_, 20\_\_.

14 \_\_\_\_\_ Applicant

15 \_\_\_\_\_ Address

16 Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_, 20\_\_.

17 \_\_\_\_\_

18 Notary Public

19 E. The applicant, or someone ~~for him~~ on behalf of the  
20 applicant, must ~~give~~ pay a bond for the cost of care and treatment  
21 or pay such cost each month in advance, unless it is determined that  
22 the applicant is a poor or indigent person as provided in this  
23 title.

1 SECTION 42. AMENDATORY 43A O.S. 2001, Section 5-305, as  
2 amended by Section 36, Chapter 488, O.S.L. 2002 (43A O.S. Supp.  
3 2004, Section 5-305), is amended to read as follows:

4 Section 5-305. Any person desiring and needing psychiatric  
5 treatment in a state facility for the mentally ill as a voluntary  
6 ~~patient~~ consumer may present a written application to the judge of  
7 the district court ~~of~~:

8 1. Of the county in which the person resides, ~~or~~ ~~of~~

9 2. Of the county in which a state hospital for the mentally ill  
10 is located, ~~which~~. The application may be in substantially the  
11 following form:

12 IN THE DISTRICT COURT OF \_\_\_\_\_ COUNTY, OKLAHOMA  
13 In the Matter of the Mental Health of No. \_\_\_\_\_  
14 on the Mental Health ~~Patient~~ Consumer Docket  
15 APPLICATION FOR VOLUNTARY ADMISSION TO MENTAL FACILITY

16 I declare that my name is \_\_\_\_\_, that I am \_\_\_\_\_ years of age, and  
17 that I reside in \_\_\_\_\_ County, Oklahoma, my permanent residence  
18 address being as follows:

19 \_\_\_\_\_

20 I have obtained medical advice concerning my condition, and I  
21 desire to be admitted to the \_\_\_\_\_ State Facility at \_\_\_\_\_, Oklahoma,  
22 as a voluntary ~~patient~~ consumer under the provisions of the Mental  
23 Hospital Voluntary Admission Procedures Act. I understand that if

1 admitted to this facility I may be detained in this facility until  
2 the executive director of this facility concludes that it is proper  
3 for me to be released, not exceeding, however, a period of seventy-  
4 two (72) hours after I give written notification to the executive  
5 director or a designee of my desire to leave the facility.

6 I declare that the names and addresses of my close relatives are  
7 as follows:

8 Father: \_\_\_\_\_

9 Mother: \_\_\_\_\_

10 Spouse: \_\_\_\_\_

11 Adult Children: \_\_\_\_\_

12 Other: \_\_\_\_\_

13 Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

14 \_\_\_\_\_

15 (Signature)

16 SECTION 43. AMENDATORY 43A O.S. 2001, Section 5-306, as  
17 amended by Section 38, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004,  
18 Section 5-306), is amended to read as follows:

19 Section 5-306. The application described in Section 5-305 of  
20 this title shall be accompanied by a certificate in duplicate signed  
21 by a licensed doctor of medicine or osteopathic physician who is  
22 duly licensed to practice his such profession by the Oklahoma State  
23 Board of Medical Licensure and Supervision or the Oklahoma Board of

1 Osteopathic Examiners ~~and~~, who is not related by blood or marriage  
2 to the person being examined ~~or~~, and who has ~~any~~ no interest in ~~his~~  
3 the estate of the person being examined. This certificate may be  
4 substantially in the following form:

5 CERTIFICATE OF PHYSICIAN

6 I do hereby certify that on the \_\_\_\_ day of \_\_\_\_, 20\_\_, I  
7 examined \_\_\_\_ and I am of the opinion that the person has a mental  
8 illness, and for his/her own welfare ought to be admitted to \_\_\_\_ at  
9 \_\_\_\_, Oklahoma, as a ~~patient~~ consumer therein.

10 I further certify that I have explained to ~~said~~ this person that  
11 if he/she is admitted to a facility for the mentally ill as a  
12 voluntary ~~patient~~ consumer, the medical staff may find it necessary  
13 or desirable to give a course of treatment requiring an extended  
14 period of time, and that it is not the legislative policy of the  
15 state to authorize the expenditure of public funds for the  
16 commencement of an expensive treatment unless the ~~patient~~ consumer  
17 desires to continue that treatment for the length of time that the  
18 attending physicians believe is likely to give adequate benefit to  
19 the ~~patient~~ consumer; and I have also explained that it may become  
20 necessary to give treatment which may temporarily weaken the  
21 ~~patient's~~ system of the consumer so that it would be injurious to  
22 his/her health to release him/her immediately upon his/her request;  
23 and that therefore the executive director or designee of the

1 facility has authority under the law to detain the ~~patient~~ consumer  
2 in the hospital for as long as seventy-two (72) hours after ~~said~~  
3 ~~patient~~ the consumer gives written notice to the ~~superintendent~~  
4 executive director of his/her desire to leave the hospital pursuant  
5 to Section 5-208 of Title 43A of the Oklahoma Statutes.

6 I further certify that in my opinion ~~said~~ this person has  
7 sufficient mental capacity to and does understand and comprehend the  
8 matters set out in the preceding paragraph.

9 I do further certify that I am a licensed doctor of medicine  
10 duly licensed as such by the Oklahoma State Board of Medical  
11 Licensure and Supervision (or that I am an osteopathic physician  
12 duly licensed as such by the Oklahoma Board of Osteopathic  
13 Examiners) and that I am not related by blood or marriage to the  
14 person being examined and that I have no interest in ~~his/her~~ the  
15 estate of the person being examined.

16 \_\_\_\_\_  
17 (Signature of doctor of medicine  
18 or osteopathic physician)

19 SECTION 44. AMENDATORY 43A O.S. 2001, Section 5-307, is  
20 amended to read as follows:

21 Section 5-307. When the applicant appears in person before the  
22 judge of the district court and presents the application and the  
23 certificate of the examining doctor of medicine or osteopathic

1 physician, the judge of the district court shall fully question the  
2 applicant,~~and if.~~ If the judge of the district court is satisfied  
3 that the applicant fully understands the nature of the application  
4 and the consequences which the law will impose in the event  
5 applicant is admitted to the hospital as a ~~patient therein~~ consumer  
6 and that the application is voluntarily made, the judge of the  
7 district court shall forthwith make an order authorizing the  
8 ~~superintendent~~ executive director of the appropriate State Hospital  
9 for the mentally ill to admit the applicant as a ~~patient therein~~  
10 consumer.

11 SECTION 45. AMENDATORY 43A O.S. 2001, Section 5-308, is  
12 amended to read as follows:

13 Section 5-308. The order of the judge of the district court  
14 authorizing the admission of an applicant as a voluntary ~~patient~~  
15 consumer pursuant to the provisions of the Mental Hospital Voluntary  
16 Admission Procedures Act may be in substantially the following form:

17 IN THE COUNTY COURT OF \_\_\_\_\_ COUNTY,

18 OKLAHOMA

19 In the Matter of the

20 Mental Health of No. \_\_\_\_\_

21 \_\_\_\_\_ on the Mental Health

22 ~~Patient~~ Consumer Docket

23 ORDER AUTHORIZING ADMISSION TO MENTAL HOSPITAL

1 OF VOLUNTARY ~~PATIENT~~ CONSUMER

2 Now on this \_\_\_\_ day of \_\_\_\_, 19 20, the above named \_\_\_\_  
3 having appeared before me as county judge of ~~said~~ this county and  
4 state, with his/her application to be admitted as a voluntary  
5 ~~patient~~ consumer to the \_\_\_\_ Hospital, a state hospital for the  
6 mentally ill located at \_\_\_\_, together with a certificate signed by  
7 \_\_\_\_, a doctor of medicine or osteopathic physician, with offices at  
8 \_\_\_\_, Oklahoma, such certificate being in the form provided by the  
9 Mental Hospital Voluntary Admission Procedures Act.

10 And it appearing to me that ~~said individual~~ the consumer fully  
11 understands the nature of the application and the consequences which  
12 the law will impose in the event the applicant is admitted to a  
13 mental hospital as a ~~patient~~ consumer therein, and that the  
14 application is voluntarily made.

15 It is therefore ORDERED that ~~said~~ the \_\_\_\_ should be and he/she  
16 is hereby ORDERED to be admitted to the \_\_\_\_ State Hospital at \_\_\_\_,  
17 Oklahoma, and a certified copy of this order shall be sufficient  
18 authority for the ~~superintendent~~ executive director of ~~said~~  
19 ~~institution~~ such facility to detain ~~said patient~~ is the consumer in  
20 accordance with the provisions of the Mental Hospital Voluntary  
21 Admission Procedures Act.

22 The Sheriff of \_\_\_\_ County, Oklahoma, is authorized and  
23 directed, on the request of the ~~patient~~ consumer herein named, to

1 cause ~~said patient~~ the consumer to be transmitted to \_\_\_\_ State  
2 Hospital at \_\_\_\_, Oklahoma, and to deliver to the ~~superintendent~~  
3 executive director of ~~said~~ such hospital one certified copy of this  
4 order and to make return as provided by law.

5 \_\_\_\_\_  
6 Judge of the District Court

7 SECTION 46. AMENDATORY 43A O.S. 2001, Section 5-309, is  
8 amended to read as follows:

9 Section 5-309. No ~~patient~~ consumer admitted to a state mental  
10 hospital under the provisions of the Mental Hospital Voluntary  
11 Admission Procedures Act shall be detained in a mental hospital  
12 against the will of the person more than seventy-two (72) hours,  
13 excluding weekends and holidays, after the ~~patient~~ consumer gives  
14 notice in writing to the executive director of the facility of the  
15 desire of the ~~patient~~ consumer to be discharged from the facility.  
16 The executive director of the facility may designate one or more  
17 employees of the facility to receive a notification provided by this  
18 section with the same effect as if delivered to the executive  
19 director personally.

20 SECTION 47. AMENDATORY 43A O.S. 2001, Section 5-310, is  
21 amended to read as follows:

22 Section 5-310. Unless otherwise provided by law, the provisions  
23 of the Mental Health Law shall be applicable to ~~patients~~ consumers

1 admitted to state mental hospitals under the provisions of the  
2 Mental Hospital Voluntary Admission Procedures Act.

