

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 2076 By: Sparks of the Senate
3 and
4 Schwartz of the House
5
6

7 (mental health - alcohol and drug substance abuse
8 courses - voluntary admission to facilities -
9 codification - repealer -
10 effective date)
11
12

13 AUTHOR: Add the following House Coauthor: Collins

14 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert

15
16 "(mental health - alcohol and drug substance abuse
17 courses - voluntary admission to facilities -
18 codification - repealer -
19 effective date)
20

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

22 SECTION 1. AMENDATORY 43A O.S. 2001, Section 1-103, as
23 last amended by Section 1, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
24 2007, Section 1-103), is amended to read as follows:

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

4 1. "Department" means the Department of Mental Health and
5 Substance Abuse Services;

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

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

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

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

17 6. "Indigent person" means a person who has not sufficient
18 assets or resources to support the person and to support members of
19 the family of the person lawfully dependent on the person for
20 support;

21 7. "Facility" means any hospital, school, building, house or
22 retreat, authorized by law to have the care, treatment or custody of
23 ~~the mentally ill or drug dependent~~ an individual with mental
24 illness, or alcohol dependent persons drug or alcohol dependency,

1 gambling addiction, eating disorders, or an individual receiving
2 methadone treatment for dependency purposes only, including, but not
3 limited to, public or private hospitals, community mental health
4 centers, clinics, satellites or facilities; provided that facility
5 shall not mean a child guidance center operated by the State
6 Department of Health;

7 8. "Consumer" means a person under care or treatment in a
8 facility pursuant to the Mental Health Law, or in an outpatient
9 status;

10 9. "Care and treatment" means medical care and behavioral
11 health services, as well as food, clothing and maintenance,
12 furnished to a person;

13 10. Whenever in this law or in any other law, or in any rule or
14 order made or promulgated pursuant to this law or to any other law,
15 or in the printed forms prepared for the admission of consumers or
16 for statistical reports, the words "insane", "insanity", "lunacy",
17 "mentally sick", "mental disease" or "mental disorder" are used,
18 such terms shall have equal significance to the words "mental
19 illness";

20 11. "Licensed mental health professional" means:

- 21 a. a psychiatrist who is a diplomate of the American
22 Board of Psychiatry and Neurology,
23 b. a physician licensed pursuant to Section 480 et seq.
24 or Section 620 et seq. of Title 59 of the Oklahoma

1 Statutes who has received specific training for and is
2 experienced in performing mental health therapeutic,
3 diagnostic, or counseling functions,

4 c. a clinical psychologist who is duly licensed to
5 practice by the State Board of Examiners of
6 Psychologists,

7 d. a professional counselor licensed pursuant to Section
8 1901 et seq. of Title 59 of the Oklahoma Statutes,

9 e. a person licensed as a clinical social worker pursuant
10 to the provisions of the Social Worker's Licensing
11 Act,

12 f. a licensed marital and family therapist as defined in
13 Section 1925.1 et seq. of Title 59 of the Oklahoma
14 Statutes,

15 g. a licensed behavioral practitioner as defined in
16 Section 1930 et seq. of Title 59 of the Oklahoma
17 Statutes, ~~or~~

18 h. an advanced practice nurse as defined in Section 567.1
19 et seq. of Title 59 of the Oklahoma Statutes
20 specializing in mental health, or

21 i. a physician's assistant who is licensed in good
22 standing in this state and has received specific
23 training for and is experienced in performing mental

24

1 health therapeutic, diagnostic, or counseling
2 functions;

3 12. "Mentally incompetent person" means any person who has been
4 adjudicated mentally or legally incompetent by an appropriate
5 district court;

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

7 (1) a person who because of a mental illness of the
8 person represents a risk of harm to self or
9 others, ~~or~~

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

13 (3) a person who is unable to provide for and is not
14 providing for his or her basic physical needs and
15 that appropriate provision for those needs cannot
16 be made immediately available in the community,
17 and that without intervention there exists a
18 substantial risk that severe impairment or injury
19 will result to the person in the near future.

20 b. Unless a person also meets the criteria established in
21 subparagraph a of this paragraph, person requiring
22 treatment shall not mean:

23 (1) a person whose mental processes have been
24 weakened or impaired by reason of advanced years,

1 (2) a mentally retarded or developmentally disabled
2 person as defined in Title 10 of the Oklahoma
3 Statutes,

4 (3) a person with seizure disorder, or

5 (4) a person with a traumatic brain injury;

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

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

10 16. "Private hospital or facility" means any general hospital
11 maintaining a neuro-psychiatric unit or ward, or any private
12 hospital or facility for care and treatment of a person having a
13 mental illness, which is not supported by the state or federal
14 government. The term "private hospital" or "facility" shall not
15 include nursing homes or other facilities maintained primarily for
16 the care of elderly and disabled persons;

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

- 21 a. a statement of treatment goals or objectives, based
22 upon and related to a clinical evaluation, which can
23 be reasonably achieved within a designated time
24 interval,

- 1 b. treatment methods and procedures to be used to obtain
2 these goals, which methods and procedures are related
3 to each of these goals and which include specific
4 prognosis for achieving each of these goals,
5 c. identification of the types of professional personnel
6 who will carry out the treatment procedures, including
7 appropriate medical or other professional involvement
8 by a physician or other health professional properly
9 qualified to fulfill legal requirements mandated under
10 state and federal law,
11 d. documentation of involvement by the individual
12 receiving treatment and, if applicable, the
13 accordance of the individual with the treatment plan,
14 and
15 e. a statement attesting that the executive director of
16 the facility or clinical director has made a
17 reasonable effort to meet the plan's individualized
18 treatment goals in the least restrictive environment
19 possible closest to the home community of the
20 individual; ~~and~~

21 18. "Risk of harm to self or others" means:

- 22 a. a substantial risk of ~~immediate~~ physical harm in the
23 near future to self as manifested by evidence or
24

1 serious threats of or attempts at suicide or other
2 significant self-inflicted bodily harm,

3 b. a substantial risk of ~~immediate~~ physical harm in the
4 near future to another person or persons as manifested
5 by evidence of violent behavior directed toward
6 another person or persons, or

7 c. having placed another person or persons in a
8 reasonable fear of violent behavior directed towards
9 such person or persons or serious physical harm to
10 them as manifested by serious and immediate threats,

11 ~~d. there exists a substantial risk that without immediate~~
12 ~~intervention severe impairment or injury will result~~
13 ~~to the person alleged to be a person requiring~~
14 ~~treatment, or~~

15 ~~e. a substantial risk of immediate serious physical~~
16 ~~injury to self, or immediate death, as manifested by~~
17 ~~evidence that the person is unable to provide for and~~
18 ~~is not providing for the basic physical needs of the~~
19 ~~person and that appropriate provision for those needs~~
20 ~~cannot be made immediately available in the community.~~

21 Unless a person also meets the criteria established in subparagraphs
22 a, b, or c, ~~d, or e~~ of this paragraph, "risk of harm to self or
23 others" does not mean a person who is homeless; and

24

1 19. "Telemedicine" means the practice of health care delivery,
2 diagnosis, consultation, evaluation, treatment, transfer of medical
3 data, or exchange of medical education information by means of
4 audio, video, or data communications. Telemedicine uses audio and
5 video multimedia telecommunication equipment which permits two-way
6 real-time communication between a health care practitioner and a
7 patient who are not in the same physical location. Telemedicine is
8 not consultation provided by a telephone or facsimile machine.

