

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1772 By: Anderson of the Senate
3 and
4 Martin (Scott) of the
5 House
6
7

8 (mental health - Department of Mental Health and
9 Substance Abuse Services - information confidential -
10 modifying reporting requirement - modifying fees -
11 promulgate rules - codification -
12 effective date)
13
14

15 AUTHORS: Add the following House Coauthors: Nations and Collins

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

17
18 "An Act relating to mental health; amending 43A O.S.
19 2001, Sections 1-103, as last amended by Section 1,
20 Chapter 401, O.S.L. 2008, 2-103, as last amended by
21 Section 3, Chapter 401, O.S.L. 2008, 2-104, as last
22 amended by Section 2, Chapter 217, O.S.L. 2003, 2-
23 105, 2-106, as last amended by Section 5, Chapter
24 113, O.S.L. 2004, 2-108, as amended by Section 7,
Chapter 448, O.S.L. 2002, Section 8, Chapter 488,
O.S.L. 2002, as last amended by Section 7, Chapter
195, O.S.L. 2005, 2-205, as amended by Section 9,
Chapter 195, O.S.L. 2005, 2-207, as amended by
Section 9, Chapter 150, O.S.L. 2005, 3-201, 3-302,
as last amended by Section 13, Chapter 348, O.S.L.

1 2005, Section 14, Chapter 488, O.S.L. 2002, as last
2 amended by Section 1, Chapter 130, O.S.L. 2007, 3-
3 315, as last amended by Section 2, Chapter 130,
4 O.S.L. 2007, 3-317, as last amended by Section 5,
5 Chapter 97, O.S.L. 2006, Section 18, Chapter 488,
6 O.S.L. 2002, as last amended by Section 3, Chapter
7 196, O.S.L. 2003, Section 16, Chapter 195, O.S.L.
8 2005, as last amended by Section 4, Chapter 130,
9 O.S.L. 2007, Section 18, Chapter 195, O.S.L. 2005,
10 as last amended by Section 5, Chapter 130, O.S.L.
11 2007, 3-415, as last amended by Section 12, Chapter
12 97, O.S.L. 2006, 3-424, as amended by Section 11,
13 Chapter 113, O.S.L. 2004, 3-453, as last amended by
14 Section 8, Chapter 401, O.S.L. 2008, 3-460, as last
15 amended by Section 10, Chapter 401, O.S.L. 2008, 3-
16 601, as last amended by Section 13, Chapter 97,
17 O.S.L. 2006, 5-206, as last amended by Section 12,
18 Chapter 401, O.S.L. 2008, 5-208, as last amended by
19 Section 1, Chapter 389, O.S.L. 2009, 5-209, as
20 amended by Section 37, Chapter 46, O.S.L. 2003, 5-
21 306, as last amended by Section 15, Chapter 401,
22 O.S.L. 2008, 5-309, as amended by Section 46,
23 Chapter 150, O.S.L. 2005 and 5-415, as last amended
24 by Section 22, Chapter 97, O.S.L. 2006 (43A O.S.
Supp. 2009, Sections 1-103, 2-103, 2-104, 2-106, 2-
108, 2-109, 2-205, 2-207, 3-302, 3-306.1, 3-315, 3-
317, 3-318, 3-320, 3-322, 3-415, 3-424, 3-453, 3-
460, 3-601, 5-206, 5-208, 5-209, 5-306, 5-309 and 5-
415), which relate to the Mental Health Law;
modifying definitions; modifying provisions related
to terms of office; modifying provisions related to
certain farm operations; modifying provisions
related to authorized sources of funding; modifying
provisions related to certain lease term; providing
for confidentiality of information; prescribing
procedures related to judicial proceedings involving
confidential information; providing for statutory
construction; authorizing certain summary
information; prescribing content of summary
information; authorizing release of summary
information to certain entities; modifying
provisions related to the Office of Consumer
Advocacy and the Advocate General; modifying
provision related to internal audit; modifying
provisions related to approval of the Board of
Mental Health and Substance Abuse Services;
modifying definitions of the Unified Community

1 Mental Health Services Act; imposing restriction
2 related to community mental health center; providing
3 for effect of failure to comply with certain rules
4 and standards; providing for revocation, suspension
5 or nonrenewal of certifications; imposing duties
6 upon behavioral health case manager; imposing duties
7 with respect to eating disorder treatment programs;
8 imposing duties with respect to gambling addiction
9 treatment programs; requiring promulgation of rules
10 related to peer recovery support specialists;
11 prescribing procedures; authorizing fees;
12 prescribing requirements related to titles; imposing
13 duties; providing for revocation, suspension or
14 nonrenewal of certifications; providing for
15 effective duration of certifications; imposing
16 duties with respect to substance abuse treatment
17 programs; modifying provision related to rights of
18 consumer in substance abuse facility; imposing duty
19 with respect to alcohol or drug substance abuse
20 course; imposing duty with respect to alcohol or
21 drug assessment personnel; modifying definitions;
22 modifying provisions related to emergency
23 detentions; modifying certain time period related to
24 detention; modifying provisions related to
admissions to state mental hospitals; modifying
period of time related to hearing on petitions
related to persons requiring treatment; repealing
43A O.S. 2001, Sections 3-316, as amended by Section
16, Chapter 150, O.S.L. 2005, 3-406, as last amended
by Section 10, Chapter 113, O.S.L. 2004, 3-414, as
amended by Section 23, Chapter 488, O.S.L. 2002 and
3-422, as amended by Section 25, Chapter 488, O.S.L.
2002 (43A O.S. Supp. 2009, Sections 3-316, 3-406, 3-
414 and 3-422), which relate to the Mental Health
Law; providing for codification; and providing an
effective date.

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

22 SECTION 1. AMENDATORY 43A O.S. 2001, Section 1-103, as
23 last amended by Section 1, Chapter 401, O.S.L. 2008 (43A O.S. Supp.
24 2009, Section 1-103), is amended to read as follows:

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

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

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

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

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

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

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

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

1 ~~methadone~~ opioid substitution treatment ~~for dependency purposes only~~
2 program, including, but not limited to, public or private hospitals,
3 community mental health centers, clinics, satellites or facilities;
4 provided that facility shall not mean a child guidance center
5 operated by the State Department of Health;

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

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

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

19 11. "Licensed mental health professional" means:

20 a. a psychiatrist who is a diplomate of the American
21 Board of Psychiatry and Neurology,

22 b. a physician licensed pursuant to Section 480 et seq.
23 or Section 620 et seq. of Title 59 of the Oklahoma

24 Statutes ~~who has received specific training for and is~~

1 ~~experienced in performing mental health therapeutic,~~
2 ~~diagnostic, or counseling functions,~~

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

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

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

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

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

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

20 i. a physician's assistant who is licensed in good
21 standing in this state and has received specific
22 training for and is experienced in performing mental
23 health therapeutic, diagnostic, or counseling
24 functions;

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

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

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

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

11 b. Unless a person also meets the criteria established in
12 subparagraph a of this paragraph, person requiring
13 treatment shall not mean:

14 (1) a person whose mental processes have been
15 weakened or impaired by reason of advanced years,
16 dementia, or Alzheimer's disease,

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

20 (3) a person with seizure disorder,

21 (4) a person with a traumatic brain injury, or

22 (5) a person who is homeless.