3 SECTION 48. AMENDATORY 43A O.S. 2001, Section 5-415, as  
4 amended by Section 42, Chapter 488, O.S.L. 2002 (43A O.S. Supp.  
5 2004, Section 5-415), is amended to read as follows:

6 Section 5-415. A. Upon receiving a petition alleging a person  
7 to have a mental illness and to be a person requiring treatment, the  
8 court shall set a day and time for the hearing.

9 1. If the person alleged to have a mental illness and to be a  
10 person requiring treatment does not have an attorney, the court  
11 shall immediately appoint an attorney for the person.

12 2. If a copy of a certificate of evaluation is not attached to  
13 the petition at the time it is filed, the court shall immediately  
14 order an evaluation of the person as provided by Section 5-414 of  
15 this title.

16 B. If the court deems it necessary, or if the person alleged to  
17 have a mental illness and to be a person requiring treatment ~~shall~~  
18 ~~so demand~~ demands, the court shall schedule the hearing on the  
19 petition as a jury trial to be held within seventy-two (72) hours of  
20 the demand, excluding weekends and holidays, or within as much  
21 additional time as is requested by the attorney of such person upon  
22 good cause shown.

1 C. The court, at the hearing on the petition, shall determine  
2 by clear and convincing evidence whether the person has a mental  
3 illness and is a person requiring treatment.

4 1. The court shall take evidence and make findings of fact  
5 concerning the person's competency to consent to or refuse the  
6 treatment that may be ordered, including, but not limited to, the  
7 ~~patient's~~ consumer's right to refuse medication.

8 2. If a jury trial is not demanded, the court may receive as  
9 evidence and act upon the affidavits of the licensed mental health  
10 professionals who evaluated the person and the certificate of  
11 evaluation.

12 3. When the hearing is conducted as a jury trial, the  
13 petitioner and any witness in behalf of the petitioner shall be  
14 subject to cross-examination by the attorney for the person alleged  
15 to be a person requiring treatment. The person alleged to have a  
16 mental illness and to be a person requiring treatment may also be  
17 called as a witness and cross-examined.

18 D. ~~When, after~~ After the hearing, when the court determines  
19 that the person does not have a mental illness and is not a person  
20 requiring treatment, the court shall dismiss the petition and, if  
21 the person is being detained, order the person to be discharged from  
22 detention.

1       E. ~~When, after~~ After the hearing, when the court determines the  
2 person to have a mental illness and to be a person requiring  
3 treatment, the court shall order the person to receive the least  
4 restrictive treatment consistent with the treatment needs of the  
5 person and the safety of the person and others.

6       1. The court shall not order hospitalization without a thorough  
7 consideration of available treatment alternatives to hospitalization  
8 and may direct the submission of evidence as to the least  
9 restrictive treatment alternative or may order a precommitment  
10 screening examination.

11       2. If the court finds that a program other than hospitalization  
12 is appropriate to meet the ~~individual's~~ treatment needs of the  
13 individual and is sufficient to prevent injury to the individual or  
14 to others, the court may order the individual to receive whatever  
15 treatment other than hospitalization that is appropriate for a  
16 period set by the court, during which time the court shall continue  
17 its jurisdiction over the individual as a person requiring  
18 treatment.

19       3. If the court orders the person to be committed for  
20 involuntary inpatient treatment, the court shall commit the person  
21 to the custody of the Department of Mental Health and Substance  
22 Abuse Services for a placement that is suitable to the person's

1 needs or to a private facility willing to accept the person for  
2 treatment.

3 4. The person shall be delivered to the custody of the  
4 Department of Mental Health and Substance Abuse Services for a  
5 placement that is suitable to the person's needs or to a private  
6 facility willing to accept the person for treatment.

7 5. If the person is placed in the custody of the Department,  
8 the Department may designate two or more facilities to provide  
9 treatment and if the person to be treated or a parent, spouse,  
10 guardian, brother, sister or child, who is at least eighteen (18)  
11 years of age, of the person, expresses a preference for one such  
12 facility, the Department shall attempt, if administratively  
13 possible, to comply with the preference.

14 6. The person shall be discharged from inpatient treatment at  
15 such time as the person no longer requires treatment as determined  
16 by the executive director of the facility or the designee of the  
17 executive director, or as otherwise required by law.

18 F. The court shall make and keep records of all cases brought  
19 before it.

20 1. No records of proceedings pursuant to this section shall be  
21 open to public inspection except by order of the court or to  
22 employees of the Department of Mental Health and Substance Abuse

1 Services, the person's attorney of record, or persons having a  
2 legitimate treatment interest.

3 2. Bonded abstractors may be deemed to be persons having a  
4 legitimate interest for the purpose of having access to records  
5 regarding determinations of persons requiring treatment under this  
6 section.

7 SECTION 49. AMENDATORY 43A O.S. 2001, Section 5-416, as  
8 amended by Section 43, Chapter 488, O.S.L. 2002 (43A O.S. Supp.  
9 2004, Section 5-416), is amended to read as follows:

10 Section 5-416. A. The court, in considering a commitment  
11 petition filed under Section 5-410 or Section 9-102 of this title,  
12 shall not order hospitalization without a thorough consideration of  
13 available treatment alternatives to hospitalization, ~~nor~~ or without  
14 addressing the ~~patient's~~ competency of the consumer to consent to or  
15 refuse the treatment that is ordered including, but not limited to,  
16 the ~~patient's~~ rights of the consumer:

17 1. To be heard concerning the ~~patient's~~ treatment of the  
18 consumer; and

19 2. To refuse medications.

20 B. 1. If the court, in considering a commitment petition filed  
21 under Section 5-410 or Section 9-102 of this title, finds that a  
22 program other than hospitalization is adequate to meet the  
23 ~~individual's~~ treatment needs of the individual and is sufficient to

1 prevent injury to the individual or to others, the court may order  
2 the individual to receive whatever treatment other than  
3 hospitalization is appropriate for a period set by the court, ~~during~~  
4 which. During this time the court:

- 5 a. shall have continuing jurisdiction over the individual  
6 as a person requiring treatment, and
- 7 b. shall periodically, no less often than annually,  
8 review the treatment needs of the individual and  
9 determine whether or not to continue, discontinue, or  
10 modify the treatment.

11 2. If at any time it comes to the attention of the court from a  
12 person competent to file or request the filing of a petition,  
13 pursuant to subsection A of Section 5-410 of this title, that the  
14 individual ordered to undergo a program of alternative treatment to  
15 hospitalization is not complying with the order or that the  
16 alternative treatment program has not been sufficient to prevent  
17 harm or injury which the individual may be inflicting upon himself  
18 or others, the court may order the person to show cause why the  
19 court should not:

- 20 a. implement other alternatives to hospitalization,  
21 modify or rescind the original order or direct the  
22 individual to undergo another program of alternative

1 treatment, if necessary and appropriate, based on  
2 written findings of the court, or  
3 b. enter an order of admission pursuant to the provisions  
4 of this title, directing that the person be committed  
5 to inpatient treatment and, if the individual refuses  
6 to comply with this order of inpatient treatment, the  
7 court may direct a peace officer to take the  
8 individual into protective custody and transport the  
9 person to a public or private facility designated by  
10 the court.

11 3. The court shall give notice to the person ordered to show  
12 cause and hold the hearing within seventy-two (72) hours of the  
13 notice. The person ordered to undergo a program of alternative  
14 treatment shall not be detained in emergency detention pending the  
15 show cause hearing unless, prior to the emergency detention, the  
16 person has undergone an emergency examination and a determination is  
17 made that emergency detention is warranted.

18 4. If an order of alternative treatment will expire without  
19 further review by the court and it is believed that the individual  
20 continues to require treatment, a person competent to file or  
21 request the filing of a petition, pursuant to subsection A of  
22 Section 5-410 of this title, may file or request the district  
23 attorney file either an application for an extension of the court's

1 previous order or an entirely new petition for a determination that  
2 the individual is a person requiring treatment.

3 5. A hearing on the application or petition filed pursuant to  
4 paragraph 4 of this subsection shall be held within ten (10) days  
5 after the application or petition is filed, unless the court extends  
6 the time for good cause. In setting the matter for hearing, the  
7 court shall consider whether or not the prior orders of the court  
8 will expire during the pendency of the hearing and shall make  
9 appropriate orders to protect the interests of the individual who is  
10 the subject of the hearing.

11 C. Prior to ordering the inpatient treatment of an individual,  
12 the court shall inquire into the adequacy of treatment to be  
13 provided to the individual by the facility, and inpatient treatment  
14 shall not be ordered unless the facility in which the individual is  
15 to be treated can provide such person with treatment which is  
16 adequate and appropriate to such person's condition.

17 D. Nothing in this section shall prohibit the Department of  
18 Mental Health and Substance Abuse Services or the facility or  
19 program providing the alternative treatment from discharging a  
20 person admitted pursuant to this section, at a time prior to the  
21 expiration of the period of alternative treatment, or any extension  
22 thereof. The facility or program providing the alternative  
23 treatment shall file a report with the court outlining the

1 disposition of each person admitted pursuant to this section within  
2 forty-eight (48) hours after discharge.

3 E. Notice of any proceedings pursuant to this section shall be  
4 given to the person, the person's guardian, the person's attorney,  
5 and the person filing the petition or application.

6 SECTION 50. AMENDATORY 43A O.S. 2001, Section 5-501, as  
7 last amended by Section 1, Chapter 130, O.S.L. 2003 (43A O.S. Supp.  
8 2004, Section 5-501), is amended to read as follows:

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

12 B. The Oklahoma Legislature hereby declares that the public  
13 policy of this state is to assure:

14 1. Assure adequate treatment of minors needing mental health  
15 treatment or treatment for drug or alcohol abuse, ~~to establish;~~

16 2. Establish behavioral standards for determination of  
17 dangerousness of persons in need of such treatment, ~~to require;~~

18 3. Require the use of the least restrictive alternative in the  
19 determination of the method of treatment, ~~to provide;~~

20 4. Provide orderly and reliable procedures for admission or  
21 commitment of minors alleged to be in need of inpatient mental  
22 health treatment or treatment for drug or alcohol abuse consistent  
23 with due process of law, ; and ~~to protect~~

1        5. Protect the rights of ~~patients~~ consumers hospitalized  
2 pursuant to law.