9 SECTION 2. AMENDATORY 43A O.S. 2001, Section 1-109, as
10 last amended by Section 2, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
11 2007, Section 1-109), is amended to read as follows:

12 Section 1-109. A. 1. All mental health and drug or alcohol
13 abuse treatment information, whether or not recorded, and all
14 communications between a physician or psychotherapist and a consumer
15 are both privileged and confidential. In addition, the identity of
16 all persons who have received or are receiving mental health or drug
17 or alcohol abuse treatment services shall be considered confidential
18 and privileged.

19 2. Such information shall only be available to persons actively
20 engaged in the treatment of the consumer or in related
21 administrative work. The information available to persons actively
22 engaged in the treatment of the consumer or in related
23 administrative work shall be limited to the minimum amount of
24

1 information necessary for the person or agency to carry out its
2 function.

3 3. Except as otherwise provided in this section, such
4 information shall not be disclosed to anyone not involved in the
5 treatment of the patient or related administrative work.

6 B. A person who is or has been a consumer of a physician,
7 psychotherapist, mental health facility, a drug or alcohol abuse
8 treatment facility or service, other agency for the purpose of
9 mental health or drug or alcohol abuse care and treatment shall be
10 entitled to personal access to his or her mental health or drug or
11 alcohol abuse treatment information, except the following:

12 1. Information contained in notes recorded in any medium by a
13 mental health professional documenting or analyzing the contents of
14 conversation during a private counseling session or a group, joint
15 or family counseling session, and that is separated from the rest of
16 the patient's medical record;

17 2. Information compiled in reasonable anticipation of or for
18 use in a civil, criminal or administrative action or proceeding;

19 3. Information that is otherwise privileged or prohibited from
20 disclosure by law;

21 4. Information the person in charge of the care and treatment
22 of the patient determines to be reasonably likely to endanger the
23 life or physical safety of the patient or another person;

24

1 5. Information created or obtained as part of research that
2 includes treatment; provided, the patient consented to the temporary
3 suspension of access while the research is ongoing. The patient's
4 right of access shall resume upon completion of the research;

5 6. Information requested by an inmate that a correctional
6 institution has determined may jeopardize the health, safety,
7 security, custody or rehabilitation of the inmate or other person;
8 and

9 7. Information obtained under a promise of confidentiality and
10 the access requested would be reasonably likely to reveal the source
11 of the information.

12 C. 1. A valid written release for disclosure of mental health
13 or drug or alcohol abuse treatment information shall have, at a
14 minimum, the following elements:

- 15 a. the specific name or general designation of the
- 16 program or person permitted to make the disclosure,
- 17 b. the name or title of the individual or the name of the
- 18 organization to which disclosure is to be made,
- 19 c. the name of the consumer whose records are to be
- 20 released,
- 21 d. the purpose of the disclosure,
- 22 e. a description of the information to be disclosed,
- 23 f. the dated signature of the consumer or authorized
- 24 representative or both when required,

- 1 g. a statement of the right of the consumer to revoke the
2 release in writing and a description of how the
3 consumer may do so,
4 h. an expiration date, event or condition which, if not
5 revoked before, shall ensure the release will last no
6 longer than reasonably necessary to serve the purpose
7 for which it is given, and
8 i. if the release is signed by a person authorized to act
9 for a consumer, a description of the authority of such
10 person to act.

11 2. A release is not valid if the document submitted has any of
12 the following defects:

- 13 a. the expiration date has passed or the expiration event
14 or condition is known to have occurred or to exist,
15 b. the release has not been filled out completely with
16 respect to an element described in paragraph 1 of this
17 section,
18 c. the release is known to have been revoked, or
19 d. any material information in the release is known to be
20 false.

21 3. A revocation of a release as provided in this section shall
22 be in writing and may be made at any time, except when:

- 23 a. information has already been released in reliance
24 thereon,

1 b. the authorization was obtained as a condition of
2 obtaining insurance coverage and other law provides
3 the insurer with the right to contest a claim under
4 the policy or the policy itself, or

5 c. the release was executed as part of a criminal justice
6 referral.

7 4. Disclosure regarding a deceased consumer shall require
8 either a court order or a written release of an executor,
9 administrator or personal representative appointed by the court, or
10 if there is no such appointment, by the spouse of the consumer or,
11 if none, by any responsible member of the family of the consumer.
12 As used in this paragraph, "responsible family member" means the
13 parent, adult child, adult sibling or other adult relative who was
14 actively involved in providing care to or monitoring the care of the
15 patient as verified by the physician, psychologist or other person
16 responsible for the care and treatment of such person.

17 D. Except as otherwise permitted, mental health and alcohol or
18 substance abuse treatment information may not be disclosed without
19 valid patient authorization or a valid court order issued by a court
20 of competent jurisdiction. For purposes of this section, a subpoena
21 by itself is not sufficient to authorize disclosure of mental health
22 and alcohol or substance abuse treatment information.

23 E. An authorization shall not be required for the following
24 uses and disclosures, but information disclosed pursuant to one of

1 these exceptions must be limited to the minimum amount of
2 information necessary:

3 1. Disclosure by a health care provider of mental health
4 information necessary to carry out ~~such~~ another provider's own
5 treatment, payment, or health care operations. Such disclosures
6 shall be limited to mental health information and shall not include
7 substance abuse information;

8 2. Communications to law enforcement officers regarding
9 information directly related to the commission of a crime on the
10 premises of a facility or against facility personnel, or a threat to
11 commit such a crime. Such communications involving persons with
12 substance abuse disorders shall be limited to the circumstances
13 surrounding the incident, consumer status, name and address of that
14 individual and the last-known whereabouts of that individual;

15 3. A review preparatory to research, research on decedents
16 information or research conducted when a waiver of authorization has
17 been approved by either an institutional review board or privacy
18 board;

19 4. Communications pursuant to a business associate agreement,
20 qualified service organization agreement or a qualified service
21 organization/business associate agreement. As used in this
22 paragraph:

23 a. "business associate agreement" means a written signed
24 agreement between a health care provider and an

1 outside entity which performs or assists in the
2 performance of a function or activity involving the
3 use or disclosure of individually identifiable health
4 information on behalf of the health care provider,

