

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 494

By: Rice of the Senate

3 and

4 Worthen of the House

5

6

7 (mental health - Department of Mental Health and

8 Substance Abuse Services - modifying list of

9 certain places -

10 effective date)

11

12

13 AUTHOR: Add the following House Coauthor: McAffrey

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

15

16 "An Act relating to mental health; amending Section
17 14, Chapter 488, O.S.L. 2002, as amended by Section
18 3, Chapter 97, O.S.L. 2006, 43A O.S. 2001, Section
19 3-315, as last amended by Section 4, Chapter 97,
20 O.S.L. 2006, Section 19, Chapter 488, O.S.L. 2002,
21 as amended by Section 6, Chapter 97, O.S.L. 2006,
22 Section 16, Chapter 195, O.S.L. 2005, as amended by
23 Section 7, Chapter 97, O.S.L. 2006, Section 18,
24 Chapter 195, O.S.L. 2005, as amended by Section 8,
Chapter 97, O.S.L. 2006, Section 10, Chapter 97,
O.S.L. 2006, 43A O.S. 2001, Sections 3-453, as last
amended by Section 2, Chapter 120, O.S.L. 2006, 3-
460, as last amended by Section 23, Chapter 195,
O.S.L. 2005, 4-106, as last amended by Section 28,
Chapter 150, O.S.L. 2005, 5-101, as last amended by
Section 24, Chapter 195, O.S.L. 2005, 5-104, as
amended by Section 25, Chapter 195, O.S.L. 2005, 5-
204, as amended by Section 37, Chapter 150, O.S.L.

1 2005, 5-301.1, 5-412, as last amended by Section 20,
2 Chapter 97, O.S.L. 2006, 5-503, as last amended by
3 Section 26, Chapter 97, O.S.L. 2006 and 9-101, as
4 last amended by Section 28, Chapter 195, O.S.L. 2005
5 (43A O.S. Supp. 2006, Sections 3-306.1, 3-315, 3-
6 319, 3-320, 3-322, 3-325, 3-453, 3-460, 4-106, 5-
7 101, 5-104, 5-204, 5-412, 5-503 and 9-101), which
8 relate to the Department of Mental Health and
9 Substance Abuse Services; deleting language
10 prohibiting certain contracts; providing exemption
11 from certification requirements for certain persons;
12 prohibiting the Department of Mental Health and
13 Substance Abuse Services to enter into certain
14 contracts in specified circumstances; modifying
15 purpose for certain remittance; deleting certain
16 requirement for facilitator of specified courses;
17 raising limit on certain fee in specified
18 circumstance; authorizing use of certain restraint
19 under specified order; modifying list of certain
20 places; adding element of intent for violation;
21 modifying definition; deleting requirement of
22 certain notice; exempting certain days for
23 discharge; deleting provision allowing certain
24 minors to apply for voluntary treatment in specified
circumstance; and providing an effective date.

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

SECTION 1. AMENDATORY Section 14, Chapter 488, O.S.L.
2002, as amended by Section 3, Chapter 97, O.S.L. 2006 (43A O.S.
Supp. 2006, Section 3-306.1), is amended to read as follows:

Section 3-306.1 A. The Board of Mental Health and Substance
Abuse Services shall promulgate rules and standards for
certification of a facility or organization that desires to be
certified as a community mental health center.

1 B. Applications for certification as a community mental health
2 center shall be made to the Department of Mental Health and
3 Substance Abuse Services on prescribed forms. The Board, or the
4 Commissioner of Mental Health and Substance Abuse Services upon
5 delegation by the Board, may certify the community mental health
6 centers for a period of three (3) years subject to renewal as
7 provided in the rules promulgated by the Board.

8 C. The Department of Mental Health and Substance Abuse Services
9 is authorized to establish and collect certification and renewal
10 fees for certification of community mental health centers as
11 provided in Section ~~9~~ 3-324 of this ~~act~~ title.