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

4        1. Mental health and substance abuse treatment services shall  
5 be provided in the manner most likely to preserve, support and  
6 strengthen the family of the minor and to assist the minor and the  
7 family of the minor;

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

11       3. Inpatient evaluation and treatment services shall be  
12 utilized only as necessary to preserve the health or safety of the  
13 minor or for the protection of others in the case of a minor who, as  
14 a result of a demonstrable mental illness or drug or alcohol  
15 dependence, can be expected to intentionally or unintentionally  
16 seriously and physically injure another person.

17       SECTION 51.        AMENDATORY        43A O.S. 2001, Section 6-101, is  
18 amended to read as follows:

19       Section 6-101. Nonresidents who have been admitted as ~~patients~~  
20 consumers to an institution a facility within the ~~department~~  
21 Department of Mental Health and Substance Abuse Services in  
22 accordance with the provisions of this title may be transferred by  
23 the Commissioner of Mental Health and Substance Abuse Services to

1 similar institutions within the state where they reside. The  
2 Commissioner shall make arrangements with the appropriate agency in  
3 other states to facilitate the orderly transfer of nonresidents to  
4 the state in which they reside.

5 SECTION 52. AMENDATORY 43A O.S. 2001, Section 6-102, is  
6 amended to read as follows:

7 Section 6-102. A. 1. Upon receipt of a certificate of the  
8 United States Public Health Service or any agency of the United  
9 States Government or a veterans center in the state that facilities  
10 are available for the care or treatment of any person who has been  
11 admitted to a facility within the Department of Mental Health and  
12 Substance Abuse Services in accordance with the provisions of this  
13 title and that such person is eligible for care or treatment, the  
14 Commissioner of Mental Health and Substance Abuse Services, upon  
15 recommendation by the person in charge of the facility in which the  
16 ~~patient~~ consumer is located, may transfer the ~~patient~~ consumer to:

17 a. the United States Public Health Service or other  
18 agency of the United States Government, or  
19 b. a veterans center in the state or other agency of the  
20 state for care and treatment.

21 2. If the ~~patient~~ consumer has been admitted under involuntary  
22 court-ordered commitment proceedings, the Commissioner shall notify  
23 the committing court of any transfer when it has been effected.

1        3. Any ~~patient~~ consumer transferred as provided in this section  
2 shall be deemed to be committed to the United States Public Health  
3 Service or other agency of the United States Government or a  
4 veterans center in the state or other agency of the state pursuant  
5 to the original commitment the same as if ~~he~~ the person had been  
6 originally committed.

7        B. 1. In the event that a ~~patient~~ consumer transferred under  
8 provisions of this section subsequently becomes ineligible for  
9 continued services ~~of~~, or if required services cannot be provided by  
10 the entity or ~~institution wherein~~ facility where the ~~patient~~  
11 consumer is ~~then~~ committed and residing, the Commissioner shall upon  
12 notification accept the return of the ~~patient~~ consumer to the  
13 appropriate ~~institution~~ facility of the Department.

14        2. If the ~~patient~~ consumer has been admitted under this title,  
15 the Commissioner shall notify the committing court of the transfer  
16 when it has been effected.

17        3. Any ~~patient~~ consumer transferred as provided in this section  
18 shall be deemed to be committed to the Department pursuant to the  
19 original commitment the same as if ~~he~~ the person had been originally  
20 committed.

21        SECTION 53.        AMENDATORY        43A O.S. 2001, Section 6-104, is  
22 amended to read as follows:

1 Section 6-104. Any person who knowingly brings or causes to be  
2 brought, a poor or indigent person from out of the state into this  
3 state and keeps or leaves ~~him~~ such person, or attempts to keep or  
4 leave ~~him~~ such person, within the state for the purpose of placing  
5 ~~him~~ the person or requiring ~~his placing~~ the placement of the person  
6 as a ~~patient~~ consumer in any state ~~institution~~ facility within the  
7 Department of Mental Health and Substance Abuse Services for care or  
8 treatment therein at the expense of the state, shall be guilty of a  
9 misdemeanor.

10 SECTION 54. AMENDATORY 43A O.S. 2001, Section 6-201, is  
11 amended to read as follows:

12 Section 6-201. The Interstate Compact on Mental Health is  
13 hereby enacted into law and entered into by this state with all  
14 other states legally joining therein in the form substantially as  
15 follows: the contracting states solemnly agree that:

16 ARTICLE I

17 The party states find that the proper and expeditious treatment  
18 of the mentally ill and mentally deficient can be facilitated by  
19 cooperative action, to the benefit of the ~~patients~~ consumers, their  
20 families, and society as a whole. Further, the party states find  
21 that the necessity of and desirability for furnishing such care and  
22 treatment bears no primary relation to the residence or citizenship  
23 of the ~~patient~~ consumer but that, on the contrary, the controlling

1 factors of community safety and humanitarianism require that  
2 facilities and services be made available for all who are in need of  
3 them. Consequently, it is the purpose of this compact and of the  
4 party states to provide the necessary legal basis for the  
5 institutionalization or other appropriate care and treatment of the  
6 mentally ill and mentally deficient under a system that recognizes  
7 the paramount importance of ~~patient~~ consumer welfare and to  
8 establish the responsibilities of the party states in terms of such  
9 welfare.

10 ARTICLE II

11 As used in this compact:

12 (a) "Sending state" shall mean a party state from which a  
13 ~~patient~~ consumer is transported pursuant to the provisions of the  
14 compact or from which it is contemplated that a ~~patient~~ consumer may  
15 be so sent.

16 (b) "Receiving state" shall mean a party state to which a  
17 ~~patient~~ consumer is transported pursuant to the provisions of the  
18 compact or to which it is contemplated that a ~~patient~~ consumer may  
19 be so sent.

20 (c) "~~Institution~~ Facility" shall mean any hospital or other  
21 facility maintained by a party state or political subdivision  
22 thereof for the care and treatment of mental illness or mental  
23 deficiency.

1 (d) "~~Patient~~ Consumer" shall mean any person subject to or  
2 eligible as determined by the laws of the sending state, for  
3 institutionalization or other care, treatment, or supervision  
4 pursuant to the provisions of this compact.

5 (e) "After-care" shall mean care, treatment and services  
6 provided a ~~patient~~ consumer, as defined herein, on convalescent  
7 status or conditional release.

8 (f) "Mental illness" shall mean mental disease to such extent  
9 that a person so afflicted requires care and treatment for ~~his own~~  
10 the welfare of the person, or the welfare of others, or of the  
11 community.

12 (g) "Mental deficiency" shall mean mental deficiency as defined  
13 by appropriate clinical authorities to such extent that ~~a person~~  
14 persons so afflicted ~~is~~ are incapable of managing ~~himself~~ themselves  
15 and ~~his~~ their affairs, but shall not include mental illness as  
16 defined herein.

17 (h) "State" shall mean any state, territory or possession of the  
18 United States, the District of Columbia, and the Commonwealth of  
19 Puerto Rico.

20 ARTICLE III

21 (a) Whenever a person physically present in any party state  
22 shall be in need of institutionalization by reason of mental illness  
23 or mental deficiency, ~~he~~ the person shall be eligible for care and

1 treatment in an institution in that state irrespective of ~~his~~ the  
2 residence of the person, settlement or citizenship qualifications.

3 (b) The provisions of paragraph (a) of this article to the  
4 contrary notwithstanding, any ~~patient~~ consumer may be transferred to  
5 ~~an institution~~ a facility in another state whenever there are  
6 factors based upon clinical determinations indicating that the care  
7 and treatment of said ~~patient~~ consumer would be facilitated or  
8 improved thereby. Any such institutionalization may be for the  
9 entire period of care and treatment or for any portion or portions  
10 thereof. The factors referred to in this paragraph shall include  
11 the ~~patient's~~ full record of the consumer with due regard for the  
12 location of the ~~patient's~~ family of the consumer, character of the  
13 illness and probable duration thereof, and such other factors as  
14 shall be considered appropriate.

15 (c) No state shall be obliged to receive any ~~patient~~ consumer  
16 pursuant to the provisions of paragraph (b) of this article unless  
17 the sending state has given advance notice of its intention to send  
18 the ~~patient~~ consumer; furnished all available medical and other  
19 pertinent records concerning the ~~patient~~ consumer; given the  
20 qualified medical or other appropriate clinical authorities of the  
21 receiving state an opportunity to examine the ~~patient~~ consumer if  
22 said authorities so wish; and unless the receiving state shall agree  
23 to accept the ~~patient~~ consumer.

1 (d) In the event that the laws of the receiving state establish  
2 a system of priorities for the admission of ~~patients~~ consumers, an  
3 interstate ~~patient~~ consumer under this compact shall receive the  
4 same priority as a local ~~patient~~ consumer and shall be taken in the  
5 same order and at the same time that he would be taken if he were a  
6 local ~~patient~~ consumer.

7 (e) Pursuant to this compact, the determination as to the  
8 suitable place of institutionalization for a ~~patient~~ consumer may be  
9 reviewed at any time and such further transfer of the ~~patient~~  
10 consumer may be made as seems likely to be in the best interest of  
11 the ~~patient~~ consumer.

12 ARTICLE IV

13 (a) Whenever, pursuant to the laws of the state in which a  
14 ~~patient~~ consumer is physically present, it shall be determined that  
15 the ~~patient~~ consumer should receive aftercare or supervision, such  
16 care or supervision may be provided in a receiving state. If the  
17 medical or other appropriate clinical authorities having  
18 responsibility for the care and treatment of the ~~patient~~ consumer in  
19 the sending state shall have reason to believe that aftercare in  
20 another state would be in the best interest of the ~~patient~~ consumer  
21 and would not jeopardize the public safety, they shall request the  
22 appropriate authorities in the receiving state to investigate the  
23 desirability of affording the ~~patient~~ consumer such aftercare in

1 said receiving state, and such investigation shall be made with all  
2 reasonable speed. The request for investigation shall be  
3 accompanied by complete information concerning the ~~patient's~~  
4 intended place of residence of the consumer and the identity of the  
5 person in whose charge it is proposed to place the ~~patient~~ consumer,  
6 the complete medical history of the ~~patient~~ consumer, and such other  
7 documents as may be pertinent.

8 (b) If the medical or other appropriate clinical authorities  
9 having responsibility for the care and treatment of the ~~patient~~  
10 consumer in the sending state and the appropriate authorities in the  
11 receiving state find that the best interest of the ~~patient~~ consumer  
12 would be served thereby, and if the public safety would not be  
13 jeopardized thereby, the ~~patient~~ consumer may receive aftercare or  
14 supervision in the receiving state.