5 b. "qualified service organization agreement" means a
6 written, signed agreement between a health care
7 provider and an outside entity which provides services
8 to the health care provider's consumers that are
9 different from the services provided by the health
10 care provider, that allows the health care provider to
11 communicate consumer information necessary for the
12 outside entity to provide services to the health care
13 provider's consumers without the need for an
14 authorization signed by a consumer and in which the
15 outside entity acknowledges that in receiving,
16 storing, processing or otherwise dealing with any
17 consumer information from the health care provider it
18 is fully bound by the provisions of 42 C.F.R., Part 2
19 and, if necessary, will resist any efforts in judicial
20 proceedings to obtain access to consumer information,
21 except as permitted by 42 C.F.R., Part 2, and

22 c. "qualified service organization/business agreement"
23 means a written, signed agreement between a health
24 care provider and an outside entity which provides

1 services to the health care provider's consumers that
2 are different from the services provided by the health
3 care provider, that allows the health care provider to
4 communicate consumer information necessary for the
5 outside entity to provide services to the health care
6 provider's consumers without the need for an
7 authorization signed by a consumer, and in which the
8 outside entity acknowledges that in receiving,
9 storing, processing or otherwise dealing with any
10 consumer information from the health care provider it
11 is fully bound by the provisions 42 C.F.R., Part 2
12 and, if necessary, will resist any efforts in judicial
13 proceedings to obtain access to consumer information,
14 except as permitted by 42 C.F.R., Part 2. The
15 agreement must also contain elements required by
16 federal privacy regulations in 45 C.F.R., Parts 160 &
17 164;

18 5. Reporting under state law incidents of suspected child abuse
19 or neglect to the appropriate authorities; provided, however, for
20 disclosures involving an individual with a substance abuse disorder,
21 this exception does not allow for follow-up communications;

22 6. Disclosure of consumer-identifying information to medical
23 personnel who have a need for information about a consumer for the
24 purpose of treating a condition which poses an immediate threat to

1 the health of any individual and which requires immediate medical
2 intervention;

3 7. Communications necessary for audit and evaluation
4 activities;

5 8. When a program or facility director determines that an adult
6 person with a substance abuse disorder has a medical condition which
7 prevents the person from "knowing or effective action on his or her
8 own behalf", the program or facility director may authorize
9 disclosures for the sole purpose of obtaining payment for services.
10 If the person has been adjudicated incompetent, the facility must
11 seek permission to disclose information for payment from the legal
12 guardian;

13 9. Reporting of such information as otherwise required by law;
14 provided, however, such disclosure may not identify the person
15 directly or indirectly as a person with a substance abuse disorder;

16 10. Communications to coroners, medical examiners and funeral
17 directors for the purpose of identifying a deceased person,
18 determining a cause of death, or other duties as authorized by law
19 and as necessary to carry out their duties; provided, however, such
20 disclosure may not identify the person directly or indirectly as a
21 person with a substance abuse disorder;

22 11. Communications to organ procurement organizations or other
23 entities engaged in procurement, banking, or transplantation of
24 cadaveric organs, eyes or tissue for the purpose of facilitating

1 organ, eye or tissue donation and transplantation; provided,
2 however, such disclosure may not identify the person directly or
3 indirectly as a person with a substance abuse disorder;

4 12. Disclosure to professional licensure boards investigating
5 alleged unethical behavior towards a patient; provided, however,
6 such disclosure may not identify the person directly or indirectly
7 as a person with a substance abuse disorder;

8 13. Disclosure to the parent of a minor for the purpose of
9 notifying the parent of the location of his or her child; provided,
10 however, such disclosure may not identify the person directly or
11 indirectly as a person with a substance abuse disorder;

12 14. Mental health records may be disclosed to parties in a
13 judicial or administrative proceeding in cases involving a claim for
14 personal injury or death against any practitioner of the healing
15 arts, a licensed hospital, or a nursing facility or nursing home
16 licensed pursuant to Section 1-1903 of Title 63 of the Oklahoma
17 Statutes arising out of patient care, where any person has placed
18 the physical or mental condition of that person in issue by the
19 commencement of any action, proceeding, or suit for damages, or
20 where any person has placed in issue the physical or mental
21 condition of any other person or deceased person by or through whom
22 the person rightfully claims;

23 15. Disclosure of consumer-identifying information when it
24 appears from all the circumstances that the individual has escaped

1 from a correctional institution or from lawful custody and the
2 release is to a law enforcement authority for the purpose of
3 identification and apprehension. Such disclosures shall be limited
4 to mental health information and shall not include substance abuse
5 information; and

6 16. When failure to disclose the information presents a serious
7 threat to the health and safety of a person or the public; provided,
8 however, such disclosure may not identify the person directly or
9 indirectly as a person with a substance abuse disorder.

10 SECTION 3. AMENDATORY 43A O.S. 2001, Section 2-103, as
11 last amended by Section 11, Chapter 348, O.S.L. 2005 (43A O.S. Supp.
12 2007, Section 2-103), is amended to read as follows:

13 Section 2-103. A. The Board of Mental Health and Substance
14 Abuse Services shall be composed of eleven (11) members, appointed
15 by the Governor, with the advice and consent of the Senate, as
16 follows:

17 1. One member, who shall be a physician licensed to practice in
18 this state, and one member, who shall be a psychiatrist certified as
19 a diplomate of the American Board of Psychiatry and Neurology, shall
20 both be appointed from a list containing the names of not less than
21 three physicians and not less than three psychiatrists submitted to
22 the Governor by the Oklahoma State Medical Association;

23 2. One member, who shall be an attorney licensed to practice in
24 this state and shall be appointed from a list of not less than three

1 names submitted to the Governor by the Board of Governors of the
2 Oklahoma Bar Association;

3 3. One member, who shall be a psychologist, licensed to
4 practice in this state, who shall be appointed from a list of not
5 less than three names submitted to the Governor by the Oklahoma
6 State Psychological Association;

7 4. Three members, qualified by education and experience in the
8 area of substance abuse recovery, who shall be appointed from a list
9 of not less than ten names submitted to the Governor by a state
10 association of substance abuse recovery programs or organizations
11 for terms ending on December 31, 2002, December 31, 2004, and
12 December 31, 2006, respectively; and

13 5. Four members who shall be citizens of this state, at least
14 one of whom shall be either a current or former consumer of mental
15 health services.

16 B. Upon expiration of the initial terms of each of the four
17 members, a successor shall be appointed for a full term of seven (7)
18 years.

19 C. No person shall be appointed a member of the Board who has
20 been a member of the Legislature of this state within the preceding
21 five (5) years.

22 D. The Board shall elect from among its members a chair and a
23 vice-chair. The chair may call meetings at any time.

24

1 E. All regularly scheduled meetings of the Board shall be held
2 at the Central Office of the Department of Mental Health and
3 Substance Abuse Services, Oklahoma City, Oklahoma, unless otherwise
4 scheduled. Six members shall constitute a quorum at any meeting, and
5 all action may be taken by an affirmative vote of the majority of
6 the members present at any such meeting.

7 F. The action taken by the Board on any matter, or any document
8 passed by the Board, shall be considered official when such action
9 is placed in writing and signed by the chair or vice-chair.

10 G. The duties of the Board shall pertain to the care,
11 treatment, and hospitalization of persons with mental illness, or
12 alcohol- or drug-dependent persons.