12 ~~D. The Department shall not enter into a contract with a~~
13 ~~community mental health center unless it is certified pursuant to~~
14 ~~this section.~~

15 ~~E.~~ Certified community mental health centers shall comply with
16 standards adopted by the Board. Such standards shall be in
17 compliance with:

18 1. The Joint Commission on Accreditation of Healthcare
19 Organizations;

20 2. The Commission on Accreditation of Rehabilitation
21 Facilities; or

22 3. Approved medical and professional standards as determined by
23 the Board.

24

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

4 SECTION 2. AMENDATORY 43A O.S. 2001, Section 3-315, as
5 last amended by Section 4, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
6 2006, Section 3-315), is amended to read as follows:

7 Section 3-315. A. The Board of Mental Health and Substance
8 Abuse Services shall adopt minimum standards for program
9 certification for residential care homes operating as community
10 residential mental health programs as provided in this section. The
11 standards shall be adopted as rules and promulgated by the Board of
12 Mental Health and Substance Abuse Services pursuant to the
13 provisions of the Administrative Procedures Act.

14 B. The program certification standards adopted by the Board
15 shall provide for a system of classification of community
16 residential mental health programs based upon the level of care
17 required by residents of the facility and establish minimum program
18 certification standards for each classification. The program
19 certification standards adopted by the Board for each classification
20 shall be such that residential care facilities having a valid
21 contract with the Department and licensed by the State Department of
22 Health on July 1, 1988, shall be qualified and eligible for program
23 certification within an appropriate classification.

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1 C. ~~The Department shall not enter into a contract with a~~
2 ~~residential care home unless such home is certified as a community~~
3 ~~residential mental health program.~~ The Department shall terminate
4 the contract of any home that fails to meet contract provisions
5 regarding financial statements.

6 D. The Department of Mental Health and Substance Abuse Services
7 is authorized to establish and collect certification and renewal
8 fees for certification of community residential mental health
9 facilities and programs as provided in Section ~~9~~ 3-324 of this ~~act~~
10 title.

11 SECTION 3. AMENDATORY Section 19, Chapter 488, O.S.L.
12 2002, as amended by Section 6, Chapter 97, O.S.L. 2006 (43A O.S.
13 Supp. 2006, Section 3-319), is amended to read as follows:

14 Section 3-319. A. The Board of Mental Health and Substance
15 Abuse Services shall promulgate rules and standards for
16 certification of facilities or organizations that desire to be
17 certified as a program of assertive community treatment for the
18 provision of community-based comprehensive treatment for persons
19 with serious mental illness and related disorders.

20 B. Applications for certification as a program of assertive
21 community treatment shall be made to the Department on prescribed
22 forms. The Board, or the Commissioner upon delegation by the Board,
23 may certify the program of assertive community treatment for a
24 period of three (3) years subject to renewal as provided in the

1 rules promulgated by the Board. The Department of Mental Health and
2 Substance Abuse Services is authorized to establish and collect
3 certification and renewal fees for certification of programs for
4 assertive community treatment as provided in Section 9 3-324 of this
5 ~~act~~ title.

6 ~~C. The Department shall not enter into a contract with a
7 program of assertive community treatment unless it is certified
8 pursuant to this section.~~

9 ~~D.~~ No program of assertive community treatment shall operate or
10 continue to operate unless the program complies with the rules
11 promulgated by the Board and is certified as required by this
12 section.

13 ~~E.~~ D. Failure to comply with regulations and standards
14 promulgated by the Board shall be grounds for revocation, suspension
15 or nonrenewal of certification.

16 SECTION 4. AMENDATORY Section 16, Chapter 195, O.S.L.
17 2005, as amended by Section 7, Chapter 97, O.S.L. 2006 (43A O.S.
18 Supp. 2006, Section 3-320), is amended to read as follows:

19 Section 3-320. A. The Board of Mental Health and Substance
20 Abuse Services shall promulgate rules and standards for
21 certification of eating disorder treatment programs and for private
22 facilities and organizations that offer eating disorder treatment
23 services in this state. Such facilities and organizations shall be
24 known as "Certified Eating Disorder Treatment Programs".