23 c. A person who meets the criteria established in this
24 section, but who is medically unstable, or the

1 facility holding the person is unable to treat the
2 additional medical conditions of that person should be
3 discharged and transported in accordance with Section
4 1-110 of this title;

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

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

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

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

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

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

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

- 21 a. a substantial risk of immediate physical harm to self
22 as manifested by evidence or serious threats of or
23 attempts at suicide or other significant self-
24 inflicted bodily harm,

- 1 b. a substantial risk of immediate physical harm to
2 another person or persons as manifested by evidence of
3 violent behavior directed toward another person or
4 persons,
5 c. having placed another person or persons in a
6 reasonable fear of violent behavior directed towards
7 such person or persons or serious physical harm to
8 them as manifested by serious and immediate threats,
9 d. there exists a substantial risk that without immediate
10 intervention severe impairment or injury will result
11 to the person alleged to be a person requiring
12 treatment, or
13 e. a substantial risk of immediate serious physical
14 injury to self, or immediate death, as manifested by
15 evidence that the person is unable to provide for and
16 is not providing for the basic physical needs of the
17 person and that appropriate provision for those needs
18 cannot be made immediately available in the community.

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

22 19. "Telemedicine" means the practice of health care delivery,
23 diagnosis, consultation, evaluation, treatment, transfer of medical
24 data, or exchange of medical education information by means of

1 audio, video, or data communications. Telemedicine uses audio and
2 video multimedia telecommunication equipment which permits two-way
3 real-time communication between a health care practitioner and a
4 patient who are not in the same physical location. Telemedicine
5 shall not include consultation provided by telephone or facsimile
6 machine.

7 SECTION 2. AMENDATORY 43A O.S. 2001, Section 2-103, as
8 last amended by Section 3, Chapter 401, O.S.L. 2008 (43A O.S. Supp.
9 2009, Section 2-103), is amended to read as follows:

10 Section 2-103. A. The Board of Mental Health and Substance
11 Abuse Services shall be composed of eleven (11) members, appointed
12 by the Governor, with the advice and consent of the Senate, ~~as~~
13 ~~follows~~ and unless otherwise indicated, a board member term is for
14 seven (7) years unless reappointed. Board members shall meet the
15 following criteria:

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

20 SECTION 3. AMENDATORY 43A O.S. 2001, Section 2-104, as
21 last amended by Section 2, Chapter 217, O.S.L. 2003 (43A O.S. Supp.
22 2009, Section 2-104), is amended to read as follows:

23 Section 2-104. A. ~~The Board of Mental Health and Substance~~
24 ~~Abuse Services is authorized to discontinue farm operations or any~~

1 ~~portion of the farm operations at any time it feels it is in the~~
2 ~~best interest of the Department of Mental Health and Substance Abuse~~
3 ~~Services and this state.~~

4 B. The Board Department of Mental Health and Substance Abuse
5 Services may declare equipment which is surplus to the needs of the
6 Department to the Department of Central Services. The Department of
7 Central Services shall dispose of the surpluses as provided by law.

8 C. B. The Department of Central Services shall be the
9 purchasing agency for all facilities for which appropriations are
10 made in the Mental Health Law, but shall not have authority to
11 determine the propriety of purchases of institutions over which the
12 Department of Central Services is not the controlling entity.

13 D. C. The Board Department is authorized to spend funds for the
14 development of recreational facilities on state-owned land outside
15 the facility grounds.

16 SECTION 4. AMENDATORY 43A O.S. 2001, Section 2-105, is
17 amended to read as follows:

18 Section 2-105. ~~(a)~~ On and after July 1, 1967, the Board of
19 Mental Health and Substance Abuse Services shall be the Mental
20 Health and Substance Abuse Services Authority of the State of
21 Oklahoma, ~~and is authorized to receive grants of federal funds for~~
22 ~~the purpose of combating or preventing mental illness, including but~~
23 ~~not limited to funds for the treatment, care, rehabilitation, or~~
24 ~~training of the mentally ill, or for the establishment or expansion~~

1 ~~of any program of facilities or research projects relating to the~~
2 ~~mentally ill, or for construction of research centers and other~~
3 ~~facilities for the mentally ill, and is authorized to cooperate in~~
4 ~~any reasonable manner with the federal agency or agencies granting~~
5 ~~such federal funds for such purposes, including compliance with any~~
6 ~~conditions prescribed by federal authorities for the granting of~~
7 ~~such funds. The Board of Mental Health and Substance Abuse Services~~
8 ~~shall serve as the sole designated state agency for receiving,~~
9 ~~disbursing, or administering federal funds for any of the aforesaid~~
10 ~~purposes, provided federal law requires such an agency and the Board~~
11 ~~of Mental Health and Substance Abuse Services is eligible to be such~~
12 ~~an agency under federal law. Construction projects, and~~
13 ~~applications therefor for any of the aforesaid purposes, shall not~~
14 ~~require the approval of any other state agency. Provided, that this~~
15 ~~section shall not prevent any other agency from receiving,~~
16 ~~disbursing, or administering federal grants for any of the aforesaid~~
17 ~~purposes in accordance with federal law.~~

18 ~~(b) In order to provide for an orderly transition to the Board~~
19 ~~of Mental Health and Substance Abuse Services of such of the~~
20 ~~aforesaid functions as are now vested in other public agencies, this~~
21 ~~section shall not affect the construction by other public agencies~~
22 ~~of community mental health facilities, or the maintenance by other~~
23 ~~public agencies of programs for mental health, or the furnishing by~~
24 ~~other public agencies of mental health services in child guidance~~

1 ~~centers, or the receipt by other public agencies of federal funds~~
2 ~~for any of such purposes.~~

3 SECTION 5. AMENDATORY 43A O.S. 2001, Section 2-106, as
4 last amended by Section 5, Chapter 113, O.S.L. 2004 (43A O.S. Supp.
5 2009, Section 2-106), is amended to read as follows:

6 Section 2-106. A. 1. The Board of Mental Health and Substance
7 Abuse Services, the Commissioner of Mental Health and Substance
8 Abuse Services or any employee of the Department of Mental Health
9 and Substance Abuse Services designated by the Commissioner may
10 solicit and receive contributions, gifts and donations for use by
11 the Department of Mental Health and Substance Abuse Services, or to
12 any institution therein. The Board of Mental Health and Substance
13 Abuse Services shall accept, hold in trust and authorize the use of
14 any grant or devise of land, or any donation or bequest of money, or
15 other personal property made to the Department of Mental Health and
16 Substance Abuse Services, or to any institution therein, so long as
17 the terms of the grant, donation, bequest, gift, or will are carried
18 out.

19 2. The Board may invest and reinvest any funds and may lease
20 any real or personal property, may sell any personal property and
21 may invest the proceeds, for the benefit of the Department or any
22 institution therein unless prevented by the terms of the grant,
23 donation, bequest, gift or will.

24

1 B. The Board may lease any property owned or held in trust to
2 any other state agency, political subdivision, federal agency,
3 county, municipality or a nonprofit organization for a period not to
4 exceed fifty (50) years. ~~An original lease may be for a period not~~
5 ~~to exceed ten (10) years with up to four ten-year options.~~

6 C. The ~~Board~~ Department must annually account to the State
7 Auditor and Inspector for all monies or property received or
8 expended by virtue of this section. The account shall state:

- 9 1. The source of the monies or property received with the
10 actual date of its receipt;
- 11 2. The particular use or place for which it was expended; and
- 12 3. The balance on hand showing the place of deposit of the
13 unexpended balance.

14 SECTION 6. AMENDATORY 43A O.S. 2001, Section 2-108, as
15 amended by Section 7, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2009,
16 Section 2-108), is amended to read as follows:

17 Section 2-108. A. When the Department of Mental Health and
18 Substance Abuse Services has reason to believe that any individual
19 receiving services from a facility operated by, certified by, or
20 under contract with the Department has been wrongfully deprived of
21 liberty, or is cruelly, negligently or improperly treated, or
22 inadequate provision is made for the individual's appropriate
23 medical care, proper supervision and safe keeping, the Department

24

1 may ascertain the facts or may require an investigation of the
2 facts.

3 B. The Board shall establish and maintain a fair, simple and
4 expeditious system for resolution of complaints of all individuals
5 receiving such services.

