

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 598

By: Anderson and Crain of the
Senate

3
4 and

5 Martin (Scott) of the
House

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7
8 (mental health - Department of Mental Health and
9 Substance Abuse Services - definitions -
10 codification -

11 effective date)

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

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17 "(mental health - amending 43A O.S., Sections 1-103,
18 2-205, and 3-324 - Department of Mental Health and
19 Substance Abuse Services - fines - codification -

20 effective date)

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1 SECTION 1. AMENDATORY 43A O.S. 2001, Section 1-103, as
2 last amended by Section 1, Chapter 401, O.S.L. 2008 (43A O.S. Supp.
3 2008, Section 1-103), is amended to read as follows:

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

7 1. "Department" means the Department of Mental Health and
8 Substance Abuse Services;

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

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

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

17 5. "Commissioner" means the individual selected and appointed
18 by the Board to serve as Commissioner of Mental Health and Substance
19 Abuse Services;

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

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1 7. "Facility" means any hospital, school, building, house or
2 retreat, authorized by law to have the care, treatment or custody of
3 an individual with mental illness, or drug or alcohol dependency,
4 gambling addiction, eating disorders, or an individual receiving
5 methadone treatment for dependency purposes only, including, but not
6 limited to, public or private hospitals, community mental health
7 centers, clinics, satellites or facilities; provided that facility
8 shall not mean a child guidance center operated by the State
9 Department of Health;

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

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

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

23 11. "Licensed mental health professional" means:
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- 1 a. a psychiatrist who is a diplomate of the American
2 Board of Psychiatry and Neurology,
- 3 b. a physician licensed pursuant to Section 480 et seq.
4 or Section 620 et seq. of Title 59 of the Oklahoma
5 Statutes who has received specific training for and is
6 experienced in performing mental health therapeutic,
7 diagnostic, or counseling functions,
- 8 c. a clinical psychologist who is duly licensed to
9 practice by the State Board of Examiners of
10 Psychologists,
- 11 d. a professional counselor licensed pursuant to Section
12 1901 et seq. of Title 59 of the Oklahoma Statutes,
- 13 e. a person licensed as a clinical social worker pursuant
14 to the provisions of the Social Worker's Licensing
15 Act,
- 16 f. a licensed marital and family therapist as defined in
17 Section 1925.1 et seq. of Title 59 of the Oklahoma
18 Statutes,
- 19 g. a licensed behavioral practitioner as defined in
20 Section 1930 et seq. of Title 59 of the Oklahoma
21 Statutes,
- 22 h. an advanced practice nurse as defined in Section 567.1
23 et seq. of Title 59 of the Oklahoma Statutes
24 specializing in mental health, or

1 i. a physician's assistant who is licensed in good
2 standing in this state and has received specific
3 training for and is experienced in performing mental
4 health therapeutic, diagnostic, or counseling
5 functions;

6 12. "Mentally incompetent person" means any person who has been
7 adjudicated mentally or legally incompetent by an appropriate
8 district court;

9 13. a. "Person requiring treatment" means+

10 ~~(1) a person who because of a his or her mental~~
11 ~~illness of the person represents a risk of harm~~
12 ~~to self or others, or~~

13 ~~(2) a person who is a drug or alcohol dependent~~
14 ~~person and who as a result of dependency~~
15 ~~represents a risk of harm to self or others or~~
16 ~~drug or alcohol dependency:~~

17 (1) poses a substantial risk of physical harm in the
18 near future to self as manifested by evidence or
19 serious threats of or attempts at suicide or
20 other significant self-inflicted bodily harm, or

21 (2) poses a substantial risk of physical harm in the
22 near future to another person or persons as
23 manifested by evidence of violent behavior
24 directed toward another person or persons, or

1 (3) has placed another person or persons in a
2 reasonable fear of violent behavior directed
3 towards such person or persons or serious
4 physical harm to them as manifested by serious
5 and immediate threats, or

6 (4) is in a condition such that, without
7 intervention, there exists a substantial risk
8 that severe impairment or injury will result to
9 the person in the near future, or

10 (5) poses a substantial risk of serious physical
11 injury to self in the near future, or death in
12 the near future, as manifested by evidence that
13 the person is unable to provide for and is not
14 providing for his or her basic physical needs.

15 The mental health or substance abuse history of the
16 person may be used as part of the evidence to
17 determine whether the person is a "person requiring
18 treatment". The mental health or substance abuse
19 history of the person shall not be the sole basis for
20 this determination.