15 (c) In supervising, treating, or caring for a ~~patient~~ consumer  
16 on aftercare, pursuant to the terms of this article, a receiving  
17 state shall employ the same standards of visitation, examination,  
18 care, and treatment that it employs for similar local ~~patients~~  
19 consumers.

20 ARTICLE V

21 Whenever a dangerous or potentially dangerous ~~patient~~ consumer  
22 escapes from an institution in any party state, that state shall  
23 promptly notify all appropriate authorities within and without the

1 jurisdiction of the escape in a manner reasonably calculated to  
2 facilitate the speedy apprehension of the escapee. Immediately upon  
3 the apprehension and identification of any such dangerous or  
4 potentially dangerous ~~patient~~ consumer, ~~he~~ the consumer shall be  
5 detained in the state where found pending disposition in accordance  
6 with law.

7 ARTICLE VI

8 The duly-accredited officers of any state party to this compact,  
9 upon the establishment of their authority and the identity of the  
10 ~~patient~~ consumer, shall be permitted to transport any ~~patient~~  
11 consumer being moved pursuant to this compact through any and all  
12 states party to this compact, without interference.

13 ARTICLE VII

14 (a) No person shall be deemed a ~~patient~~ consumer of more than  
15 one ~~institution~~ facility at any given time. Completion of transfer  
16 of any ~~patient~~ consumer to ~~an institution~~ a facility in a receiving  
17 state shall have the effect of making the person a ~~patient~~ consumer  
18 of the ~~institution~~ facility in the receiving state.

19 (b) The sending state shall pay all costs of and incidental to  
20 the transportation of any ~~patient~~ consumer pursuant to this compact,  
21 but any two or more party states may, by making a specific agreement  
22 for that purpose, arrange for a different allocation of costs as  
23 among themselves.

1 (c) No provision of this compact shall be construed to alter or  
2 affect any internal relationships among the departments, agencies  
3 and officers of and in the government of a party state, or between a  
4 party state and its subdivisions, as to the payment of costs, or  
5 responsibilities therefor.

6 (d) Nothing in this compact shall be construed to prevent any  
7 party state or subdivision thereof from asserting any right against  
8 any person, agency or other entity in regard to costs for which such  
9 party state or subdivision thereof may be responsible pursuant to  
10 any provision of this compact.

11 (e) Nothing in this compact shall be construed to invalidate any  
12 reciprocal agreement between a party state and a nonparty state  
13 relating to institutionalization, care or treatment of the mentally  
14 ill or mentally deficient, or any statutory authority pursuant to  
15 which such agreements may be made.

16 ARTICLE VIII

17 (a) Nothing in this compact shall be construed to abridge,  
18 diminish, or in any way impair the rights, duties, and  
19 responsibilities of any ~~patient's~~ guardian of the consumer on ~~his~~  
20 ~~own~~ behalf of the guardian or in respect of any patient for whom ~~he~~  
21 the guardian may serve, except that where the transfer of any  
22 ~~patient~~ consumer to another jurisdiction makes advisable the  
23 appointment of a supplemental or substitute guardian, any court of

1 competent jurisdiction in the receiving state may make such  
2 supplemental or substitute appointment and the court which appointed  
3 the previous guardian shall upon being duly advised of the new  
4 appointment, and upon the satisfactory completion of such accounting  
5 and other acts as such court may by law require, relieve the  
6 previous guardian of power and responsibility to whatever extent  
7 shall be appropriate in the circumstances; provided, however, that  
8 in the case of any ~~patient~~ consumer having settlement in the sending  
9 state, the court of competent jurisdiction in the sending state  
10 shall have the sole discretion to relieve a guardian appointed by it  
11 or continue his power and responsibility, whichever it shall deem  
12 advisable. The court in the receiving state may, in its discretion,  
13 confirm or reappoint the person or persons previously serving as  
14 guardian in the sending state in lieu of making a supplemental or  
15 substitute appointment.

16 (b) The term "guardian" as used in paragraph (a) of this article  
17 shall include any guardian, trustee, legal committee, conservator,  
18 or other person or agency however denominated who is charged by law  
19 with power to act for or responsibility for the person or property  
20 of a ~~patient~~ consumer.

21 ARTICLE IX

22 (a) No provision of this compact except Article V shall apply to  
23 any person institutionalized while under sentence in a penal or

1 correctional institution or while subject to trial on a criminal  
2 charge, or whose institutionalization is due to the commission of an  
3 offense for which, in the absence of mental illness or mental  
4 deficiency, said person would be subject to incarceration in a penal  
5 or correctional institution.

6 (b) To every extent possible, it shall be the policy of states  
7 party to this compact that no ~~patient~~ consumer shall be placed or  
8 detained in any prison, jail or lockup, but such ~~patient~~ consumer  
9 shall, with all expedition, be taken to a suitable ~~institutional~~  
10 facility for mental illness or mental deficiency.

11 ARTICLE X

12 (a) Each party state shall appoint a "compact administrator"  
13 who, on behalf of ~~his~~ the state of the compact administrator, shall  
14 act as general coordinator of activities under the compact in ~~his~~  
15 the state of the compact administrator and who shall receive copies  
16 of all reports, correspondence, and other documents relating to any  
17 ~~patient~~ consumer processed under the compact by ~~his~~ the state of the  
18 compact administrator either in the capacity of sending or receiving  
19 state. The compact administrator or ~~his~~ a duly designated  
20 representative shall be the official with whom other party states  
21 shall deal in any matter relating to the compact or any ~~patient~~  
22 consumer processed thereunder.

1 (b) The compact administrators of the respective party states  
2 shall have power to promulgate reasonable rules and regulations to  
3 carry out more effectively the terms and provisions of this compact.

4 ARTICLE XI

5 The duly constituted administrative authorities of any two or  
6 more party states may enter into supplementary agreements for the  
7 provision of any service or facility or for the maintenance of any  
8 institution on a joint or cooperative basis whenever the states  
9 concerned shall find that such agreements will improve services,  
10 facilities, or institutional care and treatment in the fields of  
11 mental illness or mental deficiency. No such supplementary  
12 agreement shall be construed so as to relieve any party state of any  
13 obligation which it otherwise would have under other provisions of  
14 this compact.

15 ARTICLE XII

16 This compact shall enter into full force and effect as to any  
17 state when enacted by it into law and such state shall thereafter be  
18 a party thereto with any and all states legally joining therein.

19 ARTICLE XIII

20 (a) A state party to this compact may withdraw therefrom by  
21 enacting a statute repealing the same. Such withdrawal shall take  
22 effect one (1) year after notice thereof has been communicated  
23 officially and in writing to the governors and compact

1 administrators of all other party states. However, the withdrawal  
2 of any state shall not change the status of any ~~patient~~ consumer who  
3 has been sent to said state or sent out of said state pursuant to  
4 the provisions of the compact.

5 (b) Withdrawal from any agreement permitted by Article VII(b) as  
6 to costs or from any supplementary agreement made pursuant to  
7 Article XI shall be in accordance with the terms of such agreement.

8 ARTICLE XIV

9 This compact shall be liberally construed so as to effectuate  
10 the purposes thereof. The provisions of this compact shall be  
11 severable and if any phrase, clause, sentence or provision of this  
12 compact is declared to be contrary to the constitution of any party  
13 state or of the United States or the applicability thereof to any  
14 government, agency, person or circumstance is held invalid, the  
15 validity of the remainder of this compact and the applicability  
16 thereof to any government, agency, person or circumstance shall not  
17 be affected thereby. If this compact shall be held contrary to the  
18 constitution of any state party thereto, the compact shall remain in  
19 full force and effect as to the remaining states and in full force  
20 and effect as to the state affected as to all severable matters.

21 SECTION 55. AMENDATORY 43A O.S. 2001, Section 7-101, as  
22 amended by Section 39, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004,  
23 Section 7-101), is amended to read as follows:

1 Section 7-101. A. The person in charge of a facility within  
2 the Department of Mental Health and Substance Abuse Services shall  
3 discharge a ~~patient~~ consumer or permit the ~~patient~~ consumer to leave  
4 the facility as provided ~~herein~~ in this section.

5 B. The person in charge shall discharge a ~~patient~~ consumer:

6 1. Who is no longer a risk to self or others as defined in  
7 Section 1-103 of this title; ~~and~~

8 2. Who is capable of surviving safely in freedom alone or with  
9 the help of willing and responsible family members or friends; and

10 3. For whom a discharge plan has been developed pursuant to the  
11 provisions of Section 7-102 of this title.

12 C. The person in charge may grant a convalescent leave or  
13 visiting status to a ~~patient~~ consumer in accordance with policies  
14 prescribed by the Commissioner. The facility granting a  
15 convalescent leave or visiting status to a ~~patient~~ consumer has no  
16 responsibility in returning the ~~patient~~ consumer to the facility  
17 should such become necessary. A convalescent leave or visiting  
18 status may be granted rather than a discharge when the ~~patient's~~  
19 complete recovery of the consumer can be determined only by  
20 permitting the ~~patient~~ consumer to leave the facility. The person  
21 in charge shall discharge a ~~patient~~ consumer who has not returned to  
22 the facility within twelve (12) months from the time a convalescent

1 leave or visiting status was granted. Any return from convalescent  
2 leave or visiting status must be on a voluntary basis.

3 D. In accordance with policies prescribed by the Commissioner,  
4 a person in charge may transfer a ~~patient~~ consumer to an outpatient  
5 or other nonhospital status when, in the opinion of the person in  
6 charge, such transfer will not be detrimental to the public welfare  
7 or injurious to the ~~patient~~ consumer and the necessary treatment may  
8 be continued on that basis; provided however, that before  
9 transferring the ~~patient~~ consumer, the person in charge shall ensure  
10 that appropriate financial resources and appropriate services are  
11 available to receive and care for such ~~patient~~ consumer after such  
12 transfer.

13 E. The person in charge of the facility shall notify the court  
14 that committed the ~~patient~~ consumer that the ~~patient~~ consumer has  
15 been discharged. Such notification shall be within forty-eight (48)  
16 hours after the actual discharge.