6 C. Except as otherwise specifically provided in this section
7 and as otherwise provided by state or federal laws, the information,
8 records, materials, and reports related to investigations by the
9 Department into allegations of consumer abuse, neglect, or
10 mistreatment shall be confidential and contain privileged
11 information. Accordingly, such records, materials, and reports
12 shall not be open to public inspection nor their contents disclosed,
13 nor shall a subpoena or subpoena duces tecum purporting to compel
14 disclosure of such information be valid.

15 1. An order of the court authorizing the inspection, release,
16 or disclosure of information, records, materials, and reports
17 related to investigations by the Department shall be entered by a
18 court only after a review of the records and a determination, with
19 due regard for the confidentiality of the information and records
20 and the privilege of the persons identified in the records, that a
21 compelling reason exists, any applicable privilege has been waived,
22 and such inspection, release or disclosure is necessary for the
23 protection of a legitimate public or private interest.

24

1 2. This section shall not be construed to prohibit the
2 Department from summarizing the allegation or allegations made,
3 facts and evidence gathered, and any findings of an investigation
4 pursuant to this section. The summary may be provided to the
5 following individuals and entities, provided the individuals or
6 entities agree to protect the summary from disclosure:

7 a. the person suspected of abuse, neglect or improper
8 treatment,

9 b. the person subject to the alleged abuse, neglect or
10 improper treatment,

11 c. the person who reported the allegation,

12 d. the state and federal oversight, licensing or
13 accrediting agency,

14 e. the administrator of a facility certified by or under
15 contract with the Department at which the alleged
16 abuse, neglect or improper treatment occurred,

17 f. any persons necessary to implement appropriate
18 personnel action against the person suspected of
19 abuse, neglect or mistreatment if evidence is found to
20 support the allegation, and

21 g. the appropriate law enforcement agency, district
22 attorney's office or any other entities as required by
23 state and federal law.

1 SECTION 7. AMENDATORY Section 8, Chapter 488, O.S.L.
2 2002, as last amended by Section 7, Chapter 195, O.S.L. 2005 (43A
3 O.S. Supp. 2009, Section 2-109), is amended to read as follows:

4 Section 2-109. A. The ~~Board~~ Department of Mental Health and
5 Substance Abuse Services is authorized and directed to establish the
6 Office of Consumer Advocacy within the Department of Mental Health
7 and Substance Abuse Services and to employ such personnel as may be
8 necessary to carry out the purposes of ~~Section 2-108~~ of this title
9 section.

10 ~~1. The chief administrative officer of the Office of Consumer~~
11 ~~Advocacy shall be the Advocate General, who shall be an attorney~~
12 ~~admitted to practice in the State of Oklahoma with a minimum of~~
13 ~~three (3) years experience. The Advocate General shall report to~~
14 ~~the Board and be supervised by the Board, and may be dismissed only~~
15 ~~for cause.~~

16 ~~2. The Advocate General shall have the following powers and~~
17 ~~duties:~~

18 a. ~~to serve as an advocate, but not as an attorney, for~~
19 ~~individuals receiving services from facilities~~
20 ~~operated by, subject to certification by or under~~
21 ~~contract with the Department, and, if an individual~~
22 ~~needs legal counsel, advise the individual of the~~
23 ~~right to seek counsel and refer the individual to~~
24 ~~counsel, if necessary,~~

- 1 ~~b. to supervise personnel assigned to the Office of~~
2 ~~Consumer Advocacy,~~
- 3 ~~c. to monitor and review grievance procedures in~~
4 ~~facilities operated by, subject to certification by or~~
5 ~~under contract with the Department,~~
- 6 ~~d. to investigate unresolved grievances and allegation of~~
7 ~~abuse, neglect and improper treatment of individuals~~
8 ~~receiving services from facilities operated by,~~
9 ~~subject to certification by or under contract with the~~
10 ~~Department,~~
- 11 ~~e. to~~ The Office of Consumer Advocacy shall have access
12 to facilities operated by, subject to certification by
13 or under contract with the Department and the records
14 of such facilities. ~~Reasonable access shall be~~
15 ~~granted for the purposes of conducting investigations~~
16 ~~of abuse, neglect and improper treatment, and~~
17 ~~performing other activities as necessary to monitor~~
18 ~~care and treatment provided by such facilities,~~
- 19 ~~f. to access the,~~ including but not limited to records of
20 individuals receiving services ~~from facilities~~
21 ~~operated by, subject to certification by or under~~
22 ~~contract with the Department. Records that are~~
23 confidential under state and federal law shall be
24

1 maintained as confidential and not be redisclosed by
2 the Advocate General,

3 ~~g. to submit a report of the results of investigations of~~
4 ~~abuse to the appropriate district attorney and, if the~~
5 ~~individual is a juvenile in the custody of a state~~
6 ~~agency, submit a report to that state agency,~~

7 ~~h. to make recommendations to the Commissioner of Mental~~
8 ~~Health and Substance Abuse Services and provide~~
9 ~~regular or special reports regarding investigations~~
10 ~~and unresolved grievances to the Commissioner and the~~
11 ~~Board, and~~

12 ~~i. to perform such other duties as assigned by the Board.~~

13 B. The Advocate General and the staff of the Office of Consumer
14 Advocacy shall not act as attorneys on behalf of individuals
15 receiving services from facilities operated by, subject to
16 certification by or under contract with the Department, except that
17 they shall have the authority to file habeas corpus actions on
18 behalf of such individuals and appear on their behalf in civil
19 commitment and criminal post-commitment proceedings, and also appear
20 on behalf of Department consumers in proceedings for writs of
21 mandamus.

22 C. Except as otherwise specifically provided in this section
23 and as otherwise provided by state or federal laws, the information,
24 records, materials and reports related to investigations by the

1 Office of Consumer Advocacy are confidential and contain privileged
2 information. Accordingly, such records, materials and reports shall
3 not be open to public inspection nor their contents disclosed, nor
4 shall a subpoena or subpoena duces tecum purporting to compel
5 disclosure of such information be valid.

6 ~~1.~~ An order of the court authorizing the inspection, release or
7 disclosure of information, records, materials and reports related to
8 investigations by the Office of Consumer Advocacy shall be entered
9 by a court only after a review of the records and a determination,
10 with due regard for the confidentiality of the information and
11 records and the privilege of the persons identified in the records,
12 that a compelling reason exists, any applicable privilege has been
13 waived and such inspection, release or disclosure is necessary for
14 the protection of a legitimate public or private interest.

15 ~~2. This section shall not be construed as prohibiting the~~
16 ~~Department or the Office of Consumer Advocacy from summarizing the~~
17 ~~outcome of an investigation, stating the allegation and finding.~~
18 ~~The summary may be provided to the following individuals and~~
19 ~~entities as long as the individuals or entities agree to protect the~~
20 ~~summary from disclosure:~~

21 a. ~~the person suspected of abuse, neglect or improper~~
22 ~~treatment,~~

23 b. ~~the person subject to the alleged abuse, neglect or~~
24 ~~improper treatment,~~

- 1 ~~c. the person who reported an allegation,~~
2 ~~d. the state and federal oversight, licensing or~~
3 ~~accrediting agency, and~~
4 ~~e. the administrator of a facility certified by or under~~
5 ~~contract with the Department at which the alleged~~
6 ~~abuse, neglect or improper treatment occurred.~~

7 SECTION 8. AMENDATORY 43A O.S. 2001, Section 2-205, as
8 amended by Section 9, Chapter 195, O.S.L. 2005 (43A O.S. Supp. 2009,
9 Section 2-205), is amended to read as follows:

10 Section 2-205. The Department of Mental Health and Substance
11 Abuse Services is hereby directed to employ one or more internal
12 auditors to establish and perform an effective and comprehensive
13 internal audit program. Such program shall include, but not be
14 limited to, reviews of accounting procedures, internal control,
15 financial management and compliance with laws, regulations, policies
16 and executive and legislative directives for the Department's
17 administrative offices, institutions, community mental health
18 centers and contractors. Internal audit final reports, shall be
19 made directly available to the Governor, the State Auditor and
20 Inspector, the Legislative Service Bureau, the Board of Mental
21 Health and Substance Abuse Services and the Commissioner of Mental
22 Health and Substance Abuse Services.