21 b. Unless a person also meets the criteria established in
22 subparagraph a of this paragraph, person requiring
23 treatment shall not mean:

- 1 (1) a person whose mental processes have been
- 2 weakened or impaired by reason of advanced years,
- 3 dementia, or Alzheimer's disease,
- 4 (2) a mentally retarded or developmentally disabled
- 5 person as defined in Title 10 of the Oklahoma
- 6 Statutes,
- 7 (3) a person with seizure disorder,
- 8 (4) a person with a traumatic brain injury, or
- 9 (5) a person who is homeless;

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

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

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

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

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

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

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

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

4 19. "Telemedicine" means the practice of health care delivery,
5 diagnosis, consultation, evaluation, treatment, transfer of medical
6 data, or exchange of medical education information by means of
7 audio, video, or data communications. Telemedicine uses audio and
8 video multimedia telecommunication equipment which permits two-way
9 real-time communication between a health care practitioner and a
10 patient who are not in the same physical location. Telemedicine
11 shall not include consultation provided by telephone or facsimile
12 machine.

13 SECTION 2. AMENDATORY 43A O.S. 2001, Section 2-205, as
14 amended by Section 9, Chapter 195, O.S.L. 2005 (43A O.S. Supp. 2008,
15 Section 2-205), is amended to read as follows:

16 Section 2-205. The Department of Mental Health and Substance
17 Abuse Services is hereby directed to employ one or more internal
18 auditors to establish and perform an effective and comprehensive
19 internal audit program. Such program shall include, but not be
20 limited to, reviews of accounting procedures, internal control,
21 financial management and compliance with laws, regulations, policies
22 and executive and legislative directives for the Department's
23 administrative offices, institutions, community mental health
24 centers and contractors. Internal audit final reports, shall be

1 made ~~directly~~ available to the Governor, the State Auditor and
2 Inspector, the Legislative Service Bureau, the Board of Mental
3 Health and Substance Abuse Services and the Commissioner of Mental
4 Health and Substance Abuse Services.

5 SECTION 3. AMENDATORY Section 9, Chapter 97, O.S.L. 2006
6 (43A O.S. Supp. 2008, Section 3-324), is amended to read as follows:

7 Section 3-324. A. The Department of Mental Health and
8 Substance Abuse Services is hereby authorized to establish and
9 collect certification ~~and~~ fees, renewal fees, and site visit fees
10 for ~~certification of~~ any program the Department is authorized by law
11 to certify, to defray the costs incurred in the certification and
12 renewal inspections and procedures.

13 B. The application and renewal fees for certification shall not
14 exceed Three Hundred Dollars (\$300.00) per certification.

15 C. Site visit fees shall not exceed Three Hundred Dollars
16 (\$300.00) per visit.

17 SECTION 4. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 3-326 of Title 43A, unless there
19 is created a duplication in numbering, reads as follows:

20 A. The Board of Mental Health and Substance Abuse Services
21 shall promulgate rules for certification of peer recovery support
22 specialists who are employed by the state or by behavioral services
23 providers contracting with the state to provide behavioral health
24 services. Such rules shall address criteria for certification and

1 renewal, 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 peer recovery support
5 specialist 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 peer recovery support
9 specialist for a period of two (2) years subject to renewal as
10 provided 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. A peer recovery support specialist certified by the Board or
15 the Commissioner shall only use the title "certified peer recovery
16 support specialist" 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 peer recovery support specialist to practice any of the
20 following professions or use the following titles unless also
21 licensed or accredited by the appropriate authority:

- 22 1. Physician;
- 23 2. Psychologist;
- 24 3. Clinical social worker;

- 1 4. Professional counselor;
- 2 5. Marital and family therapist;
- 3 6. Behavioral practitioner; or
- 4 7. Alcohol and drug counselor.

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

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

11 The Board of Mental Health and Substance Abuse Services is
12 hereby authorized to promulgate rules that establish the setting and
13 collection of fines for failure to meet the required rules for
14 certification. Such fines shall not replace nor prevent the
15 Department from seeking other sanctions against a program it
16 certifies for failure to meet the required rules for certification.

17 SECTION 6. This act shall become effective November 1, 2009."
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1 Passed the House of Representatives the 23rd day of April, 2009.

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4 Presiding Officer of the House of
Representatives
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6 Passed the Senate the ____ day of _____, 2009.

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9 Presiding Officer of the Senate
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