13 H. Members of the Board of Mental Health and Substance Abuse
14 Services shall be allowed their necessary travel expenses pursuant
15 to the provisions of the State Travel Reimbursement Act.

16 I. Members of the Board of Mental Health and Substance Abuse
17 Services shall be allowed to serve on the State Board of Medical
18 Licensure and Supervision during members' terms on the Board of
19 Mental Health and Substance Abuse Services.

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2-202.1 of Title 43A, unless
22 there is created a duplication in numbering, reads as follows:

23 A. The Commissioner of the Oklahoma Department of Mental Health
24 and Substance Abuse Services shall have charge of the administration

1 of the Department of Mental Health and Substance Abuse Services as
2 directed by the Board of Mental Health and Substance Abuse Services
3 and shall be charged with the duty of carrying out the provisions of
4 the Mental Health Law. The duties of the Commissioner shall
5 include, but not be limited to, the following:

- 6 1. Supervising the activities of the Department;
- 7 2. Prescribing rules and regulations, as approved by the Board
8 of Mental Health and Substance Abuse Services, for the efficient,
9 uniform, and professional operation of the Department, consistent
10 with the mission of the Department including the official forms used
11 or described in this title;
- 12 3. Prescribing policies and procedures for the operation of the
13 Department;
- 14 4. Employing necessary personnel to perform the duties of the
15 Department, prescribing titles and duties, and fixing compensation
16 including the employment of attorneys to provide legal assistance to
17 the Department;
- 18 5. Accepting, using, disbursing, and administering grants,
19 allotments, gifts, devises, bequests, appropriations, and other
20 monies and property offered or given to the Department, or any
21 component or agency thereof, by an agency of the federal government
22 or any corporation or individual for the use of the Department;
- 23 6. Making contracts and agreements with other departments of
24 this state to carry out the provisions of this section;

1 7. Acting as the official agency of this state in all matters
2 relating to mental health or substance abuse which require or
3 authorize cooperation of this state with the federal government or
4 any agency thereof; coordinating the activities of the Department
5 with those of the federal government or any department or agency
6 thereof, and with other states, on matters pertaining to mental
7 health and substance abuse, and entering into agreements for such
8 purpose;

9 8. Aiding, assisting, and cooperating with other state
10 agencies, government entities, institutions of higher learning,
11 public schools, and others interested in public education regarding
12 the issues of mental health and substance abuse in the establishment
13 of sound mental health and substance abuse programs in this state;
14 and

15 9. Designating the type of consumer that will be cared for at
16 each facility and designating hospital or community mental health
17 center districts for the purpose of determining to which facilities
18 within the Department or community mental health centers persons
19 committed from each county shall initially be sent. These
20 designations may be changed from time to time.

21 B. The Commissioner or designee may delay inpatient admissions
22 when such admissions would cause facilities to exceed their
23 authorized capacity.

24

1 C. Consumers may be transferred from one facility to another
2 within the Department on the authority of the Commissioner as
3 provided for in the Mental Health Law.

4 D. The Commissioner may establish a Forensics Review Board to
5 annually review the case of every consumer ordered to the custody of
6 the Department through a "not guilty by reason of insanity" verdict.
7 If established, the Forensics Review Board shall be composed of
8 three (3) licensed mental health professionals, at least one of whom
9 is licensed as a doctor of medicine, a doctor of osteopathy, or a
10 licensed clinical psychologist, who shall be selected by the
11 Commissioner.

12 E. The Commissioner shall have any other power necessary to
13 implement the provisions of the Mental Health Law.

14 SECTION 5. AMENDATORY 43A O.S. 2001, Section 3-101, as
15 last amended by Section 12, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
16 2007, Section 3-101), is amended to read as follows:

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

- 20 1. Griffin Memorial Hospital, Norman;
- 21 2. Oklahoma Forensic Center, Vinita;
- 22 3. Children's Recovery Center of Oklahoma ~~Youth Center~~, Norman;
- 23 4. Tulsa Center for Behavioral Health, Tulsa;
- 24 5. Carl Albert Community Mental Health Center, McAlester;

- 1 6. Jim Taliaferro Community Mental Health Center, Lawton;
- 2 7. Central Oklahoma Community Mental Health Center, Norman;
- 3 8. Bill Willis Community Mental Health and Substance Abuse
- 4 Services Center, Tahlequah;
- 5 9. Northwest Center for Behavioral Health, Woodward;
- 6 10. Oklahoma County Crisis Intervention Center, Oklahoma City;
- 7 11. Norman Alcohol and Drug Treatment Center, Norman; and
- 8 12. Rose Rock Recovery Center, Vinita ~~Alcohol and Drug~~
- 9 ~~Treatment Center~~.

10 SECTION 6. AMENDATORY 43A O.S. 2001, Section 3-105, is
11 amended to read as follows:

12 Section 3-105. A. The Children's Recovery Center of Oklahoma
13 ~~Youth Center~~, Norman, Oklahoma, is hereby created and designated a
14 facility within the Department and shall be operated under the
15 supervision of the Department. The Children's Recovery Center of
16 Oklahoma ~~Youth Center~~ shall consist of:

17 1. The Adolescent Unit, a building constructed pursuant to the
18 provisions of Section 10, Chapter 341, O.S.L. 1981, Section 20,
19 Chapter 374, O.S.L. 1982, Section 32, Chapter 326, O.S.L. 1983 and
20 Section 114, Chapter 296, O.S.L. 1984; and

21 2. The Leland Wolf Unit, formerly known and designated as the
22 Leland Wolf Rehabilitation Center of Central State Griffin Memorial
23 Hospital.

24

1 B. There is hereby created a petty cash fund for the Children's
2 Recovery Center of Oklahoma ~~Youth Center~~. The Director of State
3 Finance and Commissioner of Mental Health and Substance Abuse
4 Services are authorized to fix the maximum amount of this petty cash
5 fund and the Director of State Finance shall prescribe the rules and
6 procedures for the administration of this petty cash fund.

7 SECTION 7. AMENDATORY 43A O.S. 2001, Section 3-107, as
8 amended by Section 11, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2007,
9 Section 3-107), is amended to read as follows:

10 Section 3-107. A. There are hereby created and designated as
11 facilities within the Department of Mental Health and Substance
12 Abuse Services, the Norman Alcohol and Drug Treatment Center at
13 Norman and the ~~Vinita Alcohol and Drug Treatment~~ Rose Rock Recovery
14 Center at Vinita. The facilities shall be operated under the
15 supervision and administration of the Commissioner of Mental Health
16 and Substance Abuse Services. It is the intent of the Legislature
17 that the centers in Norman and Vinita utilize and receive business
18 management, support services and medical ancillary services of the
19 respective state facility where the center is located.

20 B. There are hereby created separate petty cash funds for the
21 Alcohol and Drug Treatment Centers at Norman and Vinita. The
22 Director of State Finance and the Commissioner of Mental Health and
23 Substance Abuse Services are authorized to fix the maximum amount of
24 each petty cash fund. The Director of State Finance shall prescribe

1 the rules and procedures for the administration of each petty cash
2 fund.