1 B. For purposes of this section, "eating disorder treatment"
2 means any treatment for anorexia nervosa, bulimia nervosa, or any
3 other severe disturbances in eating behavior specified in the most
4 current edition of the Diagnostic and Statistical Manual of Mental
5 Disorders.

6 C. Applications for certification as a certified eating
7 disorder treatment program, pursuant to the provisions of this
8 section, shall be made to the Department of Mental Health and
9 Substance Abuse Services on prescribed forms. The Board, or the
10 Commissioner upon delegation by the Board, may certify the program
11 for a period of three (3) years subject to renewal as provided in
12 the rules promulgated by the Board. Nothing in this section shall
13 preclude the Department from making inspection visits to a program
14 to determine program compliance.

15 D. Licensed Hospitals licensed by the State Department of
16 Health shall be exempt from certification requirements. In
17 addition, licensed physicians, licensed psychologists, licensed
18 social workers, individual members of the clergy, licensed marital
19 and family therapists, registered nurses, licensed behavioral
20 practitioners, and licensed professional counselors shall be exempt
21 from certification requirements; provided, however, these exemptions
22 shall only apply to individual professional persons in their private
23 practices and not to any eating disorder treatment program operated
24 by such person.

1 E. The Department of Mental Health and Substance Abuse Services
2 is authorized to establish and collect certification and renewal
3 fees for certification of eating disorder treatment programs as
4 provided in Section ~~9~~ 3-324 of this ~~act~~ title.

5 SECTION 5. AMENDATORY Section 18, Chapter 195, O.S.L.
6 2005, as amended by Section 8, Chapter 97, O.S.L. 2006 (43A O.S.
7 Supp. 2006, Section 3-322), is amended to read as follows:

8 Section 3-322. A. The Board of Mental Health and Substance
9 Abuse Services shall promulgate rules and standards for
10 certification of gambling addiction treatment programs and for
11 private facilities and organizations which offer gambling addiction
12 treatment services in this state. These facilities and
13 organizations shall be known as "Certified Gambling Addiction
14 Treatment Programs".

15 B. Applications for certification as a certified gambling
16 addiction treatment program, pursuant to the provisions of this
17 section, shall be made to the Department of Mental Health and
18 Substance Abuse Services on prescribed forms. The Board, or the
19 Commissioner of Mental Health and Substance Abuse Services upon
20 delegation by the Board, may certify the program for a period of
21 three (3) years, subject to renewal as provided in rules promulgated
22 by the Board. Nothing in this section shall preclude the Department
23 from making inspection visits to a program to determine program
24 compliance.

1 C. Licensed Hospitals licensed by the State Department of
2 Health shall be exempt from certification requirements. In
3 addition, licensed physicians, licensed psychologists, licensed
4 social workers, individual members of the clergy, licensed marital
5 and family therapists, registered nurses, licensed behavioral
6 practitioners, and licensed professional counselors shall be exempt
7 from certification requirements; provided, however, these exemptions
8 shall only apply to individual professional persons in their private
9 practices and not to any gambling addiction treatment program
10 operated by the person.

11 D. Facilities providing services for gambling addiction shall
12 comply with standards promulgated by the Board; provided, that the
13 certification requirements and standards shall not apply to programs
14 and services offered by other state agencies. The gambling
15 addiction treatment programs certified pursuant to the provisions of
16 this section shall cooperate with inspection personnel of the state
17 and shall promptly file all reports required by the Department.
18 Failure to comply with rules and standards of the Board shall be
19 ground for revocation of certification, after proper notice and
20 hearing.

21 E. The Department of Mental Health and Substance Abuse Services
22 is authorized to establish and collect certification and renewal
23 fees for certification of gambling addiction treatment programs as
24 provided in Section 9 3-324 of this ~~act~~ title.

1 SECTION 6. AMENDATORY Section 10, Chapter 97, O.S.L.
2 2006 (43A O.S. Supp. 2006, Section 3-325), is amended to read as
3 follows:

4 Section 3-325. A. The Department of Mental Health and
5 Substance Abuse Services is hereby authorized to contract with
6 public and private entities it certifies, as required by law, for
7 the purpose of providing treatment, evaluation, prevention and other
8 services related to the duties of the Department set forth in this
9 title.