1 SECTION 9. AMENDATORY 43A O.S. 2001, Section 2-207, as
2 amended by Section 9, Chapter 150, O.S.L. 2005 (43A O.S. Supp. 2009,
3 Section 2-207), is amended to read as follows:

4 Section 2-207. The Commissioner of Mental Health and Substance
5 Abuse Services, ~~with the consent of the Board of Mental Health and~~
6 ~~Substance Abuse Services,~~ may employ persons to assist in collecting
7 the amount due the state for the care and treatment of consumers,
8 and may employ counsel to institute such actions or proceedings as
9 the Commissioner may deem proper to enforce the claim of the state
10 for the care and treatment of a consumer against the consumer.

11 SECTION 10. AMENDATORY 43A O.S. 2001, Section 3-201, is
12 amended to read as follows:

13 Section 3-201. The Commissioner, ~~with the approval of the Board~~
14 ~~of Mental Health and Substance Abuse Services,~~ may establish a
15 statewide system of precare and aftercare services, to include
16 receiving hospital services and halfway houses, in relation to the
17 admission and discharge of patients from state mental hospitals.
18 Physical facilities for these services may be leased, purchased, or
19 constructed by the State of Oklahoma or donated to the Department of
20 Mental Health and Substance Abuse Services. Contracts for such
21 services may be negotiated with professional persons, privately
22 owned facilities, or publicly operated facilities. These services
23 may be operated separately or in connection with existing state
24 mental hospitals. These services shall be used for the care and

1 treatment of the mentally ill, especially for those whose condition
2 makes it likely that hospitalization will be necessary and for those
3 patients discharged from state mental hospitals who require periodic
4 outpatient supervision and treatment. Such services shall operate
5 in accordance with the regulations established by the Commissioner.

6 SECTION 11. AMENDATORY 43A O.S. 2001, Section 3-302, as
7 last amended by Section 13, Chapter 348, O.S.L. 2005 (43A O.S. Supp.
8 2009, Section 3-302), is amended to read as follows:

9 Section 3-302. As used in the Unified Community Mental Health
10 Services Act:

11 1. "Certified behavioral health case manager" means any person
12 who is certified by the Department of Mental Health and Substance
13 Abuse Services to offer behavioral health case management services
14 within the confines of a mental health facility, or services for
15 alcohol and drug dependents, that is operated by the Department or
16 contracts with the state to provide behavioral services;

17 2. "Case management" means the application of case management
18 principles and practices of linking, advocacy and referral in
19 partnership with the consumer to support the consumer in self-
20 sufficiency and community tenure for consumers of mental health or
21 substance abuse services;

22 3. "Catchment area or service area" means a geographic area
23 established by the Department of Mental Health and Substance Abuse
24 Services;

1 4. "Community mental health center" means a facility offering:

- 2 a. a comprehensive array of community-based mental health
3 services, including, but not limited to, ~~inpatient~~
4 ~~treatment~~, outpatient treatment, ~~partial~~
5 ~~hospitalization~~, emergency evaluation and care,
6 consultation ~~and~~, education, rehabilitation services,
7 and aftercare, and
8 b. certain services at the option of the center,
9 including, but not limited to, ~~prescreening~~,
10 ~~rehabilitation services~~, ~~pre care and aftercare~~
11 inpatient treatment, training programs, and research
12 and evaluation programs;

13 5. "Community mental health services", in conformance with
14 federal requirements, means services for the treatment of
15 ~~alcoholism, drug addiction or abuse, and~~ mental illness and co-
16 occurring substance abuse disorders, and the prevention, diagnosis,
17 or rehabilitation of such persons;

18 6. "Mental health facility" means:

- 19 a. a community mental health center,
20 b. an outpatient facility offering diagnostic and
21 treatment services,
22 c. a day care facility offering a treatment program for
23 children or adults suffering from mental or emotional
24 problems, or

1 d. community residential mental health programs and
2 facilities which provide supervised residential care,
3 counseling, case management or other similar services
4 to children or adults suffering from mental or
5 emotional problems; and

6 7. ~~"Day treatment program" means a structured, comprehensive~~
7 ~~program designed to improve or maintain a person's ability to~~
8 ~~function in the community, which includes, but is not limited to,~~
9 ~~nonresidential, partial hospitalization programs, and day hospital~~
10 ~~programs; and~~

11 ~~8.~~ "Program of assertive community treatment" means a facility,
12 agency or organization that offers or provides a self-contained
13 clinical team, under the medical supervision of a licensed
14 psychiatrist, to provide needed treatment, rehabilitation, and
15 support services to individuals with serious mental illness who have
16 severe symptoms and impairments not effectively remedied by
17 available treatments or to individuals who resist or avoid
18 involvement in other needed mental health services.

19 SECTION 12. AMENDATORY Section 14, Chapter 488, O.S.L.
20 2002, as last amended by Section 1, Chapter 130, O.S.L. 2007 (43A
21 O.S. Supp. 2009, Section 3-306.1), is amended to read as follows:

22 Section 3-306.1 A. The Board of Mental Health and Substance
23 Abuse Services shall promulgate rules and standards for
24 certification of a facility or organization that desires to be

1 certified as a community mental health center. No community mental
2 health center shall operate or continue to operate unless the
3 facility complies with the rules and standards promulgated by the
4 Board and is certified as required by this section.

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

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

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

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

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

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

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

4 SECTION 13. AMENDATORY 43A O.S. 2001, Section 3-315, as
5 last amended by Section 2, Chapter 130, O.S.L. 2007 (43A O.S. Supp.
6 2009, Section 3-315), is amended to read as follows:

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

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

1 C. The Department shall terminate the contract of any home that
2 fails to meet contract provisions regarding financial statements.

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

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

10 SECTION 14. AMENDATORY 43A O.S. 2001, Section 3-317, as
11 last amended by Section 5, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
12 2009, Section 3-317), is amended to read as follows:

13 Section 3-317. A. The Board of Mental Health and Substance
14 Abuse Services, or the Commissioner of Mental Health and Substance
15 Abuse Services upon delegation by the Board, shall certify
16 community-based structured crisis centers for the provision of
17 nonhospital emergency services for mental health and substance abuse
18 crisis intervention. The Board shall promulgate rules for the
19 certification of community-based structured crisis centers.

20 B. No community-based structured crisis center shall operate or
21 continue to operate unless the facility complies with the rules
22 promulgated by the Board and is certified as required by this
23 section.

24

1 C. For the purposes of this section, "community-based
2 structured crisis center" means any certified community mental
3 health center or facility operated by the Department which is
4 established and maintained for the purpose of providing community-
5 based mental health and substance abuse crisis stabilization
6 services including, but not limited to, observation, evaluation,
7 emergency treatment and referral, when necessary, for inpatient
8 psychiatric or substance abuse treatment services.

9 D. The Department of Mental Health and Substance Abuse Services
10 is authorized to establish and collect certification and renewal
11 fees for certification of community-based structured crisis centers
12 as provided in Section ~~9~~ 3-324 of this ~~act~~ title.

13 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 15. AMENDATORY Section 18, Chapter 488, O.S.L.
17 2002, as last amended by Section 3, Chapter 196, O.S.L. 2003 (43A
18 O.S. Supp. 2009, Section 3-318), is amended to read as follows:

19 Section 3-318. A. The Board of Mental Health and Substance
20 Abuse Services shall promulgate rules and standards for
21 certification of behavioral health case managers who are employed by
22 the state or by behavioral services providers contracting with the
23 state to provide behavioral health services. Such rules and
24 standards shall address criteria for certification and renewal,

1 including minimum education requirements, examination and
2 supervision requirements, continuing education requirements, and
3 rules of professional conduct.