17 F. The expense of returning a ~~patient~~ consumer from  
18 convalescent leave, outpatient status or visiting status shall be  
19 that of:

20 1. The party removing the ~~patient~~ consumer from the facility;  
21 or

22 2. The Department. When it becomes necessary for the ~~patient~~  
23 consumer to be returned from the county where the ~~patient~~ consumer

1 happens to be, the Department shall reimburse the county pursuant to  
2 the provisions of the State Travel Reimbursement Act.

3 G. In the event authorization is necessary to accomplish the  
4 return of the ~~patient~~ consumer to the facility, such authority is  
5 hereby vested in the judge of the district court in the county where  
6 the ~~patient~~ consumer is located. Upon receipt of notice that the  
7 ~~patient~~ consumer needs to be returned to the facility, the judge  
8 shall cause the ~~patient~~ consumer to be brought before the court by  
9 issuance of a citation directed to the ~~patient~~ consumer to appear  
10 and show cause why the ~~patient~~ consumer should not be returned to  
11 the facility. The judge shall, if clear and convincing evidence is  
12 presented by testimony under oath that the ~~patient~~ consumer should  
13 be returned to the facility, enter an order returning the ~~patient~~  
14 consumer. If there is a lack of clear and convincing evidence  
15 showing the necessity of such return, the ~~patient~~ consumer shall  
16 immediately be released. Law enforcement officers are authorized to  
17 take into custody, detain and transport a ~~patient~~ consumer pursuant  
18 to a citation or an order of the judge of the district court.

19 H. An attending physician of any ~~patient~~ consumer admitted to a  
20 private facility may discharge a ~~patient~~ consumer or permit the  
21 ~~patient~~ consumer to leave the facility subject to the same  
22 provisions applicable to the discharge or release of a ~~patient~~  
23 consumer by the person in charge of a state facility.

1 SECTION 56. AMENDATORY 43A O.S. 2001, Section 7-102, as  
2 last amended by Section 40, Chapter 46, O.S.L. 2003 (43A O.S. Supp.  
3 2004, Section 7-102), is amended to read as follows:

4 Section 7-102. A. Any person detained or voluntarily or  
5 involuntarily committed for treatment pursuant to the provisions of  
6 the Mental Health Law shall be provided with discharge planning and  
7 assistance by the facility where detained or treated. Discharge  
8 planning and assistance shall include, but not be limited to, the  
9 following:

10 1. Return of all personal possessions to the person, upon  
11 discharge, except contraband considered illegal; and

12 2. Transportation assistance.

13 B. 1. A discharge plan shall be completed for every person to  
14 be discharged from a facility operated by the Department of Mental  
15 Health and Substance Abuse Services or an agency which provides  
16 services pursuant to a contract with the Department.

17 2. Discharge planning and the discharge plan shall include, but  
18 not be limited to:

19 a. housing information and referral, a location, approved  
20 by the Department, where the ~~patient~~ consumer will  
21 reside, provided, the Department shall give preference  
22 to discharge to an appropriate verifiable address,

1 and, as necessary, placement assistance pursuant to  
2 Section 7-104 of this title,  
3 b. planning for outpatient treatment, as appropriate,  
4 including but not limited to assignment of a case  
5 manager, an initial appointment for outpatient  
6 services and a treatment plan. Sufficient medication  
7 to enable the person to be discharged to continue the  
8 course of medication prescribed for such person until  
9 such appointment shall be provided to the person being  
10 discharged at the time of discharge, and  
11 c. provision of the information in the discharge plan  
12 required by this subsection to the ~~patient~~ consumer in  
13 writing after such information has been fully  
14 explained to the person being discharged. The plan  
15 shall be signed by the person being discharged and by  
16 the person explaining the plan upon completion of a  
17 verbal explanation of such plan and shall be signed in  
18 the presence of a family member of the person being  
19 discharged, or other person interested in the welfare  
20 of the person being discharged. The original copy of  
21 the plan shall become a part of the official discharge  
22 papers of the ~~patient~~ consumer and shall be kept in  
23 the permanent files of the ~~patient~~ consumer. A copy

1 of the signed discharge plan shall be furnished the  
2 person being discharged.

3 C. The person designated by the Department may provide a family  
4 member of the person being discharged, or other person interested in  
5 the welfare of the person being discharged, with information related  
6 to the discharge plan as necessary, appropriate and in compliance  
7 with confidentiality requirements to enable said family member or  
8 other person to assist with the implementation of and compliance  
9 with the treatment plan.

10 D. If a determination is made that an order for alternative  
11 treatment is necessary, the executive director or person in charge  
12 of the facility in which the person is receiving inpatient treatment  
13 shall:

14 1. File or request the filing of a petition as provided by  
15 Section 5-410 or 9-102 of this title requesting ~~said~~ the order; or

16 2. Request the court to modify an existing order for  
17 involuntary commitment as provided by Section 5-419 of this title.

18 SECTION 57. AMENDATORY 43A O.S. 2001, Section 7-103, is  
19 amended to read as follows:

20 Section 7-103. No ~~patient~~ consumer shall be discharged or  
21 granted convalescent leave status from a state hospital without  
22 suitable clothing adapted to the season in which ~~he~~ the consumer is  
23 discharged or granted convalescent leave status; and if it cannot be

1 otherwise obtained, the business manager of the ~~institution~~ facility  
2 shall, upon the order of the ~~superintendent~~ executive director,  
3 furnish the same, and reasonable transportation costs and money not  
4 to exceed Twenty-five Dollars (\$25.00), to defray ~~his~~ the expenses  
5 of the consumer until ~~he~~ the consumer can reach ~~his~~ relatives or  
6 friends, or find employment to earn a subsistence.

7 SECTION 58. AMENDATORY 43A O.S. 2001, Section 7-104, is  
8 amended to read as follows:

9 Section 7-104. A. In the case of a ~~patient~~ consumer who has  
10 substantially impaired ability to provide adequate self care or  
11 custody and who has no home or relatives or friends able and willing  
12 to care for the ~~patient~~ consumer, the ~~superintendent~~ executive  
13 director prior to discharge from the facility shall make a  
14 reasonable effort to arrange an appropriate placement and necessary  
15 services for the ~~patient~~ consumer.

16 B. When necessary, the ~~superintendent~~ executive director shall  
17 refer to other public or voluntary agencies for assistance;  
18 provided, nothing in this section or Section 7-102 of this title  
19 shall be construed as restricting the right of an adult ~~patient~~  
20 consumer, when such ~~patient~~ consumer has not been found by a court  
21 to be incompetent, to determine the placement or residence of such  
22 ~~patient~~ consumer upon discharge from a facility.

1 SECTION 59. AMENDATORY 43A O.S. 2001, Section 7-105, is  
2 amended to read as follows:

3 Section 7-105. It shall be the duty of the ~~superintendent~~  
4 executive director of such ~~institution~~ facility to deliver all  
5 personal funds in ~~his hands~~ the possession of the executive director  
6 for the benefit of a ~~patient~~ consumer to ~~said patient~~ such consumer  
7 at the time ~~said patient~~ the consumer is discharged.

8 SECTION 60. AMENDATORY 43A O.S. 2001, Section 7-106, is  
9 amended to read as follows:

10 Section 7-106. When any ~~patient~~ consumer in any state  
11 ~~institution~~ facility subject to the jurisdiction of the Department  
12 of Mental Health and Substance Abuse Services dies or leaves such  
13 ~~institution~~ facility, all property, including money, belonging to  
14 said ~~patient~~ consumer shall be immediately delivered ~~to:~~

15 1. To the ~~patient~~ consumer, if leaving; or ~~to his~~

16 2. To the guardian or next of kin of the consumer, if the  
17 ~~patient~~ consumer has died; ~~provided that if.~~ If the ~~patient~~  
18 consumer has died and no person is available for such delivery, the  
19 ~~institution~~ facility shall notify the guardian or next of kin of  
20 such death and the description of the property on hand by certified  
21 mail at the last-known address of such guardian or next of kin, ~~and~~  
22 ~~that if said.~~ If the property is not claimed within one (1) year  
23 from the date of such notice, then ~~such~~ the property shall become

1 the property of the state, and all ~~such~~ monies shall be credited to  
2 the revolving fund of the ~~institution~~ facility.

3 SECTION 61. AMENDATORY 43A O.S. 2001, Section 7-107, is  
4 amended to read as follows:

5 Section 7-107. A. When ~~an institution~~ a facility within the  
6 ~~department~~ Department of Mental Health and Substance Abuse Services  
7 has a ~~patient~~ consumer leave without permission, or escape, the  
8 ~~superintendent~~ executive director of the ~~institution~~ facility shall  
9 ~~so~~ notify ~~some~~ a relative of the ~~patient~~ consumer, or, in the event  
10 the ~~patient~~ consumer has been admitted in accordance with ~~the~~ a  
11 court order, the judge of the court ordering the ~~patient~~ consumer to  
12 the hospital.

13 B. Should a ~~patient~~ consumer, other than one admitted in  
14 accordance with a court order, absent from the hospital without  
15 permission, not cause trouble in the community to which he goes, ~~he~~  
16 the consumer may be discharged or given convalescent leave at the  
17 discretion of, ~~and by,~~ the ~~superintendent~~ executive director of the  
18 hospital.

19 C. Any other ~~patient~~ consumer, escaped or absent without  
20 permission, who has to be returned to the hospital shall be returned  
21 by the relatives or friends or, in the event of their failure to  
22 return the escaped individual, it shall be the responsibility and  
23 duty of officers of the county wherein the individual is present to

1 apprehend ~~said~~ the individual and return the ~~patient~~ consumer to the  
2 appropriate ~~institution~~ facility. ~~In addition, it~~ It shall be the  
3 duty of any municipal law enforcement officer to directly return  
4 such ~~patient~~ consumer if the ~~institution~~ facility is located within  
5 the boundaries of the governmental entity employing the officer.

6 D. The governmental entity employing the law enforcement  
7 officers shall reimburse ~~said~~ the officers for necessary travel  
8 expense as provided by law.

9 SECTION 62. AMENDATORY 43A O.S. 2001, Section 7-108, is  
10 amended to read as follows:

11 Section 7-108. Any person who takes a ~~patient~~ consumer who has  
12 been lawfully admitted ~~thereto~~ from any ~~institution~~ facility within  
13 ~~this department~~ the Department of Mental Health and Substance Abuse  
14 Services without the consent of the ~~superintendent~~ executive  
15 director, or who entices, assists or encourages any such ~~patient~~  
16 consumer to escape therefrom shall be guilty of a misdemeanor and,  
17 upon conviction, shall be fined not to exceed One Thousand Dollars  
18 (\$1,000.00) or confined in jail not to exceed one (1) year, or both.