10 B. The Department of Mental Health and Substance Abuse Services
11 shall not enter into a contract with any of the following programs
12 unless such program has been certified by the Department pursuant to
13 the provisions of this title:

- 14 1. Community mental health centers;
- 15 2. Community residential mental health programs;
- 16 3. Programs of assertive community treatment;
- 17 4. Eating disorder treatment programs;
- 18 5. Gambling addiction treatment programs;
- 19 6. Programs providing alcohol or drug abuse treatment services
20 as set forth under the Oklahoma Alcohol and Drug Services Act;
- 21 7. Community-based structured crisis centers; and
- 22 8. Mental health facilities.

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1 SECTION 7. AMENDATORY 43A O.S. 2001, Section 3-453, as
2 last amended by Section 2, Chapter 120, O.S.L. 2006 (43A O.S. Supp.
3 2006, Section 3-453), is amended to read as follows:

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

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

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

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

15 C. Ten percent (10%) of each fee collected shall be remitted by
16 the institution or organization offering alcohol and drug substance
17 abuse courses to the State Treasurer to be credited to the
18 Community-based Substance Abuse Revolving Fund in the State Treasury
19 and shall be used to provide substance abuse services to the
20 indigent or to provide specialized training to alcohol and drug
21 substance abuse course facilitators. Five percent (5%) of each fee
22 collected by the Department shall be used for the administrative
23 costs related to providing such services.

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

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

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

9 1. Minimum curriculum requirements for such courses;

10 2. Facilities, equipment and instructional materials for such
11 courses;

12 3. Minimum qualifications for course facilitators;

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

16 5. Attendance requirements; and

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

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

24

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

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

7 3. Each facilitator shall be certified and shall:

8 a. possess a bachelor's degree in behavioral or health
9 care sciences education, psychology, social work or
10 chemical dependency,

11 b. possess at least two (2) years of verifiable full-
12 time-equivalent experience in the addiction treatment
13 field,

14 c. provide documentation verifying observation of one
15 complete alcohol and drug substance abuse course
16 conducted by a certified facilitator. Such
17 observation must be completed and verified to the
18 Department prior to attending facilitator training,

19 d. provide proof of attendance at a facilitator training
20 session and pass the Department's certification
21 examination for the ten-hour alcohol and drug
22 substance abuse course facilitator, and

23 e. provide verification of having conducted a complete
24 alcohol and drug substance abuse course under the

1 supervision of a certified alcohol and drug substance
2 abuse course facilitator or a Department
3 representative;

4 4. The facilitator candidate shall be allowed one (1) year to
5 complete all training requirements. Failure to meet all
6 requirements within one (1) year shall result in denial of
7 certification. To be reconsidered, the candidate shall be required
8 to reapply to the Department;

9 5. A facilitator for a twenty-four-hour alcohol and drug
10 substance abuse course shall:

11 a. ~~be a ten-hour facilitator in good standing with a~~
12 ~~minimum of one (1) year of experience,~~

13 ~~b.~~ attend the twenty-four-hour alcohol and drug substance
14 abuse course facilitator training and pass the
15 Department certification examination for the twenty-
16 four-hour alcohol and drug substance abuse course
17 facilitator, and

18 ~~c.~~

19 b. conduct a complete twenty-four-hour alcohol and drug
20 substance abuse course under the supervision of a
21 certified alcohol and drug substance abuse course
22 facilitator or a Department representative; and

23 6. No more than twenty-four students shall be allowed in a
24 given class.

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

5 I. Any person participating in a substance abuse treatment
6 program recommended as a result of an assessment pursuant to Section
7 3-460 of this title shall be required to pay all or part of the
8 actual cost incurred for treatment of the person, if the court
9 determines the person has the ability to pay for all or part of the
10 cost of treatment. The court shall determine the amount of
11 reimbursement the person shall pay.