4 B. Application for certification as a behavioral health case
5 manager shall be made to the Department of Mental Health and
6 Substance Abuse Services on prescribed forms. The Board, or the
7 Commissioner of Mental Health and Substance Abuse Services upon
8 delegation by the Board, may certify the behavioral health case
9 manager for a period of two (2) years subject to renewal as provided
10 in the rules promulgated by the Board.

11 C. The Board is authorized to establish an application and
12 renewal fee of no more than One Hundred Dollars (\$100.00) to defray
13 the costs incurred in the certification process.

14 D. Behavioral health case managers certified by the Board or
15 the Commissioner shall only use the title "certified behavioral
16 health case manager" if employed by the state or by behavioral
17 services providers contracting with the state to provide behavioral
18 health services. This section shall not be construed to permit the
19 certified behavioral health case manager to practice any of the
20 following professions or use the following titles unless also
21 licensed or accredited by the appropriate authority: physician,
22 psychologist, clinical social worker, professional counselor,
23 marital and family therapist, behavioral practitioner, or alcohol
24 and drug counselor.

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

4 F. No behavioral health case manager shall operate or continue
5 to operate as a behavioral health case manager unless the case
6 manager complies with the rules promulgated by the Board and is
7 certified as required by this section.

8 SECTION 16. AMENDATORY Section 16, Chapter 195, O.S.L.
9 2005, as last amended by Section 4, Chapter 130, O.S.L. 2007 (43A
10 O.S. Supp. 2009, Section 3-320), is amended to read as follows:

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

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

22 C. Applications for certification as a certified eating
23 disorder treatment program, pursuant to the provisions of this
24 section, shall be made to the Department of Mental Health and

1 Substance Abuse Services on prescribed forms. The Board, or the
2 Commissioner upon delegation by the Board, may certify the program
3 for a period of three (3) years subject to renewal as provided in
4 the rules promulgated by the Board. Nothing in this section shall
5 preclude the Department from making inspection visits to a program
6 to determine program compliance.

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

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

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

24

1 G. No eating disorder treatment program shall operate or
2 continue to operate unless the facility complies with the rules
3 promulgated by the Board and is certified as required by this
4 section.

5 SECTION 17. AMENDATORY Section 18, Chapter 195, O.S.L.
6 2005, as last amended by Section 5, Chapter 130, O.S.L. 2007 (43A
7 O.S. Supp. 2009, Section 3-322), is amended to read as follows:

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

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

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

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

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

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

4 G. No gambling addiction treatment program shall operate or
5 continue to operate unless the facility complies with the rules
6 promulgated by the Board and is certified as required by this
7 section.

8 SECTION 18. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 3-326 of Title 43A, unless there
10 is created a duplication in numbering, reads as follows:

11 A. The Board of Mental Health and Substance Abuse Services
12 shall promulgate rules for certification of peer recovery support
13 specialists who are employed by the state or by behavioral services
14 providers contracting with the state to provide behavioral health
15 services. Such rules shall address criteria for certification and
16 renewal, including minimum education requirements, examination and
17 supervision requirements, continuing education requirements, and
18 rules of professional conduct.

19 B. Application for certification as a peer recovery support
20 specialist shall be made to the Department of Mental Health and
21 Substance Abuse Services on prescribed forms. The Board, or the
22 Commissioner of Mental Health and Substance Abuse Services upon
23 delegation by the Board, may certify the peer recovery support
24

1 specialist for a period of two (2) years subject to renewal as
2 provided in the rules promulgated by the Board.

3 C. The Board is authorized to establish an application and
4 renewal fee of no more than One Hundred Dollars (\$100.00) to defray
5 the costs incurred in the certification process.

6 D. A peer recovery support specialist certified by the Board or
7 the Commissioner shall only use the title "certified peer recovery
8 support specialist" if employed by the state or by behavioral
9 services providers contracting with the state to provide behavioral
10 health services. This section shall not be construed to permit the
11 certified peer recovery support specialist to practice any of the
12 following professions or use the following titles unless also
13 licensed or accredited by the appropriate authority:

- 14 1. Physician;
- 15 2. Psychologist;
- 16 3. Clinical social worker;
- 17 4. Professional counselor;
- 18 5. Marital and family therapist;
- 19 6. Behavioral practitioner; or
- 20 7. Alcohol and drug counselor.

21 E. No peer recovery support specialist shall operate or
22 continue to operate as a peer recovery support specialist unless the
23 peer recovery support specialist complies with the rules promulgated
24 by the Board and is certified as required by this section.

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

4 SECTION 19. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3-327 of Title 43A, unless there
6 is created a duplication in numbering, reads as follows:

7 All certifications issued by the Department of Mental Health and
8 Substance Abuse Services shall only be effective for the time period
9 specified by rules and standards promulgated by the Board of Mental
10 Health and Substance Abuse Services or specifically enumerated in
11 Title 43A of the Oklahoma Statutes. Unless a renewal of
12 certification has been issued in accordance with the rules and
13 standards promulgated by the Board, certifications shall be deemed
14 expired as a matter of law. No further action by the Department
15 shall be required to remove an expired certification.

16 SECTION 20. AMENDATORY 43A O.S. 2001, Section 3-415, as
17 last amended by Section 12, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
18 2009, Section 3-415), is amended to read as follows:

19 Section 3-415. A. 1. The Board of Mental Health and Substance
20 Abuse Services shall promulgate rules and standards for
21 certification for private facilities and organizations which provide
22 treatment, counseling and rehabilitation services directed toward
23 alcohol- and drug-dependent persons. These facilities and
24 organizations shall be known as "Certified Services for the Alcohol

1 and Drug Dependent". Only certified facilities may receive and
2 assist alcohol- and drug-dependent persons by providing treatment
3 and rehabilitation.

4 2. Any person violating the requirement that only certified
5 facilities may receive and assist alcohol- and drug-dependent
6 persons by providing treatment to alcohol- and drug-dependent
7 persons, upon conviction, shall be guilty of a misdemeanor. Except
8 as otherwise provided in this section, no substance abuse treatment
9 program shall operate or continue to operate unless the facility
10 complies with the rules promulgated by the Board and is certified as
11 required by this section.

12 B. Applications for certification as a certified service for
13 the alcohol- and drug-dependent person pursuant to the provisions of
14 this section shall be made to the Department of Mental Health and
15 Substance Abuse Services on prescribed forms.

16 C. The Board, or the Commissioner of Mental Health and
17 Substance Abuse Services upon delegation by the Board, may certify
18 the facility for a period of thirty-six (36) months subject to
19 renewal as provided.

20 D. The Board or the Commissioner of Mental Health and Substance
21 Abuse Services upon delegation by the Board, may postpone, deny
22 renewal of, revoke, or suspend the certification of the facility for
23 failure to comply with rules and standards promulgated by the Board.

24

1 E. The following are exempt from the provisions of the Oklahoma
2 Alcohol and Drug Abuse Services Act:

3 1. Individual persons in private practice as licensed
4 physicians, licensed psychologists, licensed social workers,
5 registered nurses, licensed professional counselors, licensed
6 marriage and family therapists, licensed behavioral practitioners,
7 individual members of the clergy, and certified alcohol or drug
8 abuse counselors. The exemption shall apply only to individual
9 professional persons in their private practice and not to any
10 treatment facility operated by the person;

11 2. Properly licensed hospitals, psychiatric and medical
12 surgical facilities;

13 3. Programs or facilities operated by a state agency;

14 4. Programs conducted and facilities operated by Alcoholics
15 Anonymous; or

16 5. Programs conducted and facilities operated by the Salvation
17 Army.