19 SECTION 63. AMENDATORY 43A O.S. 2001, Section 7-112, is  
20 amended to read as follows:

21 Section 7-112. A. When any person shall have been adjudged  
22 legally mentally incompetent, a petition may be presented to the  
23 court or the judge thereof which made such adjudication or to the

1 court or the judge of the county where the person resides, for a  
2 finding and order declaring ~~such~~ the person restored to soundness of  
3 mind.

4 1. If an order is entered restoring the person to soundness of  
5 mind, such order shall be forwarded to the court which made the  
6 order adjudging said incompetency, and shall be placed in the  
7 original file of the matter. ~~Said~~ The order shall not affect any  
8 guardianship proceedings pending so as to prevent the payment of any  
9 lawful claims against such guardianship estate.

10 2. If a person has been adjudged to be legally mentally  
11 incompetent in another state, the petition may be presented to the  
12 district court or the judge thereof where the ~~patient~~ consumer  
13 resides or where the ~~institution~~ facility in which the ~~patient~~  
14 consumer is confined is located. ~~Such a~~ The petition may be  
15 presented by the person who has been declared to be incompetent, or  
16 by ~~his~~ the father, mother, husband, wife, brother, sister, child, or  
17 next of kin of the person, or ~~if in his opinion the patient has~~  
18 ~~recovered,~~ by the ~~superintendent~~ executive director of the  
19 ~~institution~~ facility in which ~~he~~ the consumer is held, provided, the  
20 executive director is of the opinion that the consumer has  
21 recovered.

22 3. a. If the ~~superintendent~~ executive director of the  
23 ~~institution~~ facility where a person is confined files

1 a petition, in addition to requesting an adjudication  
2 as to the person's competency, the ~~superintendent~~  
3 executive director may request the appointment of a  
4 temporary guardian to whom the mentally incompetent  
5 person may be released pending the hearing on the  
6 petition.

7 b. If ~~such~~ a request is made, the ~~superintendent~~  
8 executive director must attach a verified affidavit to  
9 ~~his~~ the petition stating that the ~~patient~~ consumer no  
10 longer needs care and treatment and confinement is not  
11 necessary for ~~his~~ the safety of the consumer and the  
12 safety of others.

13 B. The district attorney of the county in which the petition is  
14 filed shall represent the ~~superintendent~~ executive director of the  
15 ~~institution~~ facility in which the ~~patient~~ consumer is kept and shall  
16 prepare the necessary pleadings for ~~him~~ the executive director.

17 C. Upon presentation of the petition to the court or the judge  
18 ~~thereof~~, the court or the judge ~~thereof~~, shall ~~fix~~ set a time for  
19 hearing ~~thereon~~, and in case the application is made by the person  
20 adjudged mentally incompetent, shall ~~cause~~ issue notice of ~~such~~ the  
21 hearing to be given to the person who applied for such adjudication,  
22 if ~~he~~ the person be found in ~~said~~ the county, and may cause such

1 further notice to be given as to the court or the judge ~~thereof~~  
2 seems proper.

3 D. If, upon the hearing of ~~such~~ the petition the court or the  
4 judge ~~thereof~~ from the testimony given, shall find such person  
5 restored to soundness of mind, an order shall be entered declaring  
6 ~~him~~ the person mentally competent; ~~provided, however, that the.~~ The  
7 testimony of at least two qualified examiners establishing the  
8 sanity of such person, shall be required before the finding of the  
9 court or the judge ~~thereof~~ and entering ~~such~~ the order.

10 E. The provisions of this section must also be followed when  
11 determining the competency of a person who has legally been  
12 determined to be mentally incompetent although ~~they are~~ the person  
13 is not institutionalized.

14 SECTION 64. AMENDATORY 43A O.S. 2001, Section 8-104, is  
15 amended to read as follows:

16 Section 8-104. A. A ~~mentally ill~~ person who is a person  
17 requiring treatment may request voluntary admission to any private  
18 hospital or ~~institution~~ facility, as defined by ~~this act~~ Section 1-  
19 103 of this title, in the same manner and by the same procedure as  
20 any other type of ~~patient~~ consumer that is admitted to ~~said~~  
21 ~~institution~~ such facility or hospital.

22 B. Minor ~~patients~~ consumers may be admitted on application of  
23 parent, guardian, or the person having custody. ~~Patients~~

1        C. Consumers admitted voluntarily who give notice in writing of  
2 their desire or intention to leave ~~said~~ such private hospital or  
3 ~~institution~~ facility must be released ~~forthwith; provided, that if~~  
4 immediately.

5        D. If in the judgment of the attending physician the ~~patient's~~  
6 release of the consumer would be injurious to the welfare of the  
7 ~~patient~~ consumer or the public, ~~such patient~~ the consumer may be  
8 detained for so long as is reasonably necessary to initiate the  
9 court certification proceedings provided by law; ~~provided that the.~~  
10 The attending physician shall immediately notify the judge of the  
11 district court in which ~~said~~ the private hospital or ~~institution~~  
12 facility is located by telephone or otherwise, confirmed by a  
13 written communication, that such ~~patient~~ consumer is so detained,  
14 and that such detention shall not exceed three (3) days.

15        SECTION 65.        AMENDATORY        43A O.S. 2001, Section 8-105, is  
16 amended to read as follows:

17        Section 8-105. A. The procedure for court certification to a  
18 private hospital or ~~institution will~~ facility shall will be the same  
19 as that pertaining to court certification of ~~patients~~ consumers to  
20 state mental hospitals in the Mental Health Law, except that before  
21 commitment to a private hospital or ~~institution~~ facility is made a  
22 written report will be submitted to the court containing the  
23 following information:



1 I, \_\_\_\_\_, bearing the relationship of \_\_\_\_\_ to \_\_\_\_\_, against  
2 whom a petition for commitment as a mentally ill person has been  
3 filed in the county court of \_\_\_\_\_ County, Oklahoma, do hereby  
4 request that, in the event said \_\_\_\_\_ is found to be mentally ill,  
5 she/he be committed as a ~~patient~~ consumer to the \_\_\_\_\_ at \_\_\_\_\_,  
6 Oklahoma, a private hospital or ~~institution~~ facility as defined by  
7 law. I hereby agree to comply with the rules and regulations of  
8 said hospital or ~~institution~~ facility for the admission and support  
9 of said ~~patient~~ consumer. I further certify that upon admission of  
10 said ~~patient~~ consumer to ~~said~~ such private hospital or ~~institution~~  
11 facility, \_\_\_\_\_ will be the attending physician, until discharge or  
12 transfer of the ~~patient~~ consumer, or until further notice to this  
13 court by me or the attending physician.

14 Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, ~~19~~ 20 .

15 \_\_\_\_\_

16 Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, ~~19~~  
17 20 .

18 \_\_\_\_\_

19 Notary Public

20 STATEMENT OF ATTENDING

21 PHYSICIAN

22 I, \_\_\_\_\_, do hereby certify that I will faithfully perform the  
23 duties and responsibilities prescribed by law as the attending

1 physician of \_\_\_\_\_, upon his/her commitment to the \_\_\_\_\_ until  
2 his/her discharge or transfer, or until further notice to this court  
3 by me or the above-named petitioner, relative, or guardian.

4 Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 20.

5 \_\_\_\_\_

6 Attending Physician

7 STATEMENT OF PERSON IN CHARGE

8 OF PRIVATE HOSPITAL

9 OR ~~INSTITUTION~~ FACILITY

10 I, \_\_\_\_\_, the duly appointed \_\_\_\_\_ of the \_\_\_\_\_, a private  
11 hospital or ~~institution~~ facility containing beds for the reception,  
12 care and treatment of persons with neuropsychiatric illnesses, have  
13 discussed the rules and regulations of ~~said~~ such hospital or  
14 ~~institution~~ facility governing admission and support of ~~patients~~  
15 consumers with \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, an alleged mentally ill  
16 person, and that if ~~said~~ the person is committed to this hospital or  
17 ~~institution~~ facility on or before \_\_\_\_\_, 19 20, he or she will be  
18 admitted as a ~~patient~~ consumer.

19 \_\_\_\_\_

20 SECTION 66. AMENDATORY 43A O.S. 2001, Section 8-106, is  
21 amended to read as follows:

22 Section 8-106. A. The responsibility for prescribing the  
23 treatment of any ~~patient~~ consumer admitted either voluntarily or by

1 commitment, and for determining ~~his~~ the eligibility of the consumer  
2 for discharge, shall be that of the attending physician.

3 1. In the event the petitioner, relative, or guardian wishes to  
4 change the attending physician, a written statement releasing the  
5 attending physician of record and naming a new qualified attending  
6 physician must be submitted to the court, accompanied by a written  
7 statement from the new attending physician agreeing to assume the  
8 responsibilities provided by law.

9 2. In the event the attending physician wishes to withdraw from  
10 the case, ~~he~~ the physician shall notify the court and the  
11 petitioner, relative, or guardian in writing. The petitioner,  
12 relative, or guardian shall ~~forthwith~~ immediately appoint a new  
13 attending physician in the manner set forth above.

14 3. In the event the petitioner, relative, or guardian does not  
15 appoint a new attending physician within a reasonable length of  
16 time, then a new attending physician will be appointed by the judge  
17 of the committing court. The new attending physician must be a  
18 qualified staff member of the private hospital or institution  
19 wherein the ~~patient~~ consumer is hospitalized, and must file a  
20 written statement with the committing court agreeing to assume the  
21 responsibilities provided by law.

22 B. The attending physician may discharge a ~~patient~~ consumer or  
23 grant leave to a ~~patient~~ consumer only as provided in this act. The

1 attending physician may discharge a ~~patient~~ consumer at any time as  
2 follows:

3 ~~(1)~~ 1. A ~~patient~~ consumer who, in the judgment of the attending  
4 physician, is recovered; and

5 ~~(2)~~ 2. A ~~patient~~ consumer who is not recovered but, in the  
6 judgment of the attending physician, will not benefit by further  
7 treatment in a private hospital or ~~institution~~ facility.

8 C. A visiting or convalescent leave status may be granted a  
9 ~~patient~~ consumer for a period not exceeding six (6) months to any  
10 ~~patient~~ consumer upon authorization of the attending physician.

