

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED

5 SENATE BILL NO. 598

By: Anderson and Crain of the  
Senate

6 and

7 Martin (Scott) of the House

8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to mental health; amending 43A O.S.  
11 2001, Sections 1-103, as last amended by Section 1,  
12 Chapter 401, O.S.L. 2008, 2-205, as amended by  
13 Section 9, Chapter 195, O.S.L. 2005 and Section 9,  
14 Chapter 97, O.S.L. 2006 (43A O.S. Supp. 2008,  
15 Sections 1-103, 2-205 and 3-324), which relate to the  
16 Department of Mental Health and Substance Abuse  
17 Services; modifying definitions; modifying certain  
18 reporting requirement; authorizing the establishment  
19 of certain fees; directing the Board of Mental Health  
20 and Substance Abuse Services to promulgate rules for  
21 certain specialists; specifying procedure for certain  
22 applications; authorizing certain fees; providing for  
23 the use of certain titles; authorizing the  
24 promulgation of rules establishing certain fines;  
providing for codification; and providing an  
effective date.

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

SECTION 1. AMENDATORY 43A O.S. 2001, Section 1-103, as  
last amended by Section 1, Chapter 401, O.S.L. 2008 (43A O.S. Supp.  
2008, 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 treatment for dependency purposes only, including, but not  
2 limited to, public or private hospitals, community mental health  
3 centers, clinics, satellites or facilities; provided that facility  
4 shall not mean a child guidance center operated by the State  
5 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 his or her mental~~  
6 ~~illness of the person represents a risk of harm~~  
7 ~~to self 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 or~~  
11 ~~drug or alcohol dependency:~~

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

16 (2) poses a substantial risk of physical harm in the  
17 near future to another person or persons as  
18 manifested by evidence of violent behavior  
19 directed toward another person or persons, or

20 (3) has placed another person or persons in a  
21 reasonable fear of violent behavior directed  
22 towards such person or persons or serious  
23 physical harm to them as manifested by serious  
24 and immediate threats, or

1           (4) is in a condition such that, without  
2           intervention, there exists a substantial risk  
3           that severe impairment or injury will result to  
4           the person in the near future, or

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

10          The mental health or substance abuse history of the  
11          person may be used as part of the evidence to  
12          determine whether the person is a "person requiring  
13          treatment". The mental health or substance abuse  
14          history of the person shall not be the sole basis for  
15          this determination.

16          b. Unless a person also meets the criteria established in  
17          subparagraph a of this paragraph, person requiring  
18          treatment shall not mean:

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

22               (2) a mentally retarded or developmentally disabled  
23               person as defined in Title 10 of the Oklahoma  
24               Statutes,

1 (3) a person with seizure disorder,

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

3 (5) a person who is homeless;

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

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

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

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

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

23 b. treatment methods and procedures to be used to obtain  
24 these goals, which methods and procedures are related

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

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

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

1 ~~violent behavior directed toward another person or~~  
2 ~~persons,~~

3 ~~c. having placed another person or persons in a~~  
4 ~~reasonable fear of violent behavior directed towards~~  
5 ~~such person or persons or serious physical harm to~~  
6 ~~them as manifested by serious and immediate threats,~~

7 ~~d. there exists a substantial risk that without immediate~~  
8 ~~intervention severe impairment or injury will result~~  
9 ~~to the person alleged to be a person requiring~~  
10 ~~treatment, or~~

11 ~~e. a substantial risk of immediate serious physical~~  
12 ~~injury to self, or immediate death, as manifested by~~  
13 ~~evidence that the person is unable to provide for and~~  
14 ~~is not providing for the basic physical needs of the~~  
15 ~~person and that appropriate provision for those needs~~  
16 ~~cannot be made immediately available in the community.~~

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

20 ~~19.~~ "Telemedicine" means the practice of health care delivery,  
21 diagnosis, consultation, evaluation, treatment, transfer of medical  
22 data, or exchange of medical education information by means of  
23 audio, video, or data communications. Telemedicine uses audio and  
24 video multimedia telecommunication equipment which permits two-way

1 real-time communication between a health care practitioner and a  
2 patient who are not in the same physical location. Telemedicine  
3 shall not include consultation provided by telephone or facsimile  
4 machine.

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

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

21 SECTION 3. AMENDATORY Section 9, Chapter 97, O.S.L. 2006  
22 (43A O.S. Supp. 2008, Section 3-324), is amended to read as follows:

23 Section 3-324. A. The Department of Mental Health and  
24 Substance Abuse Services is hereby authorized to establish and

1 collect certification ~~and~~ fees, renewal fees, and site visit fees  
2 for ~~certification of~~ any program the Department is authorized by law  
3 to certify, to defray the costs incurred in the certification and  
4 renewal inspections and procedures.

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

7 C. Site visit fees shall not exceed Three Hundred Dollars  
8 (\$300.00) per visit.

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

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

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

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

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

4 The Board of Mental Health and Substance Abuse Services is  
5 hereby authorized to promulgate rules that establish the setting and  
6 collection of fines for failure to meet the required rules for  
7 certification. Such fines shall not replace nor prevent the  
8 Department from seeking other sanctions against a program it  
9 certifies for failure to meet the required rules for certification.

10 SECTION 6. This act shall become effective November 1, 2009.

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