12 J. Application fees for certification of course facilitators
13 shall be set by the Board to defray the costs of administering the
14 program and shall be:

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

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

19 K. The Director of the Office of State Finance shall transfer
20 unobligated monies generated from the fees in subsection C of this
21 section, deposited before November 1, 2005, from the Department of
22 Mental Health and Substance Abuse Services Revolving Fund to the
23 Community-based Substance Abuse Revolving Fund, in amounts
24 calculated by the Department.

1 SECTION 8. AMENDATORY 43A O.S. 2001, Section 3-460, as
2 last amended by Section 23, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
3 2006, Section 3-460), is amended to read as follows:

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

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

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

13 2. Not less than Twenty-five Dollars (\$25.00) and not more than
14 ~~Fifty Dollars (\$50.00)~~ One Hundred Fifty Dollars (\$150.00) upon
15 ~~annual~~ triennial renewal.

16 C. The fee for those undergoing an assessment and evaluation
17 pursuant to this section shall be One Hundred Seventy-five Dollars
18 (\$175.00), and ten percent (10%) of each fee collected shall be
19 remitted by the assessment agency or personnel to the State
20 Treasurer to be credited to the Community-based Substance Abuse
21 Revolving Fund in the State Treasury and shall be used to provide
22 substance abuse services to the indigent. Five percent (5%) of each
23 fee collected by the Department shall be used for the administrative
24 costs related to providing such services. One Dollar (\$1.00) from

1 each assessment fee collected shall be designated for training
2 assessment personnel in the best practice, evaluation and assessment
3 procedures.

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

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

13 SECTION 9. AMENDATORY 43A O.S. 2001, Section 4-106, as
14 last amended by Section 28, Chapter 150, O.S.L. 2005 (43A O.S. Supp.
15 2006, Section 4-106), is amended to read as follows:

16 Section 4-106. A. Mechanical restraints shall not be applied
17 to a consumer unless ~~it~~:

18 1. It is determined by a physician or physician's assistant to
19 be required by the medical needs of the consumer; or

20 2. An emergency situation arises and a mechanical restraint is
21 necessary for the safety of the individual or others. The
22 mechanical restraint may be applied after obtaining a verbal order
23 of a physician or physician's assistant as long as the physician or
24

1 physician's assistant personally examines the consumer within one
2 (1) hour after the restraint is applied.

3 B. No mechanical restraint shall be continued for longer than
4 is absolutely necessary under the circumstances. Every use of a
5 mechanical restraint, the reasons and length of time, shall be made
6 a part of the clinical record of the consumer under the signature of
7 the physician.

8 SECTION 10. AMENDATORY 43A O.S. 2001, Section 5-101, as
9 last amended by Section 24, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
10 2006, Section 5-101), is amended to read as follows:

11 Section 5-101. A. Any person who has a mental illness or is
12 alcohol- or drug-dependent to a degree which warrants inpatient
13 treatment or care, and who is not in confinement in any jail,
14 detention, lockup, or correctional facility on a criminal charge or
15 conviction and who has no criminal charges pending against him or
16 her, may be admitted to and confined in a facility within the
17 Department of Mental Health and Substance Abuse Services, a state
18 psychiatric hospital, or a licensed private institution by
19 compliance with any one of the following procedures:

- 20 1. Emergency admission;
- 21 2. On voluntary application; or
- 22 3. On involuntary court commitment.

23 B. Any person who has a mental illness or is alcohol- or drug-
24 dependent to a degree which warrants inpatient treatment or care and

1 who has criminal charges pending against him or her but is not
2 confined in any jail, detention, lockup, or correctional facility
3 may be admitted to a facility within the Department or a licensed
4 private institution pursuant to the provisions of subsection A of
5 this section; provided, the facility or hospital shall be authorized
6 to take such reasonable steps as necessary to assure the protection
7 of the public, the residents of the facility or hospital and the
8 person including, but not limited to, segregation and private
9 facilities. Provided further, treatment received pursuant to this
10 subsection shall not constitute a defense in any criminal proceeding
11 except as otherwise provided by Title 22 of the Oklahoma Statutes.

