ENGROSSED SENATE
BILL NO. 494 By: Rice of the Senate

and

Worthen of the House

[mental health - Department of Mental Health and Substance Abuse Services - modifying list of certain places -

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.

B. Applications for certification as a community mental health center shall be made to the Department of Mental Health and Substance Abuse Services on prescribed forms. The Board, or the Commissioner of Mental Health and Substance Abuse Services upon delegation by the Board, may certify the community mental health

centers for a period of three (3) years subject to renewal as provided in the rules promulgated by the Board.

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

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

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

1. The Joint Commission on Accreditation of Healthcare Organizations;

2. The Commission on Accreditation of Rehabilitation Facilities; or

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

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

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

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

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

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

D. The Department of Mental Health and Substance Abuse Services is authorized to establish and collect certification and renewal

fees for certification of community residential mental health facilities and programs as provided in Section ~~9~~ 3-324 of this ~~act~~ title.

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

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

B. Applications for certification as a program of assertive community treatment shall be made to the Department on prescribed forms. The Board, or the Commissioner upon delegation by the Board, may certify the program of assertive community treatment for a period of three (3) years subject to renewal as provided in the rules promulgated by the Board. The Department of Mental Health and Substance Abuse Services is authorized to establish and collect certification and renewal fees for certification of programs for assertive community treatment as provided in Section ~~9~~ 3-324 of this ~~act~~ title.

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

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

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

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

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

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

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

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

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

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

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

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

C. ~~Licensed~~ Hospitals licensed by the State Department of Health shall be exempt from certification requirements. In addition, licensed physicians, licensed psychologists, licensed social workers, individual members of the clergy, licensed marital

and family therapists, registered nurses, licensed behavioral practitioners, and licensed professional counselors shall be exempt from certification requirements; provided, however, these exemptions shall only apply to individual professional persons in their private practices and not to any gambling addiction treatment program operated by the person.

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

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

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

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

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

1. Community mental health centers;

2. Community residential mental health programs;

3. Programs of assertive community treatment;

4. Eating disorder treatment programs;

5. Gambling addiction treatment programs;

6. Programs providing alcohol or drug abuse treatment services as set forth under the Oklahoma Alcohol and Drug Services Act;

7. Community-based structured crisis centers; and

8. Mental health facilities.

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

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

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

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

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

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

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

E. All alcohol and drug substance abuse courses related to driver license revocation and course facilitators shall be approved

and certified by the Department of Mental Health and Substance Abuse Services.

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

1. Minimum curriculum requirements for such courses;

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

3. Minimum qualifications for course facilitators;

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

5. Attendance requirements; and

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

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

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

2. Each such course shall consist of no more than two (2) hours of education on any given day, nor more than four (4) hours in a

given week, and shall not contain more than ten percent (10%) films on any one specialized area;

3. Each facilitator shall be certified and shall:

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

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

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

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

e. provide verification of having conducted a complete alcohol and drug substance abuse course under the supervision of a certified alcohol and drug substance abuse course facilitator or a Department representative;

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

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

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

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

~~c.~~

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

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

H. Any institution or organization authorized under this act to conduct an alcohol and drug substance abuse course shall certify to

the Department of Public Safety all persons who successfully complete such course.

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

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

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

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

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

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

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

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

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

2. Not less than Twenty-five Dollars ($25.00) and not more than ~~Fifty Dollars ($50.00)~~ <u>One Hundred Fifty Dollars ($150.00)</u> upon ~~annual~~ <u>triennial</u> renewal.

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

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

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

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

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

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

1. It is determined by a physician to be required by the medical needs of the consumer; or

2. An emergency situation arises and a mechanical restraint is necessary for the safety of the individual or others. The mechanical restraint may be applied after obtaining a verbal order of a physician as long as the physician personally examines the consumer within one (1) hour after the restraint is applied.

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

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

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

1. Emergency admission;

2. On voluntary application; or

3. On involuntary court commitment.

B. Any person who has a mental illness or is alcohol- or drug-dependent to a degree which warrants inpatient treatment or care and who has criminal charges pending against him or her but is not confined in any jail, detention, lock up, or correctional facility

may be admitted to a facility within the Department or a licensed private institution pursuant to the provisions of subsection A of this section; provided, the facility or hospital shall be authorized to take such reasonable steps as necessary to assure the protection of the public, the residents of the facility or hospital and the person including, but not limited to, segregation and private facilities. Provided further, treatment received pursuant to this subsection shall not constitute a defense in any criminal proceeding except as otherwise provided by Title 22 of the Oklahoma Statutes.

