

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 SENATE BILL 494

By: Rice

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5
6 AS INTRODUCED

7 An Act relating to mental health; amending Section
8 14, Chapter 488, O.S.L. 2002, as amended by Section
9 3, Chapter 97, O.S.L. 2006, 43A O.S. 2001, Section 3-
10 315, as last amended by Section 4, Chapter 97, O.S.L.
11 2006, Section 19, Chapter 488, O.S.L. 2002, as
12 amended by Section 6, Chapter 97, O.S.L. 2006,
13 Section 16, Chapter 195, O.S.L. 2005, as amended by
14 Section 7, Chapter 97, O.S.L. 2006, Section 18,
15 Chapter 195, O.S.L. 2005, as amended by Section 8,
16 Chapter 97, O.S.L. 2006, Section 10, Chapter 97,
17 O.S.L. 2006, 43A O.S. 2001, Sections 3-453, as last
18 amended by Section 2, Chapter 120, O.S.L. 2006, 3-
19 460, as last amended by Section 23, Chapter 195,
20 O.S.L. 2005, 4-106 as last amended by Section 28,
21 Chapter 195, O.S.L. 2005, 5-101, as last amended by
22 Section 24, Chapter 195, O.S.L. 2005, 5-104, as
23 amended by Section 25, Chapter 195, O.S.L. 2005, 5-
24 204, as amended by Section 37, Chapter 150, O.S.L.
2005, 5-301.1, 5-412, as last amended by Section 12,
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 certain exemption; clarifying
language; prohibiting the Department of Mental Health
and Substance Abuse Services to enter into certain
contracts in specified circumstances; deleting
certain requirement for specified courses; raising
limit on certain fee in specified circumstance;
authorizing use of certain restraint under specified
order; modifying list of certain places; clarifying

1 language; modifying definition; deleting requirement
2 of certain notice; exempting certain days for
3 discharge; deleting provision allowing certain minors
4 to apply for voluntary treatment in specified
5 circumstance; and providing an effective date.

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

7 SECTION 1. AMENDATORY Section 14, Chapter 488, O.S.L.
8 2002, as amended by Section 3, Chapter 97, O.S.L. 2006 (43A O.S.
9 Supp. 2006, Section 3-306.1), is amended to read as follows:

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

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

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

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

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

7 1. The Joint Commission on Accreditation of Healthcare
8 Organizations;

9 2. The Commission on Accreditation of Rehabilitation
10 Facilities; or

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

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

16 SECTION 2. AMENDATORY 43A O.S. 2001, Section 3-315, as
17 last amended by Section 4, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
18 2006, Section 3-315), is amended to read as follows:

19 Section 3-315. A. The Board of Mental Health and Substance
20 Abuse Services shall adopt minimum standards for program
21 certification for residential care homes operating as community
22 residential mental health programs as provided in this section. The
23 standards shall be adopted as rules and promulgated by the Board of
24

1 Mental Health and Substance Abuse Services pursuant to the
2 provisions of the Administrative Procedures Act.

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

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

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

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1 SECTION 3. AMENDATORY Section 19, Chapter 488, O.S.L.
2 2002, as amended by Section 6, Chapter 97, O.S.L. 2006 (43A O.S.
3 Supp. 2006, Section 3-319), is amended to read as follows:

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

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

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

23 ~~D.~~ No program of assertive community treatment shall operate or
24 continue to operate unless the program complies with the rules

1 promulgated by the Board and is certified as required by this
2 section.

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

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

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

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

20 C. Applications for certification as a certified eating
21 disorder treatment program, pursuant to the provisions of this
22 section, shall be made to the Department of Mental Health and
23 Substance Abuse Services on prescribed forms. The Board, or the
24 Commissioner upon delegation by the Board, may certify the program

1 for a period of three (3) years subject to renewal as provided in
2 the rules promulgated by the Board. Nothing in this section shall
3 preclude the Department from making inspection visits to a program
4 to determine program compliance.

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

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

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

22 Section 3-322. A. The Board of Mental Health and Substance
23 Abuse Services shall promulgate rules and standards for
24 certification of gambling addiction treatment programs and for

1 private facilities and organizations which offer gambling addiction
2 treatment services in this state. These facilities and
3 organizations shall be known as "Certified Gambling Addiction
4 Treatment Programs".

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

15 C. 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 gambling addiction treatment program
24 operated by the person.

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

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

15 SECTION 6. AMENDATORY Section 10, Chapter 97, O.S.L.
16 2006 (43A O.S. Supp. 2006, Section 3-325), is amended to read as
17 follows:

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

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

5 1. Community mental health centers;

6 2. Community residential mental health programs;

7 3. Programs of assertive community treatment;

8 4. Eating disorder treatment programs;

9 5. Gambling addiction treatment programs;

10 6. Programs providing alcohol or drug abuse treatment services

11 as set forth under the Oklahoma Alcohol and Drug Services Act;

12 7. Community-based structured crisis centers; and

13 8. Mental health facilities.