3 C. The Department of Mental Health and Substance Abuse Services
4 is authorized to effect the transfer of property, records,
5 equipment, supplies, funds, and encumbrances from Griffin Memorial
6 Hospital to or from the Norman Alcohol and Drug Treatment Center;
7 and to effect the transfer of property, records, equipment,
8 supplies, funds, and encumbrances from the Oklahoma Forensic Center
9 to or from the ~~Vinita Alcohol and Drug Treatment~~ Rose Rock Recovery
10 Center.

11 SECTION 8. AMENDATORY 43A O.S. 2001, Section 3-453, as
12 last amended by Section 7, Chapter 130, O.S.L. 2007 (43A O.S. Supp.
13 2007, Section 3-453), is amended to read as follows:

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

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

21 1. ~~One Hundred Fifty Dollars (\$150.00)~~ One Hundred Thirty-five
22 Dollars (\$135.00) for a ten-hour course; and

23 2. ~~Three Hundred Sixty Dollars (\$360.00)~~ Three Hundred Twenty-
24 four Dollars (\$324.00) for a twenty-four-hour course.

1 C. ~~Ten percent (10%) of each fee collected~~ A twenty-dollar fee
2 shall be remitted by the ~~institution or organization offering~~
3 individual attending the alcohol and drug substance abuse ~~courses~~
4 course directly to the Department of Public Safety upon
5 reinstatement of the driving privileges of the person. The
6 Department of Public Safety shall remit the fees collected pursuant
7 to this section to the State Treasurer to be credited to the
8 Community-based Substance Abuse Revolving Fund in the State Treasury
9 and shall be used to provide substance abuse services to the
10 indigent or to provide specialized training to alcohol and drug
11 substance abuse course facilitators. ~~Five percent (5%) of each fee~~
12 ~~collected by the Department shall be used for the administrative~~
13 ~~costs related to providing such services.~~

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

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

20 F. The Department of Mental Health and Substance Abuse Services
21 is authorized to promulgate rules governing:

- 22 1. Minimum curriculum requirements for such courses;
- 23 2. Facilities, equipment and instructional materials for such
- 24 courses;

1 3. Minimum qualifications for course facilitators;

2 4. Grounds for reprimand and for revocation, suspension or
3 nonrenewal of the authority to conduct such courses and for
4 revocation of a facilitator's certification;

5 5. Attendance requirements; and

6 6. Guidelines for certifying to the Department of Mental Health
7 and Substance Abuse Services and the Department of Public Safety
8 successful completion of such course.

9 G. The Department of Mental Health and Substance Abuse Services
10 shall require that each ten-hour course shall be conducted in no
11 less than three sessions of no more than three and one-half (3 1/2)
12 hours each on three (3) separate days. For a twenty-four-hour
13 course, the Department shall require that:

14 1. Each such course shall consist of at least twenty-four (24)
15 hours;

16 2. Each such course shall consist of no more than two (2) hours
17 of education on any given day, nor more than four (4) hours in a
18 given week, and shall not contain more than ten percent (10%) films
19 on any one specialized area; and

20 3. ~~Each facilitator shall be certified and shall:~~

21 a. ~~possess a bachelor's degree in behavioral or health~~
22 ~~care sciences education, psychology, social work or~~
23 ~~chemical dependency,~~

- 1 ~~b. possess at least two (2) years of verifiable full-~~
2 ~~time equivalent experience in the addiction treatment~~
3 ~~field,~~
- 4 ~~e. provide documentation verifying observation of one~~
5 ~~complete alcohol and drug substance abuse course~~
6 ~~conducted by a certified facilitator. Such~~
7 ~~observation must be completed and verified to the~~
8 ~~Department prior to attending facilitator training,~~
- 9 ~~d. provide proof of attendance at a facilitator training~~
10 ~~session and pass the Department's certification~~
11 ~~examination for the ten-hour alcohol and drug~~
12 ~~substance abuse course facilitator, and~~
- 13 ~~e. provide verification of having conducted a complete~~
14 ~~alcohol and drug substance abuse course under the~~
15 ~~supervision of a certified alcohol and drug substance~~
16 ~~abuse course facilitator or a Department~~
17 ~~representative;~~

18 ~~4. The facilitator candidate shall be allowed one (1) year to~~
19 ~~complete all training requirements. Failure to meet all~~
20 ~~requirements within one (1) year shall result in denial of~~
21 ~~certification. To be reconsidered, the candidate shall be required~~
22 ~~to reapply to the Department;~~

23 ~~5. A facilitator for a twenty-four-hour alcohol and drug~~
24 ~~substance abuse course shall:~~

1 a. ~~attend the twenty-four hour alcohol and drug substance~~
2 ~~abuse course facilitator training and pass the~~
3 ~~Department certification examination for the twenty-~~
4 ~~four hour alcohol and drug substance abuse course~~
5 ~~facilitator, and~~

6 b. ~~conduct a complete twenty-four hour alcohol and drug~~
7 ~~substance abuse course under the supervision of a~~
8 ~~certified alcohol and drug substance abuse course~~
9 ~~facilitator or a Department representative; and~~

10 ~~6.~~ No more than twenty-four students shall be allowed in a
11 given class.

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

16 I. Any person participating in a substance abuse treatment
17 program recommended as a result of an assessment pursuant to Section
18 3-460 of this title shall be required to pay all or part of the
19 actual cost incurred for treatment of the person, if the court
20 determines the person has the ability to pay for all or part of the
21 cost of treatment. The court shall determine the amount of
22 reimbursement the person shall pay.

23 J. Application fees for certification of course facilitators
24 shall be set by the Board of Mental Health and Substance Abuse

1 Services to defray the costs of administering the program and shall
2 be:

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

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

7 K. The Director of the Office of State Finance shall transfer
8 unobligated monies generated from the fees in subsection C of this
9 section, deposited before November 1, 2005, from the Department of
10 Mental Health and Substance Abuse Services Revolving Fund to the
11 Community-based Substance Abuse Revolving Fund, in amounts
12 calculated by the Department.

13 SECTION 9. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3-453.2 of Title 43A, unless
15 there is created a duplication in numbering, reads as follows:

16 A. Each facilitator for an alcohol and drug substance abuse
17 course shall be certified by the Department of Mental Health and
18 Substance Abuse Services and shall:

19 1. Possess a bachelor degree in behavioral or health care
20 sciences education, psychology, social work or chemical dependency;

21 2. Possess at least two (2) years of verifiable full-time-
22 equivalent experience in the addiction treatment field;

23 3. Provide documentation verifying observation of one complete
24 alcohol and drug substance abuse course conducted by a certified

1 facilitator, which shall be completed and verified to the Department
2 prior to attending facilitator training;

3 4. Provide proof of attendance at a facilitator training
4 session and pass the Department certification examination for the
5 ten-hour alcohol and drug substance abuse course facilitator; and

6 5. Provide verification of having conducted a complete alcohol
7 and drug substance abuse course under the supervision of a certified
8 alcohol and drug substance abuse course facilitator or a Department
9 representative.