18 F. Certified services for the alcohol- or drug-dependent person
19 shall comply with standards adopted by the Board. Such standards
20 shall require that treatment and therapeutic methods shall be in
21 compliance with:

22 1. The Joint Commission on Accreditation of Healthcare
23 Organizations;

24

1 2. The Commission on Accreditation of Rehabilitation

2 Facilities;

3 3. The Council on Accreditation (COA); or

4 4. Approved medical and professional standards as determined by
5 the Board.

6 G. Any facility or organization certified to provide certified
7 services shall cooperate with inspection personnel of the state and
8 shall promptly file all reports required by the Board.

9 H. All claims by and accomplishments publicized by any
10 applicant for certification or any certified alcohol- or drug-
11 dependent organization, including but not limited to consumer count
12 and success rates, shall be documented and verifiable by the Board.

13 I. The Department of Mental Health and Substance Abuse Services
14 is authorized to establish and collect certification and renewal
15 fees for certification of private facilities and organizations which
16 provide treatment, counseling and rehabilitation services directed
17 toward alcohol- and drug-dependent persons, as provided in Section 9
18 3-324 of this ~~act~~ title.

19 J. Any materials or information received by the Department from
20 an applicant regarding the applicant's financial status shall not be
21 construed to be open records pursuant to the Oklahoma Open Records
22 Act.

23

24

1 SECTION 21. AMENDATORY 43A O.S. 2001, Section 3-424, as
2 amended by Section 11, Chapter 113, O.S.L. 2004 (43A O.S. Supp.
3 2009, Section 3-424), is amended to read as follows:

4 Section 3-424. A. Subject to the restrictions imposed by
5 subsection B of this section, a consumer in an inpatient or
6 residential mental health or substance abuse facility has the right
7 to:

- 8 1. Receive a reasonable number of visitors at reasonable times;
- 9 2. Reasonable access to make and receive telephone calls;
- 10 3. Communicate by uncensored and sealed mail; and
- 11 4. Writing materials and reasonable amounts of postage if
12 unable to procure the same.

13 B. The rights provided in subsection A of this section are
14 subject to the general rules of the facility and may be restricted
15 by the treatment team ultimately responsible for the consumer's
16 treatment to the extent that the restriction is necessary to the
17 consumer's welfare, to protect another person, or to the security of
18 the facility; provided, however, the right to communicate with legal
19 counsel, a treatment advocate, or the Department may not be denied.

20 C. If a restriction is imposed under this section, the reasons
21 for the restriction and the duration of the restriction shall be
22 documented in the consumer's clinical record. The treatment team
23 shall inform the consumer, the treatment advocate, and, if
24

1 appropriate, the consumer's parent or guardian of the clinical
2 reasons for the restriction and the duration of the restriction.

3 SECTION 22. AMENDATORY 43A O.S. 2001, Section 3-453, as
4 last amended by Section 8, Chapter 401, O.S.L. 2008 (43A O.S. Supp.
5 2009, Section 3-453), is amended to read as follows:

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

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

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

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

17 C. Ten percent (10%) of each fee collected shall be remitted by
18 the institution or organization offering alcohol and drug substance
19 abuse courses to the State Treasurer to be credited to the
20 Community-based Substance Abuse Revolving Fund in the State Treasury
21 and shall be used to provide substance abuse services to the
22 indigent or to provide specialized training to alcohol and drug
23 substance abuse course facilitators. Five percent (5%) of each fee
24

1 collected by the Department shall be used for the administrative
2 costs related to providing such services.

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

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

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

11 1. Minimum curriculum requirements for such courses;

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

14 3. Minimum qualifications for course facilitators;

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

18 5. Attendance requirements; and

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

22 G. The Department of Mental Health and Substance Abuse Services
23 shall require that each ten-hour course shall be conducted in no
24 less than three sessions of no more than three and one-half (3 1/2)

1 hours each on three (3) separate days. For a twenty-four-hour
2 course, the Department shall require that:

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

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

9 3. No more than twenty-four students shall be allowed in a
10 given class.

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

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

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

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

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

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

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

13 L. No alcohol or drug substance abuse course shall operate or
14 continue to operate unless it is operated in compliance with the
15 rules promulgated by the Board and is certified as required by this
16 section.

17 SECTION 23. AMENDATORY 43A O.S. 2001, Section 3-460, as
18 last amended by Section 10, Chapter 401, O.S.L. 2008 (43A O.S. Supp.
19 2009, Section 3-460), is amended to read as follows:

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

24

1 B. Application fees for certification of assessment personnel
2 shall be set by the Department to defray the costs of administering
3 the 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 One Hundred Fifty Dollars (\$150.00) upon triennial renewal.

8 C. The fee for those undergoing an assessment and evaluation
9 pursuant to this section shall be One Hundred Sixty Dollars
10 (\$160.00). A fee of Fifteen Dollars (\$15.00) shall be remitted by
11 the individual undergoing an assessment and evaluation directly to
12 the Department of Public Safety pursuant to Section 6-212 of Title
13 47 of the Oklahoma Statutes.

14 1. The Department of Public Safety shall remit ninety percent
15 (90%) of the Fifteen Dollar (\$15.00) fee collected pursuant to this
16 section to the State Treasurer to be credited to the Community-based
17 Substance Abuse Revolving Fund in the State Treasury and shall be
18 used by the Department of Mental Health and Substance Abuse
19 Services.

20 2. Ten percent (10%) of each Fifteen Dollar (\$15.00) fee
21 collected by the Department of Public Safety pursuant to this
22 section shall be deposited into the Department of Public Safety
23 Revolving Fund, as created in Section 2-144.1 of Title 47 of the
24

1 Oklahoma Statutes, to be used for administrative costs associated
2 with the duties imposed by this section.

3 D. The Board of Mental Health and Substance Abuse Services is
4 authorized to promulgate such rules as are necessary to implement
5 the provisions of this act. Failure to comply with rules and
6 standards promulgated by the Board shall be grounds for revocation,
7 suspension or nonrenewal of certification.

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

14 F. No alcohol or drug assessment personnel shall operate or
15 continue to operate as such unless the alcohol or drug assessment
16 personnel comply with the rules promulgated by the Board and are
17 certified as required by this section.

18 SECTION 24. AMENDATORY 43A O.S. 2001, Section 3-601, as
19 last amended by Section 13, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
20 2009, Section 3-601), is amended to read as follows:

21 Section 3-601. A. Any Class II controlled dangerous substance,
22 when used in this state by an opioid substitution treatment program
23 for persons with a history of opioid addiction to or physiologic
24 dependence on controlled dangerous substances, shall only be used:

1 1. In treating persons with a history of addiction for two (2)
2 years or more;

3 2. In treating persons with a one-year history of opioid
4 addiction to or physiologic dependence on controlled dangerous
5 substances, as defined by the Code of Federal Regulations, and
6 documentation of attempting another type of treatment; or

7 3. If clinically appropriate, the program physician may waive
8 the requirement of a one-year history of opioid addiction for
9 consumers within six (6) months of release from a penal institution,
10 for consumers with a pregnancy verified by the program physician, or
11 for consumers having previously received treatment for opioid
12 addiction and within two (2) years of discharge from that treatment
13 episode.

14 B. Any conviction for a violation of the provisions of this
15 section or any rules promulgated pursuant to the provisions of this
16 section shall be a felony.

17 C. For the purposes of this section, "opioid substitution
18 treatment program" means a person, private physician, or
19 organization that administers or dispenses an opioid drug to a
20 narcotic addict for the purposes of detoxification or maintenance
21 treatment or provides, when necessary and appropriate, comprehensive
22 medical and rehabilitation services. A private physician who
23 administers buprenorphine with a waiver from the Drug Enforcement
24 Administration shall not be considered an opioid substitution

1 treatment program. An opioid substitution treatment program shall
2 be certified by the Board of Mental Health and Substance Abuse
3 Services, or the Commissioner of Mental Health and Substance Abuse
4 Services upon delegation by the Board, and registered with the
5 federal Drug Enforcement Administration for the use of an opioid
6 drug to treat narcotic addiction.