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

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

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

Section 5-104. Any person who <u>intentionally</u> falsely ~~certifies~~ <u>attests</u> to the mental illness, alcohol dependency, or drug dependency of any person, or whose false ~~certificates~~ <u>attestations</u> as to mental illness, alcohol dependency, or drug dependency of any

person is proved to be the result of negligence or deficient professional skill, or who signs such ~~a certificate~~ an evaluation or petition for pecuniary reward, or promise thereof, or other consideration of value or operating to his or her advantage, other than the professional fee usually paid for such service, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by payment of a fine not to exceed One Thousand Dollars ($1,000.00), or imprisonment in the county jail not to exceed one (1) year, or both such fine and imprisonment.

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

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

1. During the detention periods authorized by the Mental Health Law;

2. During the time set forth in the Mental Health Law for the precommitment screening examination; or

3. While in the custody of the Department of Corrections.

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

1. Has personally examined the consumer;

2. Finds the medication or treatment is necessary to protect the consumer, the facility or others from serious bodily harm; and

3. Notes in the medication record of the consumer, with an explanation of the facts leading up to the decision to administer treatment and medication including psychotropic medication.

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

D. Seclusion or restraint may be administered to a nonconsenting individual upon the written order of a physician who:

1. Personally examined the consumer; and

2. Finds that seclusion or restraint is necessary to protect the consumer, the facility, or other persons. The physician shall note in the chart of the consumer an explanation of the decision to administer seclusion or restraint, including administration of psychotropic medication. This shall not prohibit emergency seclusion or restraint, including mechanical restraint, pending notification of a physician.

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

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

2. The purpose of the medication; and

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

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

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

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

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

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

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

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

B. The notice shall contain the following information:

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

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

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

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

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

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

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

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

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

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

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

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

d. ~~the Department of Mental Health and Substance Abuse Services, and~~

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

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

2. The notice required by this subsection may be served personally or by certified mail. When notice is served personally, the person making such service shall make affidavit of the same and file such notice, with proof of service, with the district court. This notice may be served in any part of the state when so ordered by the court.

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

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

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

B. Upon the application of a minor sixteen (16) years of age or older or a parent of a minor, a mental health or substance abuse facility may admit the minor for inpatient evaluation or treatment if the person in charge of the facility, or a designee, determines the minor to be clinically eligible for such admission, and:

1. After an initial assessment, a licensed mental health professional determines and states in writing that there is

reasonable cause to believe that the minor may be a minor in need of treatment and that an evaluation is necessary to properly determine the condition and treatment needs of the minor, if any; and

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

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

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

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

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

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

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

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

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

E. A mental health or substance abuse treatment facility may request that the district attorney file a petition alleging a minor to be a minor in need of treatment and require inpatient treatment when the parent consenting to the admission of a minor or when the minor age sixteen (16) years or older who had previously consented to admission revokes such consent and the person in charge of the

facility, or a designee, determines that the condition of the minor is such that the minor should remain in the facility. If the district attorney refuses to file a petition, the district attorney must immediately notify the requesting facility, in writing, of the refusal to file.

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

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

2. Nothing in the Inpatient Mental Health and Substance Abuse Treatment of Minors Act shall be interpreted to prohibit or preclude the provision of outpatient treatment or services including, but not limited to, outpatient evaluation, counseling, educational, rehabilitative or other mental health and substance abuse services to the minor, as necessary and appropriate, in the absence of a specific court order for such services.

G. 1. An order of a court committing a minor to a facility for inpatient mental health or substance abuse evaluation or treatment shall not, by itself, relieve a parent of the obligation to provide

for the support of the minor nor of liability for the cost of treatment provided to the minor.

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

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

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

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

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

this title. If the district attorney refuses to file a petition, the district attorney must immediately notify the requesting facility, in writing, of the refusal to file.

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

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

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

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

3. ~~A minor not empowered by Section 2602 of Title 63 of the Oklahoma Statutes to consent to voluntary treatment or an incompetent~~

~~person may apply for voluntary treatment with the approval of the parent, spouse or legal guardian of the minor.~~

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

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

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

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

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

D. If the consumer is a minor or an incompetent person, the request for discharge from an inpatient or residential facility shall

be made by a parent, spouse, or legal guardian, or by the minor if the minor was voluntarily admitted.

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

Passed the Senate the 5th day of March, 2007.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2007.

_____
Presiding Officer of the House
of Representatives