10 B. A facilitator for a twenty-four-hour alcohol and drug
11 substance abuse course shall meet all the requirements contained in
12 paragraphs 1 through 3 of subsection A of this section and shall:

13 1. Attend the twenty-four-hour alcohol and drug substance abuse
14 course facilitator training session and pass the Department
15 certification examination for the twenty-four-hour alcohol and drug
16 substance abuse course facilitator; and

17 2. Conduct a complete twenty-four-hour alcohol and drug
18 substance abuse course under the supervision of a certified alcohol
19 and drug substance abuse course facilitator or a Department
20 representative.

21 C. Alcohol and drug substance abuse course facilitator
22 candidates shall be allowed one (1) year to complete all training
23 requirements. Failure to meet all requirements within one (1) year
24

1 shall result in denial of certification. To be reconsidered, the
2 candidate shall be required to reapply to the Department.

3 SECTION 10. AMENDATORY 43A O.S. 2001, Section 3-460, as
4 last amended by Section 8, Chapter 130, O.S.L. 2007 (43A O.S. Supp.
5 2007, Section 3-460), is amended to read as follows:

6 Section 3-460. A. The Department of Mental Health and
7 Substance Abuse Services shall certify assessment personnel for the
8 purpose of conducting alcohol and drug assessment and evaluation
9 programs related to driver license revocation.

10 B. Application fees for certification of assessment personnel
11 shall be set by the Department to defray the costs of administering
12 the program and shall be:

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

15 2. Not less than Twenty-five Dollars (\$25.00) and not more than
16 One Hundred Fifty Dollars (\$150.00) upon triennial renewal.

17 C. The fee for those undergoing an assessment and evaluation
18 pursuant to this section shall be ~~One Hundred Seventy five Dollars~~
19 ~~(\$175.00), and ten percent (10%) of each fee collected shall be~~
20 ~~remitted by the assessment agency or personnel~~ One Hundred Sixty
21 Dollars (\$160.00). A fifteen-dollar fee shall be remitted by the
22 individual undergoing an assessment and evaluation directly to the
23 Department of Public Safety upon reinstatement of the driving
24 privileges of that person. The Department of Public Safety shall

1 remit the fees collected pursuant to this section to the State
2 Treasurer to be credited to the Community-based Substance Abuse
3 Revolving Fund in the State Treasury and shall be used to provide
4 substance abuse services to the indigent. ~~Five percent (5%) of each~~
5 ~~fee collected by the Department shall be used for the administrative~~
6 ~~costs related to providing such services. One Dollar (\$1.00) from~~
7 ~~each assessment fee collected shall be designated for training~~
8 ~~assessment personnel in the best practice, evaluation and assessment~~
9 ~~procedures~~ or to provide specialized training to alcohol and drug
10 substance abuse course assessors.

11 D. The Board of Mental Health and Substance Abuse Services is
12 authorized to promulgate such rules as are necessary to implement
13 the provisions of this act.

14 E. The Director of the Office of State Finance shall transfer
15 any unobligated monies generated by the fees in subsection C of this
16 section, deposited before the effective date of this act, from the
17 Department of Mental Health and Substance Abuse Services Revolving
18 Fund to the Community-based Substance Abuse Revolving Fund, in
19 amounts calculated by the Department.

20 SECTION 11. AMENDATORY 43A O.S. 2001, Section 5-101, as
21 last amended by Section 10, Chapter 130, O.S.L. 2007 (43A O.S. Supp.
22 2007, Section 5-101), is amended to read as follows:

23 Section 5-101. A. Any person who has a mental illness or is
24 alcohol- or drug-dependent to a degree which warrants inpatient

1 treatment or care, and who is not in confinement in any jail,
2 ~~detention, lockup,~~ or correctional facility on a criminal charge or
3 conviction and who has no criminal charges pending against him or
4 her, may be admitted to and confined in a facility within the
5 Department of Mental Health and Substance Abuse Services, a state
6 psychiatric hospital, or a licensed private institution by
7 compliance with any one of the following procedures:

- 8 1. Emergency admission;
- 9 2. On voluntary application; or
- 10 3. On involuntary court commitment.

11 B. Any person who has a mental illness or is alcohol- or drug-
12 dependent to a degree which warrants inpatient treatment or care and
13 who has criminal charges pending against him or her but is not
14 confined in any jail,~~detention, lockup,~~ or correctional facility
15 may be admitted to a facility within the Department or a licensed
16 private institution pursuant to the provisions of subsection A of
17 this section; provided, the facility or hospital shall be authorized
18 to take such reasonable steps as necessary to assure the protection
19 of the public, the residents of the facility or hospital and the
20 person including, but not limited to, segregation and private
21 facilities. Provided further, treatment received pursuant to this
22 subsection shall not constitute a defense in any criminal proceeding
23 except as otherwise provided by Title 22 of the Oklahoma Statutes.

24

1 C. 1. Any person confined pursuant to a criminal charge shall
2 only be admitted to and confined pursuant to a court order issued in
3 compliance with the provisions of Section 1175.6 of Title 22 of the
4 Oklahoma Statutes.

5 2. No person shall be deprived of his or her liberty on the
6 grounds that such person is, or is supposed to have, a mental
7 illness or is in need of mental health treatment, except in
8 accordance with the provisions of the Mental Health Law.

9 SECTION 12. AMENDATORY 43A O.S. 2001, Section 5-206, as
10 last amended by Section 15, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
11 2007, Section 5-206), is amended to read as follows:

12 Section 5-206. As used in Sections 5-206 through 5-209 of this
13 title:

14 1. "Mental health evaluation" means the examination of a
15 person, either in person or via telemedicine, who appears to have a
16 mental illness or be alcohol- or drug-dependent by two licensed
17 mental health professionals, at least one of whom is a psychiatrist
18 who is a diplomat of the American Board of Psychiatry and Neurology,
19 a licensed clinical psychologist, or a licensed Doctor of Medicine
20 or Doctor of Osteopathy who has received specific training for and
21 is experienced in performing mental health therapeutic, diagnostic,
22 or counseling functions, for the purpose of:

23 a. determining if a petition requesting involuntary
24 commitment or treatment is warranted, or

1 b. completing a certificate of evaluation pursuant to
2 Section 5-414 of this title, or

3 c. both subparagraphs a and b of this paragraph;

4 2. "Initial assessment (medical necessity review)" means the
5 examination of a person, either in person or via telemedicine, who
6 appears to be a mentally ill person, an alcohol-dependent person, or
7 a drug-dependent person and a person requiring treatment, whose
8 condition is such that it appears that emergency detention may be
9 warranted by a licensed mental health professional at a facility
10 approved by the Commissioner of Mental Health and Substance Abuse
11 Services, or a designee, as appropriate for such examination to
12 determine if emergency detention of the person is warranted;