11 ~~Neither the~~

12 1. ~~Neither the~~ attending physician ~~nor,~~ the private hospital or  
13 ~~institution~~ facility shall be responsible for the ~~patient~~ consumer  
14 or any act of the ~~patient~~ consumer, while on visiting or  
15 convalescent leave status.

16 2. If at the end of ~~said~~ the six (6) months period the ~~patient~~  
17 consumer has not returned as an inpatient to the private hospital or  
18 ~~institution~~ facility for further treatment, ~~he~~ the consumer shall be  
19 automatically discharged from the books of ~~said~~ such private  
20 hospital or ~~institution~~ facility.

21 3. The committing court shall be notified by a written sealed  
22 communication of ~~said~~ the discharge.

1 SECTION 67. AMENDATORY 43A O.S. 2001, Section 8-107, is  
2 amended to read as follows:

3 Section 8-107. A. 1. When a private hospital or ~~institution~~  
4 facility has a mentally ill person leave without permission, or ~~to~~  
5 ~~escape~~ the person escapes, the person in charge of the private  
6 hospital or ~~institution~~ facility shall immediately notify the  
7 attending physician and, in the case of a committed ~~patient~~  
8 consumer, the committing court.

9 2. In the case of a committed ~~patient~~ consumer, the attending  
10 physician shall in turn immediately notify the petitioner, relative  
11 or guardian who obtained the commitment to the private hospital or  
12 ~~institution~~ facility.

13 B. It shall be the responsibility of the petitioner, relative,  
14 or guardian who obtained ~~his~~ the commitment of the consumer to  
15 return the ~~patient~~ consumer to the hospital or ~~institution~~ facility  
16 and, in the event of ~~their~~ a failure to return the escaped ~~patient~~  
17 consumer, then it shall be the responsibility and duty of the  
18 sheriff of the county wherein the ~~patient~~ consumer is present to  
19 apprehend ~~the patient~~ and return ~~him~~ the consumer to the private  
20 hospital or ~~institution~~ facility.

21 C. The county shall reimburse ~~said~~ the officers for necessary  
22 travel expenses as provided by law.

1 SECTION 68. AMENDATORY 43A O.S. 2001, Section 8-108, is  
2 amended to read as follows:

3 Section 8-108. A. A ~~patient~~ consumer committed to a private  
4 hospital or ~~institution~~ facility under the provisions of ~~this act~~  
5 the Mental Health Law may be transferred to a state or federal  
6 hospital for the mentally ill at any time prior to discharge.

7 1. The request for transfer shall be made to the ~~superintendent~~  
8 executive director of the state hospital in the district serving the  
9 county of residence of the ~~patient~~ consumer.

10 2. The request for transfer may be made by the attending  
11 physician, the person in charge of the private hospital or  
12 ~~institution~~ facility, or the petitioner, relative, or guardian of  
13 the ~~patient~~ consumer.

14 B. All documents pertaining to the commitment of the ~~patient~~  
15 consumer to the private hospital or ~~institution~~ facility, and an  
16 abstract of the clinical history of the ~~patient~~ consumer during  
17 treatment at the private hospital or ~~institution~~ facility, shall be  
18 forwarded with the ~~patient~~ consumer at the time of transfer.

19 C. 1. The sheriff of the county in which the ~~patient~~ consumer  
20 is hospitalized is authorized to transport the ~~patient~~ consumer to  
21 the state hospital, and the expense of conveying the ~~patient~~  
22 consumer will be borne whenever possible by the petitioner,  
23 relative, or guardian; ~~otherwise, the~~ \_\_\_\_\_ The sheriff or his deputy

1 shall be reimbursed for necessary travel expenses and subsistence as  
2 provided by law for other official business.

3 2. A female attendant must accompany a sheriff transporting a  
4 female ~~patient~~ consumer.

5 SECTION 69. AMENDATORY 43A O.S. 2001, Section 9-101, as  
6 amended by Section 47, Chapter 488, O.S.L. 2002 (43A O.S. Supp.  
7 2004, Section 9-101), is amended to read as follows:

8 Section 9-101. A. 1. An alcohol- ~~and/or~~ or drug-dependent  
9 person may apply for voluntary treatment directly to an approved  
10 treatment facility.

11 2. A minor may apply for voluntary treatment ~~subject~~ pursuant  
12 to the provisions of Section 2602 of Title 63 of the Oklahoma  
13 Statutes.

14 3. A minor not empowered by Section 2602 of Title 63 of the  
15 Oklahoma Statutes to consent to voluntary treatment or an  
16 incompetent person may apply for voluntary treatment with the  
17 approval of the ~~minor's~~ parent, spouse or legal guardian of the  
18 minor.

19 B. 1. Subject to rules adopted by the Board of Mental Health  
20 and Substance Abuse Services, the administrator in charge of an  
21 approved treatment facility may determine who shall be admitted for  
22 treatment.

1        2. When a person is refused admission to an approved treatment  
2 facility, the administrator, subject to rules adopted by the Board,  
3 shall refer the person to another approved treatment facility for  
4 treatment if possible and appropriate.

5        C. 1. When a ~~patient~~ consumer receiving inpatient care leaves  
6 an approved treatment facility, the ~~patient~~ consumer shall be  
7 encouraged to consent to appropriate outpatient or intermediate  
8 treatment.

9        2. If it appears to the administrator in charge of the approved  
10 treatment facility that the ~~patient~~ consumer is an alcohol- or drug-  
11 dependent person who requires help, the facility shall arrange for  
12 assistance in obtaining supportive services and residential  
13 facilities if possible and appropriate.

14        D. If the ~~patient~~ consumer is a minor or an incompetent person,  
15 the request for discharge from an inpatient facility shall be made  
16 by a parent, spouse, or legal guardian, or by the minor if the minor  
17 was voluntarily admitted.

18        SECTION 70.        AMENDATORY        43A O.S. 2001, Section 9-102, as  
19 amended by Section 48, Chapter 488, O.S.L. 2002 (43A O.S. Supp.  
20 2004, Section 9-102), is amended to read as follows:

21        Section 9-102. A. The following persons may file or request  
22 that the district attorney file a petition in district court to

1 determine whether an individual is alcohol- or drug-dependent and is  
2 a person requiring treatment, as defined in this title:

3 1. The father, mother, husband, wife, brother, sister, guardian  
4 or child over the age of eighteen (18) years, of an individual  
5 alleged to be alcohol- or drug-dependent and a person requiring  
6 treatment;

7 2. A licensed mental health professional;

8 3. The executive director of an approved treatment facility;

9 4. Any peace officer within the county in which the individual  
10 alleged to be alcohol- or drug-dependent and a person requiring  
11 treatment resides or may be found; or

12 5. The district attorney in whose district the person resides  
13 or may be found.

14 B. The petition shall contain a statement of the facts upon  
15 which the allegation is based and, if known, the names and addresses  
16 of any witnesses to the alleged facts.

17 1. The petition shall be verified and made under penalty of  
18 perjury.

19 2. A request for the prehearing detention of the individual  
20 alleged to be alcohol- or drug-dependent and a person requiring  
21 treatment may be attached to the petition.

22 3. If the individual alleged to be alcohol- or drug-dependent  
23 and a person requiring treatment is being held in emergency

1 detention, a copy of a certificate of evaluation in the form set  
2 forth in subsection C of Section 5-414 of this title shall be  
3 attached to the petition.

4 C. Upon filing the petition, the court shall fix a date for a  
5 hearing no later than seventy-two (72) hours after the date the  
6 petition was filed. If the court deems it necessary, or if the  
7 person alleged to be alcohol- or drug-dependent and a person  
8 requiring treatment shall so demand, the court shall schedule the  
9 hearing on the petition as a jury trial to be held within seventy-  
10 two (72) hours of the demand, excluding weekends and holidays, or  
11 within as much additional time as is requested by the attorney of  
12 such person upon good cause shown.

13 D. A copy of the petition and of the notice of the hearing,  
14 including the date fixed by the court, shall be served on the  
15 petitioner, the person whose commitment is sought, the next of kin  
16 of the person other than the petitioner, a parent or legal guardian  
17 if the person is a minor, the administrator in charge of the  
18 approved public treatment facility to which the person has been  
19 committed for emergency care, and any other person the court  
20 believes advisable. A copy of the petition and certificate shall be  
21 delivered to each person notified.

22 E. 1. At the hearing the court shall hear all relevant  
23 testimony, including, if possible, the testimony of at least one

1 licensed physician who has examined the person whose commitment is  
2 sought.

3 2. The person shall be present unless the court believes that  
4 presence of the person is likely to be injurious to the person, in  
5 which event the court shall appoint a guardian ad litem to represent  
6 the person throughout the proceeding.

7 3. The court shall examine the person in open court, or if  
8 advisable, shall examine the person out of court.

9 4. If the person has refused to be examined by a licensed  
10 physician, the person shall be given an opportunity to be examined  
11 by a court-appointed licensed physician.

12 5. If the person refuses and there is sufficient evidence to  
13 believe that the allegations of the petition are true, or if the  
14 court believes that more medical evidence is necessary, the court  
15 may make a temporary order committing the person to the approved  
16 treatment facility for a period of not more than five (5) days for  
17 purposes of a diagnostic examination.

18 F. If after hearing all relevant evidence, including the  
19 results of any diagnostic examination by the treatment facility, the  
20 court finds that grounds for involuntary commitment have been  
21 established by clear and convincing proof, it shall make an order of  
22 commitment to treatment. It may not order commitment of a person  
23 unless it determines that the approved treatment facility is able to

1 provide adequate and appropriate treatment for the person and the  
2 treatment is likely to be beneficial.

3 G. A person committed under this section shall be discharged  
4 from treatment in accordance with the provisions of Section 7-102 of  
5 this title at such time as the person no longer requires inpatient  
6 treatment as determined by the executive director of the facility or  
7 a designee of the executive director.

8 H. The approved treatment facility shall provide for adequate  
9 and appropriate treatment of a person committed to its custody. The  
10 approved facility may transfer any person committed to its custody  
11 from one approved public treatment facility to another if transfer  
12 is medically advisable.

13 I. 1. The court shall inform the person whose commitment is  
14 sought of the right to contest the application, be represented by  
15 counsel at every stage of any proceedings relating to his commitment  
16 and have counsel appointed by the court or provided by the court, if  
17 the person wants the assistance of counsel and is unable to obtain  
18 counsel.