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

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

20 SECTION 11. AMENDATORY 43A O.S. 2001, Section 5-104, as
21 amended by Section 25, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
22 2006, Section 5-104), is amended to read as follows:

23 Section 5-104. Any person who intentionally falsely certifies
24 attests to the mental illness, alcohol dependency, or drug

1 dependency of any person, or whose false ~~certificates~~ attestations
2 as to mental illness, alcohol dependency, or drug dependency of any
3 person is proved to be the result of negligence or deficient
4 professional skill, or who signs such a ~~certificate~~ an evaluation or
5 petition for pecuniary reward, or promise thereof, or other
6 consideration of value or operating to his or her advantage, other
7 than the professional fee usually paid for such service, shall be
8 guilty of a misdemeanor, and, upon conviction thereof, shall be
9 punished by payment of a fine not to exceed One Thousand Dollars
10 (\$1,000.00), or imprisonment in the county jail not to exceed one
11 (1) year, or both such fine and imprisonment.

12 SECTION 12. AMENDATORY 43A O.S. 2001, Section 5-204, as
13 amended by Section 37, Chapter 150, O.S.L. 2005 (43A O.S. Supp.
14 2006, Section 5-204), is amended to read as follows:

15 Section 5-204. A. ~~1-~~ Appropriate treatment and medication,
16 including psychotropic medication, may be administered to a
17 consenting individual:

- 18 1. During the detention periods authorized by the Mental Health
19 Law;
 - 20 2. During the time set forth in the Mental Health Law for the
21 precommitment screening examination; or
 - 22 3. While in the custody of the Department of Corrections.
- 23
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1 B. Treatment and medication may be administered to a
2 nonconsenting individual upon the written order of the physician
3 who:

- 4 1. Has personally examined the consumer;
- 5 2. Finds the medication or treatment is necessary to protect
6 the consumer, the facility or others from serious bodily harm; and
- 7 3. Notes in the medication record of the consumer, with an
8 explanation of the facts leading up to the decision to administer
9 treatment and medication including psychotropic medication.

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

15 D. Seclusion or restraint may be administered to a
16 nonconsenting individual upon the written order of a physician who:
17 1. Personally examined the consumer; and
18 2. Finds that seclusion or restraint is necessary to protect
19 the consumer, the facility, or other persons. The physician shall
20 note in the chart of the consumer an explanation of the decision to
21 administer seclusion or restraint, including administration of
22 psychotropic medication. This shall not prohibit emergency
23 seclusion or restraint, including mechanical restraint, pending
24 notification of a physician.

1 E. If the consumer is under the influence of psychotropic
2 medication during any court hearing held pursuant to Section 5-401
3 of this title, the court, and the jury, if any, shall be advised by
4 the district attorney at the beginning of the hearing that:

5 1. The consumer is under the influence of psychotropic
6 medication;

7 2. The purpose of the medication; and

8 3. The effect which such medication may have on the actions,
9 demeanor and participation of the consumer at the hearing.

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

13 SECTION 13. AMENDATORY 43A O.S. 2001, Section 5-301.1,
14 is amended to read as follows:

15 Section 5-301.1 As used in the Mental Hospital Voluntary
16 Admission Procedures Act, "person" shall include ~~a person found by~~
17 ~~the court to be a partially incapacitated person, over whom a~~
18 ~~limited guardian has been appointed, where the court has~~
19 ~~specifically found in its dispositional order, that the person~~
20 ~~possesses the capacity to voluntarily admit himself to a state~~
21 ~~hospital:~~

22 1. An individual eighteen (18) years of age or older; or

23 2. A court-appointed Guardian Ad Litem or an individual given
24 the power of attorney to make medical decisions for the individual.

1 SECTION 14. AMENDATORY 43A O.S. 2001, Section 5-412, as
2 last amended by Section 20, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
3 2006, Section 5-412), is amended to read as follows:

4 Section 5-412. A. Notice of the date, time and place of the
5 hearing on a petition alleging a person to be a person requiring
6 treatment shall be delivered to such person at least one (1) day
7 prior to the hearing. Notice shall be personally delivered to the
8 person together with a copy of the petition and copies of the mental
9 health evaluation and any order of the court directing prehearing
10 detention.