13 3. "Emergency detention" means the detention of a person who
14 appears to be a person requiring treatment in a facility approved by
15 the Commissioner of Mental Health and Substance Abuse Services as
16 appropriate for such detention after the completion of an emergency
17 examination, either in person or via telemedicine, and a
18 determination that emergency detention is warranted for a period not
19 to exceed seventy-two (72) hours, excluding weekends and holidays,
20 except upon a court order authorizing detention beyond a seventy-
21 two-hour period or pending the hearing on a petition requesting
22 involuntary commitment or treatment as provided by this act;

23 4. "Protective custody" means the taking into protective
24 custody and detention of a person pursuant to the provisions of

1 Section 5-208 of this title until such time as an emergency
2 examination is completed and a determination is made as to whether
3 or not emergency detention is warranted; and

4 5. "Prehearing detention" means the court-ordered detention of
5 a person who is alleged to be mentally ill, alcohol-dependent, or
6 drug-dependent in a facility approved by the Commissioner as
7 appropriate for such detention, pending a hearing on a petition
8 requesting involuntary commitment or treatment as provided by
9 Section 5-415 or 9-102 of this title.

10 SECTION 13. AMENDATORY 43A O.S. 2001, Section 5-304, as
11 last amended by Section 41, Chapter 150, O.S.L. 2005 (43A O.S. Supp.
12 2007, Section 5-304), is amended to read as follows:

13 Section 5-304. A. The Board of Mental Health and Substance
14 Abuse Services shall promulgate rules for the reception and
15 retention of voluntary consumers by state facilities.

16 B. The executive director in charge of any state facility or
17 licensed private hospital for care and treatment of the mentally ill
18 may at his or her discretion receive and retain therein as a
19 consumer:

20 1. Any person eighteen (18) years of age or over, suitable for
21 care and treatment, who voluntarily makes written application;

22 2. Any person, suitable for care and treatment ~~at least sixteen~~
23 ~~(16) years but not over eighteen (18) years of age,~~ under eighteen

24

1 (18) years of age, with the consent of such person's parent or
2 guardian; and

3 3. Any person, suitable for care and treatment, at least
4 sixteen (16) years of age but not over eighteen (18) years of age,
5 without the consent of such person's parent or guardian.

6 C. A person received at any facility pursuant to this section
7 shall not be detained for a period exceeding seventy-two (72) hours,
8 excluding weekends and holidays, from and inclusive of the date of
9 notice in writing of his or her intention or desire to leave such
10 hospital or facility.

11 ~~D. The form for voluntary application shall be printed or~~
12 ~~written on eight and one half inch by eleven inch paper and shall be~~
13 ~~substantially as follows:~~

14 ~~Mental Health Law Form 19.~~

15 ~~VOLUNTARY APPLICATION FOR ADMISSION TO THE EXECUTIVE DIRECTOR OF~~
16 ~~THE FACILITY _____ AT _____~~

17 ~~Application is hereby made for my admission to the above named~~
18 ~~facility within the Department of Mental Health and Substance Abuse~~
19 ~~Services as a voluntary consumer under the provisions of the~~
20 ~~Oklahoma Mental Health Law.~~

21 ~~Dated this _____ day of _____, 20__.~~

22 ~~_____ Applicant~~

23 ~~_____ Address~~

24 ~~Subscribed and sworn to before me this _____ day of _____, 20__.~~

1 _____

2 I have obtained medical advice concerning my condition, and I
3 desire to be admitted to the _____ State Facility at _____, Oklahoma,
4 as a voluntary consumer under the provisions of the Mental Hospital
5 Voluntary Admission Procedures Act. I understand that if admitted
6 to this facility I may be detained in this facility until the
7 executive director of this facility concludes that it is proper for
8 me to be released, not exceeding, however, a period of seventy two
9 (72) hours after I give written notification to the executive
10 director or a designee of my desire to leave the facility.

11 I declare that the names and addresses of my close relatives are
12 as follows:

- 13 Father: _____
- 14 Mother: _____
- 15 Spouse: _____
- 16 Adult Children: _____
- 17 Other: _____

18 Dated this _____ day of _____, 20__.

19 _____
20 _____ (Signature)

21 SECTION 15. AMENDATORY 43A O.S. 2001, Section 5-306, as
22 last amended by Section 43, Chapter 150, O.S.L. 2005 (43A O.S. Supp.
23 2007, Section 5-306), is amended to read as follows:

24

1 Section 5-306. The application described in Section 5-305 of
2 this title shall be accompanied by a certificate in duplicate signed
3 by a licensed doctor of medicine or osteopathic physician who is
4 duly licensed to practice ~~his~~ such profession by the Oklahoma State
5 Board of Medical Licensure and Supervision or the Oklahoma Board of
6 Osteopathic Examiners, who is not related by blood or marriage to
7 the person being examined, and who has no interest in the estate of
8 the person being examined. This certificate ~~may be substantially in~~
9 ~~the following form~~ shall include the following:

10 CERTIFICATE OF PHYSICIAN

11 I do hereby ~~certify that on the~~ ____ day of ____, 20__, I
12 ~~examined~~ ____ and I am ~~of the opinion that the person has a mental~~
13 ~~illness, and for his/her own welfare ought to be admitted to~~ ____ at
14 ~~____, Oklahoma, as a consumer therein.~~

15 I ~~further certify that I have explained to this person that if~~
16 ~~he/she is admitted to a facility for the mentally ill as a voluntary~~
17 ~~consumer, the medical staff may find it necessary or desirable to~~
18 ~~give a course of treatment requiring an extended period of time, and~~
19 ~~that it is not the legislative policy of the state to authorize the~~
20 ~~expenditure of public funds for the commencement of an expensive~~
21 ~~treatment unless the consumer desires to continue that treatment for~~
22 ~~the length of time that the attending physicians believe is likely~~
23 ~~to give adequate benefit to the consumer; and I have also explained~~
24 ~~that it may become necessary to give treatment which may temporarily~~

1 ~~weaken the system of the consumer so that it would be injurious to~~
2 ~~his/her health to release him/her immediately upon his/her request,~~
3 ~~and that therefore the executive director or designee of the~~
4 ~~facility has authority under the law to detain the consumer in the~~
5 ~~hospital for as long as seventy two (72) hours after the consumer~~
6 ~~gives written notice to the executive director of his/her desire to~~
7 ~~leave the hospital pursuant to Section 5-208 of Title 43A of the~~
8 ~~Oklahoma Statutes.~~

9 ~~I further certify that in my opinion this person has sufficient~~
10 ~~mental capacity to and does understand and comprehend the matters~~
11 ~~set out in the preceding paragraph.~~

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

19 _____
20 _____
21 ~~(Signature of doctor of medicine~~
~~or osteopathic physician)~~

22 1. A statement that a physician licensed in the State of
23 Oklahoma has personally examined the person;
24

1 2. A statement that such physician is not related by blood or
2 marriage to the person being examined and has no interest in the
3 estate of the person being examined;

4 3. A determination that the person has a mental illness that
5 requires inpatient admission;

6 4. A statement that the person may not be held at the facility
7 for longer than seventy-two (72) hours, excluding weekends and
8 holidays, past the time when such person has revoked consent to stay
9 for treatment;

10 5. Information on the benefits and side effects of the
11 treatment the person will receive in an inpatient setting;

12 6. Certification that the person has made a knowing and willing
13 consent to voluntary inpatient treatment; and

14 7. The physician's signature made under penalty of perjury.