19 2. If the court believes that the person needs the assistance  
20 of counsel, the court shall require, by appointment if necessary,  
21 counsel for the person regardless of the wishes of the person.

1       3. The person whose commitment is sought shall be informed of  
2 the right to be examined by a licensed physician chosen by the  
3 person.

4       4. If the person is unable to obtain a licensed physician and  
5 requests examination by a physician, the court shall employ a  
6 licensed physician.

7       J. If a private treatment facility agrees with the request of a  
8 competent ~~patient~~ consumer or the parent, sibling, adult child or  
9 guardian of the ~~patient~~ consumer to accept the ~~patient~~ consumer for  
10 treatment, the administrator of the public treatment facility shall  
11 transfer the ~~patient~~ consumer to the private treatment facility.

12       K. A person committed under this section may at any time seek  
13 to be discharged from commitment by writ of habeas corpus.

14       SECTION 71.       AMENDATORY       43A O.S. 2001, Section 9-103, as  
15 amended by Section 49, Chapter 488, O.S.L. 2002 (43A O.S. Supp.  
16 2004, Section 9-103), is amended to read as follows:

17       Section 9-103. A. 1. After an initial period of observation  
18 and treatment, and subject to the rules and policies established by  
19 the Board of Mental Health and Substance Abuse Services, whenever a  
20 person committed pursuant to court order has recovered from  
21 addiction or imminent danger of addiction, to such an extent that in  
22 the opinion of the physician or ~~superintendent~~ executive director in

1 charge of the facility, release in outpatient status is warranted;  
2 the person shall be discharged to outpatient status.

3 2. Release of ~~such~~ the person in outpatient status shall be  
4 subject to all rules adopted by the Board, and subject to being  
5 retaken and returned to inpatient status as prescribed in such rules  
6 or conditions.

7 B. The rules for persons in outpatient status shall include,  
8 but not be limited to, ~~close~~ :

9 1. Close supervision of the person after release from the  
10 facility, ~~periodic~~ ;

11 2. Periodic and unannounced testing for controlled dangerous  
12 substance use, ~~counseling~~ ;

13 3. Counseling; and ~~return~~

14 4. Return to inpatient status at a suitable facility, if from  
15 the reports of agents of the Department of Mental Health and  
16 Substance Abuse Services or other information including reports of  
17 law enforcement officers as to the conduct of the person, the court  
18 concludes that it is in the best interests of the person and society  
19 that this be done.

20 SECTION 72. AMENDATORY 43A O.S. 2001, Section 11-105, is  
21 amended to read as follows:

22 Section 11-105. A. An advance directive for mental health  
23 treatment is valid only if it is signed by the declarant and two

1 capable witnesses eighteen (18) years of age or older. The  
2 witnesses shall attest that the declarant:

3 1. Is known to them;

4 2. Signed the advance directive for mental health treatment in  
5 their presence;

6 3. Appears to be capable; and

7 4. Is not acting under duress, fraud or undue influence.

8 B. None of the following persons shall be eligible to serve as  
9 attorney-in-fact to the signing of an advance directive for mental  
10 health treatment:

11 1. The attending physician or psychologist or an employee of  
12 the physician or psychologist; or

13 2. An owner, operator or employee of a health care facility in  
14 which the declarant is a ~~patient~~ consumer or resident.

15 SECTION 73. AMENDATORY 43A O.S. 2001, Section 11-108, is  
16 amended to read as follows:

17 Section 11-108. A. It shall be the responsibility of the  
18 declarant to provide for delivery of the advance directive for  
19 mental health treatment to the attending physician or psychologist.

20 1. In the event the declarant is comatose, incompetent, or  
21 otherwise mentally or physically incapable after executing the  
22 advance directive for mental health treatment, any other person may

1 deliver the advance directive for mental health treatment to the  
2 attending physician or psychologist.

3 2. Any person having possession of another person's advance  
4 directive for mental health treatment and who becomes aware that the  
5 declarant is in circumstances under which the terms of the advance  
6 directive for mental health treatment may become operative shall  
7 deliver the advance directive for mental health treatment to the  
8 declarant's attending physician, psychologist or to any health care  
9 facility in which the declarant is a ~~patient~~ consumer.

10 B. An attending physician, psychologist or health care facility  
11 notified of the advance directive for mental health treatment of a  
12 declarant shall promptly make the declaration a part of the medical  
13 records of the declarant.

14 C. An attending physician or other mental health treatment  
15 provider who has been notified of the existence of an advance  
16 directive for mental health treatment executed pursuant to this act  
17 shall make all reasonable efforts to obtain the advance directive  
18 for mental health treatment.

19 SECTION 74. AMENDATORY 43A O.S. 2001, Section 11-110, is  
20 amended to read as follows:

21 Section 11-110. A. The attending physician or psychologist  
22 shall continue to obtain the declarant's informed consent to all

1 mental health treatment decisions when the declarant is capable of  
2 providing informed consent or refusal.

3 B. A declarant appearing to require mental health treatment  
4 shall be examined by two persons, who shall be physicians or  
5 psychologists. If after the examination the declarant is determined  
6 to be incapable and is in need of mental health treatment, a written  
7 certification, substantially in the form provided by subsection E of  
8 this section, of the declarant's condition shall be made a part of  
9 the declarant's medical record.

10 C. The attending physician or psychologist is authorized to act  
11 in accordance with an operative advance directive for mental health  
12 treatment when the declarant has been determined to be incapable and  
13 mental health treatment is necessary. Except as otherwise provided  
14 by this act with regard to conflicting instructions in an advance  
15 directive for mental health treatment:

16 1. An attending physician or psychologist and any other  
17 physician or psychologist under the attending physician's or  
18 psychologist's direction or control, having possession of the  
19 ~~patient's~~ declaration of the consumer or having knowledge that the  
20 declaration is part of the ~~patient's~~ medical record of the consumer,  
21 shall follow as closely as possible the terms of the declaration.

22 2. An attending physician or psychologist and any other  
23 physician or psychologist under the attending physician's direction

1 or control, having possession of the ~~patient's~~ appointment of the  
2 consumer of an attorney-in-fact or having knowledge of the  
3 appointment of an attorney-in-fact, shall follow as closely as  
4 possible the instruction of the attorney-in-fact.

5 D. An attending physician or psychologist who is unable to  
6 comply with the terms of the ~~patient's~~ declaration of the consumer  
7 shall make the necessary arrangements to transfer the patient and  
8 the appropriate medical records without delay to another physician  
9 or psychologist.

10 1. A physician or psychologist who transfers the ~~patient~~  
11 consumer without unreasonable delay, or who makes a good faith  
12 attempt to do so, shall not be subject to criminal prosecution or  
13 civil liability, and shall not be found to have committed an act of  
14 unprofessional conduct for refusal to comply with the terms of the  
15 declaration. Transfer under these circumstances shall not  
16 constitute abandonment.

17 2. The failure of an attending physician or psychologist to  
18 transfer in accordance with this subsection shall constitute  
19 professional misconduct.

20 E. The following certification of the examination of a  
21 declarant determining whether the declarant is in need of mental  
22 health treatment and whether the declarant is or is not incapable  
23 may be utilized by examiners:

1 EXAMINER'S CERTIFICATION

2 We, the undersigned, have made an examination of  
3 \_\_\_\_\_, and do hereby certify that we made a careful  
4 personal examination of the actual condition of the person and on  
5 such examination we find that \_\_\_\_\_:

6 1. (Is) (Is not) in need of mental health treatment; and

7 2. (Is) (Is not) incapable to participate in decisions about  
8 (her) (his) mental health treatment.

9 The facts and circumstances on which we base our opinions are  
10 stated in the following report of symptoms and history of case,  
11 which is hereby made a part hereof.

12 According to the advance directive for mental health treatment,  
13 (name of ~~patient~~ consumer),  
14 wishes to receive mental health treatment in accordance with the  
15 preferences and instructions stated in the advance directive for  
16 mental health treatment.

17 We are duly licensed to practice in the State of Oklahoma, are  
18 not related to \_\_\_\_\_ by blood or marriage, and have no  
19 interest in her/his estate.

20 Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 19  
21 20

22 \_\_\_\_\_, M.D., D.O., Ph.D., Other

23 \_\_\_\_\_, M.D., D.O., Ph.D., Other

1 Subscribed and sworn to before me this \_\_\_\_\_  
2 day of \_\_\_\_\_, 19 20

3 \_\_\_\_\_

4 Notary Public

5 REPORT OF SYMPTOMS AND HISTORY OF

6 CASE BY EXAMINERS

7 1. GENERAL

8 Complete name \_\_\_\_\_

9 Place of residence \_\_\_\_\_

10 Sex \_\_\_\_\_ Color \_\_\_\_\_

11 Age \_\_\_\_\_

12 Date of Birth \_\_\_\_\_

13 2. STATEMENT OF FACTS AND CIRCUMSTANCES

14 Our determination that the declarant (is) (is not) in need for  
15 mental health treatment is based on the

16 following: \_\_\_\_\_

17 \_\_\_\_\_

18 Our determination that the declarant (is) (is not) incapable of  
19 participating in mental health treatment decisions is based on the

20 following: \_\_\_\_\_

21 \_\_\_\_\_

22 3. NAME AND RELATIONSHIPS OF FAMILY MEMBERS/OTHERS TO BE NOTIFIED

23 Other data \_\_\_\_\_

1 Dated at \_\_\_\_\_, Oklahoma, this \_\_\_\_\_ day of  
2 \_\_\_\_\_, ~~19~~ 20  
3 \_\_\_\_\_, M.D., D.O., Ph.D., Other  
4 \_\_\_\_\_  
5 Address  
6 \_\_\_\_\_, M.D., D.O., Ph.D., Other  
7 \_\_\_\_\_  
8 Address

9 SECTION 75. REPEALER 43A O.S. 2001, Sections 3-104, 4-  
10 109 and 8-102, are hereby repealed.

11 SECTION 76. It being immediately necessary for the preservation  
12 of the public peace, health and safety, an emergency is hereby  
13 declared to exist, by reason whereof this act shall take effect and  
14 be in full force from and after its passage and approval.

15 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN RESOURCES, dated  
16 4-7-05 - DO PASS, As Amended.