11 B. The notice shall contain the following information:

12 1. The definitions provided by Section 1-103 of this title of a
13 "mental illness" and a "person requiring treatment";

14 2. If applicable, that the court has ordered the mental health
15 evaluation of the person by two licensed mental health
16 professionals, at least one of whom is a psychiatrist who is a
17 diplomate of the American Board of Psychiatry and Neurology, a
18 licensed clinical psychologist, or a licensed Doctor of Medicine or
19 Doctor of Osteopathy who has received specific training for and is
20 experienced in performing mental health therapeutic, diagnostic, or
21 counseling functions, for the purpose of conducting an evaluation of
22 the person alleged to be a person requiring treatment stating their
23 findings, and the time and place of the evaluation;

24

1 3. That, upon request, the hearing on the petition may be
2 conducted as a jury trial and the jury shall be composed of six
3 persons having the qualifications required of jurors in courts of
4 record;

5 4. That the petitioner and witnesses identified in the petition
6 may offer testimony under oath at the hearing on the petition;

7 5. If applicable, that the court has appointed an attorney for
8 the person alleged to be a person requiring treatment who shall
9 represent the person until final disposition of the case and that if
10 the person is indigent, the court shall pay the attorney fees;

11 6. That, if the person is found at the hearing or at a jury
12 trial to be a person requiring treatment under this act, the court
13 will take evidence and make findings of fact concerning the person's
14 competency to consent or to refuse the treatment that is ordered,
15 including, but not limited to, the right of the person to refuse
16 psychotropic medications; and

17 7. That the person alleged to be a person requiring treatment
18 shall be afforded such other rights as are guaranteed by state and
19 federal law.

20 C. The person delivering the copy of the notice and petition to
21 the person alleged to be a person requiring treatment shall, at the
22 time of delivery, explain the content, purpose and effect of the
23 notice and the legal right to judicial review by habeas corpus.

1 D. 1. A copy of the notice, the petition, and the attachments
2 to the petition shall also be delivered at least one (1) day prior
3 to the hearing to:

4 a. the individual initiating the request for protective
5 custody, emergency detention, involuntary commitment
6 or prehearing detention,

7 b. the attorney or court-appointed counsel of the person,
8 to the district attorney, and to the public defender,
9 if any,

10 c. the facility, if any, in which the person is detained
11 in emergency detention, and

12 ~~the Department of Mental Health and Substance Abuse~~
13 ~~Services, and~~

14 ~~e-~~ a parent, spouse, guardian, brother, sister or child
15 who is at least eighteen (18) years of age of the
16 person alleged to be a person requiring treatment and
17 who is not the individual initiating the petition or a
18 request for protective custody, emergency detention,
19 involuntary commitment or prehearing detention.

20 Notice shall also be delivered to any other person as
21 may be ordered by the court.

22 2. The notice required by this subsection may be served
23 personally or by certified mail. When notice is served personally,
24 the person making such service shall make affidavit of the same and

1 file such notice, with proof of service, with the district court.
2 This notice may be served in any part of the state when so ordered
3 by the court.

4 E. Notice of orders of a court directing a mental health
5 evaluation or prehearing detention of a person alleged to be a
6 person requiring treatment shall be delivered in substantially the
7 same manner as provided by subsection A of this section. Notice of
8 a court order directing a mental health evaluation of the person
9 shall be delivered at least one (1) day before the evaluation, and
10 as many additional days as are requested by the person alleged to be
11 a person requiring treatment or the attorney of such person as are
12 reasonable without prejudice to the person. Any request for
13 additional days shall be subject to the discretion of the court,
14 considering the facts and circumstances of each particular case.

15 SECTION 15. AMENDATORY 43A O.S. 2001, Section 5-503, as
16 last amended by Section 26, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
17 2006, Section 5-503), is amended to read as follows:

18 Section 5-503. A. A parent of a minor or a minor sixteen (16)
19 years of age or older may consent to the voluntary admission of the
20 minor for inpatient mental health or substance abuse treatment.

