

THE HOUSE OF REPRESENTATIVES  
April 2, 2007

Committee Substitute for  
ENGROSSED  
Senate Bill No. 494

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 494 - By: RICE of the Senate and WORTHEN of the House.

An Act relating to mental health; amending Section 14, Chapter 488, O.S.L. 2002, as amended by Section 3, Chapter 97, O.S.L. 2006, 43A O.S. 2001, Section 3-315, as last amended by Section 4, Chapter 97, O.S.L. 2006, Section 19, Chapter 488, O.S.L. 2002, as amended by Section 6, Chapter 97, O.S.L. 2006, Section 16, Chapter 195, O.S.L. 2005, as amended by Section 7, Chapter 97, O.S.L. 2006, Section 18, 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. 2005, 5-301.1, 5-412, as last amended by Section 20, Chapter 97, O.S.L. 2006, 5-503, as last amended by Section 26, Chapter 97, O.S.L. 2006 and 9-101, as last amended by Section 28, Chapter 195, O.S.L. 2005 (43A O.S. Supp. 2006, Sections 3-306.1, 3-315, 3-319, 3-320, 3-322, 3-325, 3-453, 3-460, 4-106, 5-101, 5-104, 5-204, 5-412, 5-503 and 9-101), which relate to the Department of Mental Health and Substance Abuse Services; deleting language prohibiting certain contracts; providing exemption from certification requirements for certain persons; prohibiting the Department of Mental Health and Substance Abuse Services to enter into certain contracts in specified circumstances; deleting certain requirement for facilitator of specified courses; raising limit on certain fee in specified circumstance; authorizing use of certain restraint under specified order; modifying list of certain places; adding element of intent for violation; modifying definition; deleting requirement of certain notice; exempting certain days for discharge; deleting provision allowing certain

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:

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

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

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

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

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

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

- 3           1. The Joint Commission on Accreditation of Healthcare Organizations;
- 4           2. The Commission on Accreditation of Rehabilitation Facilities; or
- 5           3. Approved medical and professional standards as determined by the Board.

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

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

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

17       B. The program certification standards adopted by the Board shall provide for a  
18 system of classification of community residential mental health programs based upon the  
19 level of care required by residents of the facility and establish minimum program  
20 certification standards for each classification. The program certification standards  
21 adopted by the Board for each classification shall be such that residential care facilities  
22 having a valid contract with the Department and licensed by the State Department of

1 Health on July 1, 1988, shall be qualified and eligible for program certification within an  
2 appropriate classification.

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

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

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

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

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

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

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

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

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

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

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

20 B. For purposes of this section, “eating disorder treatment” means any treatment  
21 for anorexia nervosa, bulimia nervosa, or any other severe disturbances in eating

1 behavior specified in the most current edition of the Diagnostic and Statistical Manual of  
2 Mental Disorders.

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

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

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

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

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

21 D. Facilities providing services for gambling addiction shall comply with standards  
22 promulgated by the Board; provided, that the certification requirements and standards

1 shall not apply to programs and services offered by other state agencies. The gambling  
2 addiction treatment programs certified pursuant to the provisions of this section shall  
3 cooperate with inspection personnel of the state and shall promptly file all reports  
4 required by the Department. Failure to comply with rules and standards of the Board  
5 shall be ground for revocation of certification, after proper notice and hearing.

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

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

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

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

- 18 1. Community mental health centers;
- 19 2. Community residential mental health programs;
- 20 3. Programs of assertive community treatment;
- 21 4. Eating disorder treatment programs;
- 22 5. Gambling addiction treatment programs;

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

3        7. Community-based structured crisis centers; and

4        8. Mental health facilities.

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

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

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

- 14        1. One Hundred Fifty Dollars (\$150.00) for a ten-hour course; and
- 15        2. Three Hundred Sixty Dollars (\$360.00) for a twenty-four-hour course.

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

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

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

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

8 1. Minimum curriculum requirements for such courses;

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

10 3. Minimum qualifications for course facilitators;

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

13 5. Attendance requirements; and

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

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

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

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

4           3. Each facilitator shall be certified and shall:

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

20           4. The facilitator candidate shall be allowed one (1) year to complete all training  
21 requirements. Failure to meet all requirements within one (1) year shall result in denial

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

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

5 a. ~~be a ten-hour facilitator in good standing with a minimum of one (1)~~  
6 ~~year of experience;~~

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

11 ~~e.~~

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

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

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

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

1 determines the person has the ability to pay for all or part of the cost of treatment. The  
2 court shall determine the amount of reimbursement the person shall pay.