14 SECTION 7. AMENDATORY 43A O.S. 2001, Section 3-453, as
15 last amended by Section 2, Chapter 120, O.S.L. 2006 (43A O.S. Supp.
16 2006, Section 3-453), is amended to read as follows:

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

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

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

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

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

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

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

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

21 1. Minimum curriculum requirements for such courses;

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

24 3. Minimum qualifications for course facilitators;

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

4 5. Attendance requirements; and

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

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

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

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

18 3. Each facilitator shall be certified and shall:

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

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

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

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

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

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

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

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

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

6 ~~e.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 E. The Director of the Office of State Finance shall transfer
22 any unobligated monies generated by the fees in subsection C of this
23 section, deposited before the effective date of this act, from the
24 Department of Mental Health and Substance Abuse Services Revolving

1 Fund to the Community-based Substance Abuse Revolving Fund, in
2 amounts calculated by the Department.

3 SECTION 9. AMENDATORY 43A O.S. 2001, Section 4-106, as
4 last amended by Section 28, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
5 2006, Section 4-106), is amended to read as follows:

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

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

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

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

20 SECTION 10. AMENDATORY 43A O.S. 2001, Section 5-101, as
21 last amended by Section 24, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
22 2006, Section 5-101), is amended to read as follows:

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

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

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

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

24

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

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

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

12 Section 5-104. Any person who intentionally falsely ~~certifies~~
13 attests to the mental illness, alcohol dependency, or drug
14 dependency of any person, or whose false ~~certificates~~ attestations
15 as to mental illness, alcohol dependency, or drug dependency of any
16 person is proved to be the result of negligence or deficient
17 professional skill, or who signs such a ~~certificate~~ an evaluation or
18 petition for pecuniary reward, or promise thereof, or other
19 consideration of value or operating to his or her advantage, other
20 than the professional fee usually paid for such service, shall be
21 guilty of a misdemeanor, and, upon conviction thereof, shall be
22 punished by payment of a fine not to exceed One Thousand Dollars
23 (\$1,000.00), or imprisonment in the county jail not to exceed one
24 (1) year, or both such fine and imprisonment.

1 SECTION 12. AMENDATORY 43A O.S. 2001, Section 5-204, as
2 amended by Section 37, Chapter 150, O.S.L. 2005 (43A O.S. Supp.
3 2006, Section 5-204), is amended to read as follows:

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

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

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

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

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

15 1. Has personally examined the consumer;

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

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

21 C. Any physician who orders medication in good faith and any
22 employee of the facility who administers medication in good faith
23 pursuant to the written order of a physician, under the provision of
24

1 this section, shall be immune from civil suits for damages that
2 occur from the administration of medication.

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

5 1. Personally examined the consumer; and

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

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

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

19 2. The purpose of the medication; and

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

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

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

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

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

13 SECTION 14. AMENDATORY 43A O.S. 2001, Section 5-412, as
14 last amended by Section 12, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
15 2006, Section 5-412), is amended to read as follows:

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

23 B. The notice shall contain the following information:
24

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

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

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

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

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

23 6. That, if the person is found at the hearing or at a jury
24 trial to be a person requiring treatment under this act, the court

1 will take evidence and make findings of fact concerning the person's
2 competency to consent or to refuse the treatment that is ordered,
3 including, but not limited to, the right of the person to refuse
4 psychotropic medications; and

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

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

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

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

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

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

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

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

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

9 2. The notice required by this subsection may be served
10 personally or by certified mail. When notice is served personally,
11 the person making such service shall make affidavit of the same and
12 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
14 by the court.

15 E. Notice of orders of a court directing a mental health
16 evaluation or prehearing detention of a person alleged to be a
17 person requiring treatment shall be delivered in substantially the
18 same manner as provided by subsection A of this section. Notice of
19 a court order directing a mental health evaluation of the person
20 shall be delivered at least one (1) day before the evaluation, and
21 as many additional days as are requested by the person alleged to be
22 a person requiring treatment or the attorney of such person as are
23 reasonable without prejudice to the person. Any request for
24

1 additional days shall be subject to the discretion of the court,
2 considering the facts and circumstances of each particular case.

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

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

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

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

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

23 a. the minor appears to have a mental illness or drug or
24 alcohol dependence serious enough to warrant inpatient

1 treatment and is reasonably likely to benefit from the
2 treatment, and

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

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

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

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

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

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

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

10 E. A mental health or substance abuse treatment facility may
11 request that the district attorney file a petition alleging a minor
12 to be a minor in need of treatment and require inpatient treatment
13 when the parent consenting to the admission of a minor or when the
14 minor age sixteen (16) years or older who had previously consented
15 to admission revokes such consent and the person in charge of the
16 facility, or a designee, determines that the condition of the minor
17 is such that the minor should remain in the facility. If the
18 district attorney refuses to file a petition, the district attorney
19 must immediately notify the requesting facility, in writing, of the
20 refusal to file.

21 F. A minor who is in the legal custody of the Department of
22 Human Services or the Office of Juvenile Affairs, or who is a ward
23 of a court may be admitted to a hospital or other facility for
24

1 inpatient mental health or substance abuse treatment only pursuant
2 to the provisions of Section 5-507 of this title.

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

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

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

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

21 a. limit the authority of the court to order a parent to
22 make support payments or to make payments or
23 reimbursements for medical care or treatment,
24 including mental health care or treatment, to the

1 person, institution, or agency having custody of the
2 minor or providing the treatment, or

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

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

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

20 I. If a minor sixteen (16) years of age or older who consented
21 to treatment subsequently revokes their consent at any time, the
22 minor shall be discharged within forty-eight (48) hours, excluding
23 weekends and holidays, unless the district attorney is requested to
24 file a petition alleging the minor to be a minor in need of

1 treatment and to require inpatient treatment in accordance with the
2 provisions of this title or the parent of the minor subsequently
3 consents to the treatment of the minor. If the district attorney
4 refuses to file a petition, the district attorney must immediately
5 notify the requesting facility, in writing, of the refusal to file.

6 SECTION 16. AMENDATORY 43A O.S. 2001, Section 9-101, as
7 last amended by Section 28, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
8 2006, Section 9-101), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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