7 D. The ~~Department~~ Board of Mental Health and Substance Abuse
8 Services shall promulgate rules and standards for the certification
9 of all programs, private facilities, and organizations which provide
10 opioid substitution treatment directed to those physiologically
11 dependent on or addicted to opioids. These facilities and
12 organizations shall be known as "Opioid Substitution Treatment
13 Programs". Only certified facilities may receive and assist opioid-
14 dependent and addicted persons by providing Class II controlled
15 substances in opioid substitution treatment and rehabilitation.

16 E. The ~~Department~~ Board of Mental Health and Substance Abuse
17 Services shall promulgate rules and standards regulating the
18 treatment and services provided by opioid substitution treatment
19 programs. Failure to comply with rules and standards promulgated by
20 the Board shall be grounds for revocation, suspension or nonrenewal
21 of certification.

22 F. Opioid substitution treatment programs shall notify the
23 Department of Mental Health and Substance Abuse Services of plans to
24

1 close or relocate within a minimum of thirty (30) days prior to
2 closure or relocation.

3 G. Failure to comply with rules and standards promulgated by
4 the ~~Department~~ Board of Mental Health and Substance Abuse Services
5 pursuant to this act shall be grounds for reprimand, suspension,
6 revocation or nonrenewal of certification.

7 SECTION 25. AMENDATORY 43A O.S. 2001, Section 5-206, as
8 last amended by Section 12, Chapter 401, O.S.L. 2008 (43A O.S. Supp.
9 2009, Section 5-206), is amended to read as follows:

10 Section 5-206. As used in Sections 5-206 through 5-209 of this
11 title:

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

- 21 a. determining if a petition requesting involuntary
22 commitment or treatment is warranted, or
23 b. completing a ~~certificate of~~ mental health evaluation
24 pursuant to Section 5-414 of this title, or

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

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

11 3. "Emergency detention" means the detention of a person who
12 appears to be a person requiring treatment in a facility approved by
13 the Commissioner of Mental Health and Substance Abuse Services as
14 appropriate for such detention after the completion of an emergency
15 examination, either in person or via telemedicine, and a
16 determination that emergency detention is warranted for a period not
17 to exceed ~~seventy-two (72)~~ one hundred twenty (120) hours or five
18 (5) days, excluding weekends and holidays, except upon a court order
19 authorizing detention beyond ~~a seventy-two-hour~~ this period or
20 pending the hearing on a petition requesting involuntary commitment
21 or treatment as provided by this act;

22 4. "Protective custody" means the taking into protective
23 custody and detention of a person pursuant to the provisions of
24 Section 5-208 of this title until such time as an emergency

1 examination is completed and a determination is made as to whether
2 or not emergency detention is warranted; and

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

9 SECTION 26. AMENDATORY 43A O.S. 2001, Section 5-208, as
10 last amended by Section 1, Chapter 389, O.S.L. 2009 (43A O.S. Supp.
11 2009, Section 5-208), is amended to read as follows:

12 Section 5-208. A. 1. A consumer in protective custody as
13 provided by Section 5-207 of this title shall be subject to an
14 initial assessment at the appropriate facility by a licensed mental
15 health professional within twelve (12) hours of being placed in
16 protective custody for the purpose of determining whether emergency
17 detention of the consumer is warranted. The initial assessment of
18 the consumer shall include an appropriate screening and assessment
19 process, as determined by the Department of Mental Health and
20 Substance Abuse Services, designed to identify possible alcohol or
21 drug abuse or dependency.

22 2. If, upon examination, the licensed mental health
23 professional determines that the consumer is not a person requiring
24 treatment or that the condition of the consumer is such that

1 emergency detention is not warranted, the consumer shall either be
2 returned by an officer immediately to the point where the consumer
3 was taken into protective custody and released or taken to the home
4 or residence of such consumer or to an alternative facility. If the
5 home or residence of the consumer is a nursing home or group home,
6 such home shall not refuse the return of the consumer to his or her
7 residence.

8 3. If, upon examination, the licensed mental health
9 professional determines that the consumer is a person requiring
10 treatment to a degree that emergency detention is warranted, the
11 licensed mental health professional shall immediately prepare a
12 statement describing the findings of the examination and stating the
13 basis for the determination, and the consumer shall be detained in
14 emergency detention for a period not to exceed ~~seventy two (72)~~ one
15 hundred twenty (120) hours or five (5) days, excluding weekends and
16 holidays, except upon a court order authorizing detention pending a
17 hearing on a petition requesting involuntary commitment or
18 treatment.

19 4. During the emergency detention period:

20 a. a mental health evaluation of the consumer shall be
21 conducted by two licensed mental health professionals
22 and, if the consumer appears to have a mental illness
23 or be alcohol- or drug-dependent and be a consumer
24 requiring treatment, and

1 b. reasonable efforts shall be made to determine whether
2 the consumer has a current and unrevoked advance
3 directive executed pursuant to the Advance Directives
4 for Mental Health Treatment Act.

5 B. If a licensed mental health professional, designated to have
6 the responsibility by the executive director or person in charge of
7 a hospital, or the executive director or person in charge of a
8 facility designated by the Commissioner of Mental Health and
9 Substance Abuse Services as appropriate for emergency detention
10 believes a voluntary consumer to be a person requiring treatment to
11 a degree that emergency action is necessary, the hospital or
12 facility may detain such consumer in emergency detention for a
13 period not to exceed ~~seventy-two (72)~~ one hundred twenty (120) hours
14 or five (5) days, excluding weekends and holidays, only on the
15 following conditions:

16 1. The consumer has refused to consent or has withdrawn consent
17 to voluntary treatment;

18 2. The consumer has been examined by a licensed mental health
19 professional who has determined that the consumer is a person
20 requiring treatment, the condition of the consumer is such that
21 emergency detention is warranted, and a statement has been prepared
22 as provided in subsection A of this section; and

1 3. The executive director or person in charge or the designee
2 shall provide for a mental health evaluation of the consumer by two
3 licensed mental health professionals.

4 C. Whenever it appears that a consumer detained pursuant to the
5 provisions of this section is no longer a person requiring treatment
6 and will not require treatment beyond the period of detention, the
7 consumer shall be discharged and returned by an officer to the point
8 where he or she was taken into protective custody, or if the
9 consumer had not been in protective custody, the consumer shall be
10 taken to the home or residence of the consumer or to an alternative
11 facility. If the home or residence of the consumer is a nursing
12 home or group home, it shall not refuse the return of the consumer
13 to his or her residence.

14 D. Whenever it appears that a person detained as provided by
15 this section will require treatment beyond the period of emergency
16 detention and the person has refused to consent to voluntary
17 treatment, a licensed mental health professional conducting an
18 evaluation of the person or the executive director of the facility
19 in which the person is being detained, or the designee of the
20 executive director, shall immediately file a petition or request the
21 district attorney to file a petition with the district court as
22 provided by Section 5-410 of this title ~~or Section 9-102 of this~~
23 ~~title~~, and may request a court order directing prehearing detention
24

1 when such detention is necessary for the protection of the person or
2 others.

3 SECTION 27. AMENDATORY 43A O.S. 2001, Section 5-209, as
4 amended by Section 37, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2009,
5 Section 5-209), is amended to read as follows:

6 Section 5-209. A. A person may be detained in emergency
7 detention more than ~~seventy-two (72)~~ one hundred twenty (120) hours
8 or five (5) days, excluding weekends and holidays, only if the
9 facility in which the person being detained is presented with a copy
10 of an order of the district court authorizing further detention.
11 Such order may be entered by the court only after a petition has
12 been filed seeking involuntary commitment or treatment pursuant to
13 the provisions of Section 5-410 ~~or 9-102~~ of this title.