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

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

7 2. Not less than Twenty-five Dollars (\$25.00) and not more than Fifty Dollars  
8 (\$50.00) upon annual renewal.

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

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

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

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

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

3           2. Not less than Twenty-five Dollars (\$25.00) and not more than ~~Fifty Dollars~~  
4 ~~(\$50.00)~~ One Hundred Fifty Dollars (\$150.00) upon ~~annual~~ triennial renewal.

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

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

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

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

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

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

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

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

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

19 Section 5-101. A. Any person who has a mental illness or is alcohol- or drug-  
20 dependent to a degree which warrants inpatient treatment or care, and who is not in  
21 confinement in any jail, detention, lockup, or correctional facility on a criminal charge or  
22 conviction and who has no criminal charges pending against him or her, may be admitted

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1 to and confined in a facility within the Department of Mental Health and Substance  
2 Abuse Services, a state psychiatric hospital, or a licensed private institution by  
3 compliance with any one of the following procedures:

- 4 1. Emergency admission;
- 5 2. On voluntary application; or
- 6 3. On involuntary court commitment.

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

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

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

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

4 Section 5-104. Any person who intentionally falsely ~~certifies~~ attests to the mental  
5 illness, alcohol dependency, or drug dependency of any person, or whose false ~~certificates~~  
6 attestations as to mental illness, alcohol dependency, or drug dependency of any person  
7 is proved to be the result of negligence or deficient professional skill, or who signs such a  
8 ~~certificate~~ an evaluation or petition for pecuniary reward, or promise thereof, or other  
9 consideration of value or operating to his or her advantage, other than the professional  
10 fee usually paid for such service, shall be guilty of a misdemeanor, and, upon conviction  
11 thereof, shall be punished by payment of a fine not to exceed One Thousand Dollars  
12 (\$1,000.00), or imprisonment in the county jail not to exceed one (1) year, or both such  
13 fine and imprisonment.

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

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

- 19 1. During the detention periods authorized by the Mental Health Law;
- 20 2. During the time set forth in the Mental Health Law for the precommitment  
21 screening examination; or
- 22 3. While in the custody of the Department of Corrections.

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

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

3 1. Has personally examined the consumer;

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

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

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

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

15 1. Personally examined the consumer; and

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

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

- 4 1. The consumer is under the influence of psychotropic medication;
- 5 2. The purpose of the medication; and
- 6 3. The effect which such medication may have on the actions, demeanor and  
7 participation of the consumer at the hearing.

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

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

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

- 18 1. An individual eighteen (18) years of age or older; or
- 19 2. A court-appointed Guardian Ad Litem or an individual given the power of  
20 attorney to make medical decisions for the individual.

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

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

9 B. The notice shall contain the following information:

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

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

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

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

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

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

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

- 18           a.       the individual initiating the request for protective custody, emergency  
19                   detention, involuntary commitment or prehearing detention,  
20           b.       the attorney or court-appointed counsel of the person, to the district  
21                   attorney, and to the public defender, if any,

- 1 c. the facility, if any, in which the person is detained in emergency  
2 detention, and  
3 ~~d. the Department of Mental Health and Substance Abuse Services, and~~  
4 e. a parent, spouse, guardian, brother, sister or child who is at least  
5 eighteen (18) years of age of the person alleged to be a person requiring  
6 treatment and who is not the individual initiating the petition or a  
7 request for protective custody, emergency detention, involuntary  
8 commitment or prehearing detention. Notice shall also be delivered to  
9 any other person as may be ordered by the court.

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

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

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

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

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

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

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

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

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

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

- 1 (1) reasonable efforts have been made to provide for the treatment  
2 needs of the minor through the provision of less restrictive  
3 alternatives and such alternatives have failed to meet the  
4 treatment needs of the minor, or  
5 (2) after a thorough consideration of less restrictive alternatives to  
6 inpatient treatment, the condition of the minor is such that less  
7 restrictive alternatives are unlikely to meet the treatment needs  
8 of the minor, and  
9 c. the minor has been provided with a clinically appropriate explanation  
10 of the nature and purpose of the treatment.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 to file a petition, the district attorney must immediately notify the requesting facility, in  
2 writing, of the refusal to file.

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

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

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

17 2. A minor may apply for voluntary treatment pursuant to the provisions of Section  
18 2602 of Title 63 of the Oklahoma Statutes.

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

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

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

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

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

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

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

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

20       COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 03/29/07 - DO  
21 PASS, As Amended.