15 SECTION 16. AMENDATORY 43A O.S. 2001, Section 5-308, as
16 amended by Section 45, Chapter 150, O.S.L. 2005 (43A O.S. Supp.
17 2007, Section 5-308), is amended to read as follows:

18 Section 5-308. The order of the judge of the district court
19 authorizing the admission of an applicant as a voluntary consumer
20 pursuant to the provisions of the Mental Hospital Voluntary
21 Admission Procedures Act ~~may be in substantially the following form~~
22 shall contain the following findings:

23 ~~IN THE COUNTY COURT OF _____ COUNTY,~~

24 ~~OKLAHOMA~~

1 ~~In the Matter of the~~
2 ~~Mental Health of _____ No. _____~~
3 ~~_____ on the Mental Health~~
4 ~~Consumer _____ Docket~~

5 ~~ORDER AUTHORIZING ADMISSION TO MENTAL HOSPITAL~~
6 ~~_____ OF VOLUNTARY CONSUMER~~

7 Now on this _____ day of _____, 20____, the above named _____ having
8 appeared before me as county judge of this county and state, with
9 his/her application to be admitted as a voluntary consumer to the
10 _____ Hospital, a state hospital for the mentally ill located at
11 _____, together with a certificate signed by _____, a doctor of
12 medicine or osteopathic physician, with offices at _____, Oklahoma,
13 such certificate being in the form provided by the Mental Hospital
14 Voluntary Admission Procedures Act.

15 and it appearing to me that the consumer fully understands the
16 nature of the application and the consequences which the law will
17 impose in the event the applicant is admitted to a mental hospital
18 as a consumer therein, and that the application is voluntarily made.

19 It is therefore ORDERED that the _____ should be and he/she is
20 hereby ORDERED to be admitted to the _____ State Hospital at _____,
21 Oklahoma, and a certified copy of this order shall be sufficient
22 authority for the executive director of such facility to detain the
23 consumer in accordance with the provisions of the Mental Hospital
24 Voluntary Admission Procedures Act.

~~The Sheriff of _____ County, Oklahoma, is authorized and directed, on the request of the consumer herein named, to cause the consumer to be transmitted to _____ State Hospital at _____, Oklahoma, and to deliver to the executive director of such hospital one certified copy of this order and to make return as provided by law.~~

~~Judge of the District Court~~

1. A physician licensed in the State of Oklahoma personally examined the person requesting inpatient admission for psychiatric care;

2. Such physician certified that the person has a mental condition that requires inpatient admission;

3. The person knowingly and willingly consented to voluntary inpatient admission;

4. The person fully understands the benefits, consequences, conditions, and side effects of inpatient admission and treatment, and agrees to them; and

5. An arrangement for the transportation of the person to the inpatient facility.

SECTION 17. AMENDATORY 43A O.S. 2001, Section 8-105, as amended by Section 65, Chapter 150, O.S.L. 2005 (43A O.S. Supp. 2007, Section 8-105), is amended to read as follows:

Section 8-105. A. The procedure for court certification to a private hospital or facility shall be the same as that pertaining to

1 court certification of consumers to state mental hospitals in the
2 Mental Health Law, except that before commitment to a private
3 hospital or facility is made, a written report will be submitted to
4 the court containing the following information:

5 1. The name of the petitioner, relative, or guardian requesting
6 commitment to a private hospital or facility, and the name of the
7 private hospital or facility;

8 2. The name of the physician who will be the attending
9 physician during the period of the hospitalization of the consumer
10 in such private hospital or facility. The qualifications for the
11 attending physician shall be the same as those set forth for a
12 "qualified examiner" by the Mental Health Law; and

13 3. A statement by the person in charge of the private hospital
14 or facility, or someone designated by the person in charge, that the
15 alleged mentally ill person will be admitted on presentation of a
16 valid order for admission. This statement shall be dated no more
17 than five (5) days prior to the date of the hearing.

18 ~~B. A form for the filing of the information required herein~~
19 ~~shall be prescribed by the Director of Mental Health, shall be~~
20 ~~printed on eight and one half inch by eleven inch paper, and shall~~
21 ~~be substantially in the following form:~~

22 ~~REQUEST FOR COMMITMENT TO A~~
23 ~~PRIVATE HOSPITAL OR~~
24 ~~FACILITY~~

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 consumer to the _____ at _____, Oklahoma,
6 a private hospital or facility as defined by law. I hereby agree to
7 comply with the rules and regulations of said hospital or facility
8 for the admission and support of said consumer. I further certify
9 that upon admission of said consumer to such private hospital or
10 facility, _____ will be the attending physician, until discharge or
11 transfer of the consumer, or until further notice to this court by
12 me or the attending physician.

13 Witness my hand this _____ day of _____, 20__.

14 _____

15 Subscribed and sworn to before me this _____ day of _____, 20__.

16 _____

17 _____ Notary Public

18 STATEMENT OF ATTENDING

19 PHYSICIAN

20 I, _____, do hereby certify that I will faithfully perform the
21 duties and responsibilities prescribed by law as the attending
22 physician of _____, upon his/her commitment to the _____ until
23 his/her discharge or transfer, or until further notice to this court
24 by me or the above named petitioner, relative, or guardian.

1 Witness my hand this _____ day of _____, 20__.

2 _____
3 ~~Attending Physician~~

4 ~~STATEMENT OF PERSON IN CHARGE~~

5 ~~OF PRIVATE HOSPITAL~~

6 ~~OR FACILITY~~

7 I, _____, the duly appointed _____ of the _____, a private
8 hospital or facility containing beds for the reception, care and
9 treatment of persons with neuropsychiatric illnesses, have discussed
10 the rules and regulations of such hospital or facility governing
11 admission and support of consumers with _____, the _____ of
12 _____, an alleged mentally ill person, and that if the person is
13 committed to this hospital or facility on or before _____, 20__, he
14 or she will be admitted as a consumer.

15 _____
16 SECTION 18. REPEALER 43A O.S. 2001, Section 2-202, as
17 last amended by Section 8, Chapter 150, O.S.L. 2005 (43A O.S. Supp.
18 2007, Section 2-202), is hereby repealed.

19 SECTION 19. REPEALER 43A O.S. 2001, Section 2-217, is
20 hereby repealed.

21 SECTION 20. This act shall become effective November 1, 2008."
22
23
24

1 Passed the House of Representatives the 16th day of April, 2008.

2
3
4 Presiding Officer of the House of
Representatives

5
6 Passed the Senate the ____ day of _____, 2008.

7
8
9 Presiding Officer of the Senate