14 B. If a copy of an order for further detention is not delivered
15 to the facility by the end of the period of emergency detention, the
16 person alleged to be a mentally ill person, an alcohol-dependent
17 person, or a drug-dependent person and a person requiring treatment
18 shall be discharged from the facility in which detained unless said
19 person has applied for voluntary treatment.

20 C. The person being held in protective custody or emergency
21 detention shall be asked to designate any person whom such person
22 wishes informed regarding the detention. If the person being held
23 in protective custody is incapable of making such designation, the
24 peace officer holding the person in protective custody shall notify

1 within twenty-four (24) hours of taking the person into protective
2 custody, other than the person initiating the request for protective
3 custody, the attorney, parent, spouse, guardian, brother, sister, or
4 child who is at least eighteen (18) years of age of the person.
5 Failure of the sheriff to find such person shall within a reasonable
6 time be reported to the administrator of the facility. Such fact
7 shall be made a part of the records of the facility for the person
8 being detained.

9 SECTION 28. AMENDATORY 43A O.S. 2001, Section 5-306, as
10 last amended by Section 15, Chapter 401, O.S.L. 2008 (43A O.S. Supp.
11 2009, Section 5-306), is amended to read as follows:

12 Section 5-306. The application described in Section 5-305 of
13 this title shall be accompanied by a certificate in duplicate signed
14 by a licensed doctor of medicine or osteopathic physician who is
15 duly licensed to practice his such profession by the Oklahoma State
16 Board of Medical Licensure and Supervision or the Oklahoma Board of
17 Osteopathic Examiners, who is not related by blood or marriage to
18 the person being examined, and who has no interest in the estate of
19 the person being examined. This certificate shall include the
20 following:

21 1. A statement that a physician licensed in this state has
22 personally examined the person;

23
24

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

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

6 4. A statement that the person may not be held at the facility
7 for longer than ~~seventy-two (72)~~ one hundred twenty (120) hours or
8 five (5) days, excluding weekends and holidays, past the time when
9 such person has revoked consent to stay for treatment;

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

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

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

15 SECTION 29. AMENDATORY 43A O.S. 2001, Section 5-309, as
16 amended by Section 46, Chapter 150, O.S.L. 2005 (43A O.S. Supp.
17 2009, Section 5-309), is amended to read as follows:

18 Section 5-309. No consumer admitted to a state mental hospital
19 under the provisions of the Mental Hospital Voluntary Admission
20 Procedures Act shall be detained in a mental hospital against the
21 will of the person more than ~~seventy-two (72)~~ one hundred twenty
22 (120) hours or five (5) days, excluding weekends and holidays, after
23 the consumer gives notice in writing to the executive director of
24 the facility of the desire of the consumer to be discharged from the

1 facility. The executive director of the facility may designate one
2 or more employees of the facility to receive a notification provided
3 by this section with the same effect as if delivered to the
4 executive director personally.

5 SECTION 30. AMENDATORY 43A O.S. 2001, Section 5-415, as
6 last amended by Section 22, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
7 2009, Section 5-415), is amended to read as follows:

8 Section 5-415. A. Upon receiving a petition alleging a person
9 to be a person requiring treatment, the court shall set a day and
10 time for the hearing.

11 1. If the person alleged to be a person requiring treatment
12 does not have an attorney, the court shall immediately appoint an
13 attorney for the person.

14 2. If a copy of a mental health evaluation is not attached to
15 the petition at the time it is filed, the court shall immediately
16 order a mental health evaluation of the person as provided by
17 Section 5-414 of this title.

18 B. If the court deems it necessary, or if the person alleged to
19 be a person requiring treatment demands, the court shall schedule
20 the hearing on the petition as a jury trial to be held within
21 ~~seventy-two (72)~~ one hundred twenty (120) hours or five (5) days of
22 the demand, excluding weekends and holidays, or within as much
23 additional time as is requested by the attorney of such person upon
24 good cause shown.

1 C. The court, at the hearing on the petition, shall determine
2 by clear and convincing evidence whether the person is a person
3 requiring treatment.

4 1. The court shall take evidence and make findings of fact
5 concerning the person's competency to consent to or refuse the
6 treatment that may be ordered, including, but not limited to, the
7 consumer's right to refuse medication.

8 2. If a jury trial is not demanded, the court may receive as
9 evidence and act upon the affidavits of the licensed mental health
10 professionals who evaluated the person and the mental health
11 evaluation.

12 3. When the hearing is conducted as a jury trial, the
13 petitioner and any witness in behalf of the petitioner shall be
14 subject to cross-examination by the attorney for the person alleged
15 to be a person requiring treatment. The person alleged to be a
16 person requiring treatment may also be called as a witness and
17 cross-examined.

18 D. After the hearing, when the court determines that the person
19 is not a person requiring treatment, the court shall dismiss the
20 petition and, if the person is being detained, order the person to
21 be discharged from detention.

22 E. After the hearing, when the court determines the person to
23 be a person requiring treatment, the court shall order the person to
24 receive the least restrictive treatment consistent with the

1 treatment needs of the person and the safety of the person and
2 others.

3 1. The court shall not order hospitalization without a thorough
4 consideration of available treatment alternatives to hospitalization
5 and may direct the submission of evidence as to the least
6 restrictive treatment alternative or may order a mental health
7 examination.

8 2. If the court finds that a program other than hospitalization
9 is appropriate to meet the treatment needs of the individual and is
10 sufficient to prevent injury to the individual or to others, the
11 court may order the individual to receive whatever treatment other
12 than hospitalization that is appropriate for a period set by the
13 court, during which time the court shall continue its jurisdiction
14 over the individual as a person requiring treatment.

15 3. If the court orders the person to be committed for
16 involuntary inpatient treatment, the court shall commit the person
17 to the custody of the Department of Mental Health and Substance
18 Abuse Services for a placement that is suitable to the person's
19 needs or to a private facility willing to accept the person for
20 treatment.

21 4. The person shall be delivered to the custody of the
22 Department of Mental Health and Substance Abuse Services for a
23 placement that is suitable to the person's needs or to a private
24 facility willing to accept the person for treatment.

1 5. If the person is placed in the custody of the Department,
2 the Department may designate two or more facilities to provide
3 treatment and if the person to be treated or a parent, spouse,
4 guardian, brother, sister or child, who is at least eighteen (18)
5 years of age, of the person, expresses a preference for one such
6 facility, the Department shall attempt, if administratively
7 possible, to comply with the preference.

8 6. The person shall be discharged from inpatient treatment at
9 such time as the person no longer requires treatment as determined
10 by the executive director of the facility or the designee of the
11 executive director, or as otherwise required by law.

12 F. The court shall make and keep records of all cases brought
13 before it.

14 1. No records of proceedings pursuant to this section shall be
15 open to public inspection except by order of the court or to
16 employees of the Department of Mental Health and Substance Abuse
17 Services, the person's attorney of record, or persons having a
18 legitimate treatment interest.

19 2. Bonded abstractors may be deemed to be persons having a
20 legitimate interest for the purpose of having access to records
21 regarding determinations of persons requiring treatment under this
22 section.

23 SECTION 31. REPEALER 43A O.S. 2001, Sections 3-316, as
24 amended by Section 16, Chapter 150, O.S.L. 2005, 3-406, as last

1 amended by Section 10, Chapter 113, O.S.L. 2004, 3-414, as amended
2 by Section 23, Chapter 488, O.S.L. 2002 and 3-422, as amended by
3 Section 25, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2009, Sections
4 3-316, 3-406, 3-414 and 3-422), are hereby repealed.

5 SECTION 32. This act shall become effective November 1, 2010."
6 Passed the House of Representatives the 21st day of April, 2010.

7
8
9 Presiding Officer of the House of
10 Representatives

11 Passed the Senate the ____ day of _____, 2010.

12
13
14 Presiding Officer of the Senate