21 B. Upon the application of a minor sixteen (16) years of age or
22 older or a parent of a minor, a mental health or substance abuse
23 facility may admit the minor for inpatient evaluation or treatment

24

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

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

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

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

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

19 (1) reasonable efforts have been made to provide for
20 the treatment needs of the minor through the
21 provision of less restrictive alternatives and
22 such alternatives have failed to meet the
23 treatment needs of the minor, or

24

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

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

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

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

15 D. Inpatient treatment of a minor admitted under this section
16 may not continue unless continued inpatient treatment has been
17 authorized by appropriate hospital medical personnel, based upon
18 their written findings that the criteria set forth in subsection B
19 of this section continue to be met, after such persons have examined
20 the minor and interviewed the consenting parent and reviewed reports
21 submitted by members of the facility staff familiar with the
22 condition of the minor. This finding is subject to the review
23 provisions contained in Section 5-512 of this title.

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

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

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

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

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

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

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

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

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

20 3. An order committing a minor to a facility for inpatient
21 mental health or substance abuse treatment shall not by itself serve
22 to preclude a subsequent adjudication which finds the minor to be
23 delinquent, in need of supervision or deprived nor shall it cause
24 the vacation of any such order of adjudication previously entered.

1 H. If the parent who consented to the admission of a minor
2 under this section revokes such consent at any time, the minor shall
3 be discharged within forty-eight (48) hours, excluding weekends and
4 holidays, unless the district attorney is requested to file a
5 petition alleging the minor to be a minor in need of treatment and
6 to require inpatient treatment in accordance with the provisions of
7 this title. If the district attorney refuses to file a petition,
8 the district attorney must immediately notify the requesting
9 facility, in writing, of the refusal to file.

10 I. If a minor sixteen (16) years of age or older who consented
11 to treatment subsequently revokes their consent at any time, the
12 minor shall be discharged within forty-eight (48) hours, excluding
13 weekends and holidays, unless the district attorney is requested to
14 file a petition alleging the minor to be a minor in need of
15 treatment and to require inpatient treatment in accordance with the
16 provisions of this title or the parent of the minor subsequently
17 consents to the treatment of the minor. If the district attorney
18 refuses to file a petition, the district attorney must immediately
19 notify the requesting facility, in writing, of the refusal to file.

20 SECTION 16. AMENDATORY 43A O.S. 2001, Section 9-101, as
21 last amended by Section 28, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
22 2006, Section 9-101), is amended to read as follows:

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1 Section 9-101. A. 1. An alcohol- or drug-dependent person or
2 his or her court appointed guardian may apply for voluntary
3 treatment directly to an approved treatment facility.

4 2. A minor may apply for voluntary treatment pursuant to the
5 provisions of Section 2602 of Title 63 of the Oklahoma Statutes.

6 ~~3. A minor not empowered by Section 2602 of Title 63 of the~~
7 ~~Oklahoma Statutes to consent to voluntary treatment or an incompetent~~
8 ~~person may apply for voluntary treatment with the approval of the~~
9 ~~parent, spouse or legal guardian of the minor.~~

10 ~~4.~~ A parent of a minor may consent to the voluntary admission
11 and treatment of the minor directly to an approved treatment facility
12 for substance abuse treatment.

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

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

21 C. 1. When a consumer receiving inpatient care leaves an
22 approved treatment facility, the consumer shall be encouraged to
23 consent to appropriate outpatient or intermediate treatment.

1 2. If it appears to the administrator in charge of the approved
2 treatment facility that the consumer is an alcohol- or drug-dependent
3 person who requires help, the facility shall arrange for assistance
4 in obtaining supportive services and residential facilities if
5 possible and appropriate.

6 D. If the consumer is a minor or an incompetent person, the
7 request for discharge from an inpatient or residential facility shall
8 be made by a parent, spouse, or legal guardian, or by the minor if
9 the minor was voluntarily admitted.

10 SECTION 17. This act shall become effective November 1, 2007."

11 Passed the House of Representatives the 10th day of April, 2007.

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Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2007.

Presiding Officer of the Senate