

1 ENGROSSED SENATE
2 BILL NO. 598

By: Anderson and Crain of the
Senate

3 and

4 Martin (Scott) of the House

5
6
7 [mental health - Department of Mental Health and
8 Substance Abuse Services - definitions -
9 codification -

10 effective date]

11

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

13 SECTION 1. AMENDATORY 43A O.S. 2001, Section 1-103, as
14 last amended by Section 1, Chapter 401, O.S.L. 2008 (43A O.S. Supp.
15 2008, Section 1-103), is amended to read as follows:

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

19 1. "Department" means the Department of Mental Health and
20 Substance Abuse Services;

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

23 3. "Mental illness" means a substantial disorder of thought,
24 mood, perception, psychological orientation or memory that

1 significantly impairs judgment, behavior, capacity to recognize
2 reality or ability to meet the ordinary demands of life;

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

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

8 6. "Indigent person" means a person who has not sufficient
9 assets or resources to support the person and to support members of
10 the family of the person lawfully dependent on the person for
11 support;

12 7. "Facility" means any hospital, school, building, house or
13 retreat, authorized by law to have the care, treatment or custody of
14 an individual with mental illness, or drug or alcohol dependency,
15 gambling addiction, eating disorders, or an individual receiving
16 methadone treatment for dependency purposes only, including, but not
17 limited to, public or private hospitals, community mental health
18 centers, clinics, satellites or facilities; provided that facility
19 shall not mean a child guidance center operated by the State
20 Department of Health;

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

24

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

4 10. Whenever in this law or in any other law, or in any rule or
5 order made or promulgated pursuant to this law or to any other law,
6 or in the printed forms prepared for the admission of consumers or
7 for statistical reports, the words "insane", "insanity", "lunacy",
8 "mentally sick", "mental disease" or "mental disorder" are used,
9 such terms shall have equal significance to the words "mental
10 illness";

11 11. "Licensed mental health professional" means:

- 12 a. a psychiatrist who is a diplomate of the American
13 Board of Psychiatry and Neurology,
- 14 b. a physician licensed pursuant to Section 480 et seq.
15 or Section 620 et seq. of Title 59 of the Oklahoma
16 Statutes who has received specific training for and is
17 experienced in performing mental health therapeutic,
18 diagnostic, or counseling functions,
- 19 c. a clinical psychologist who is duly licensed to
20 practice by the State Board of Examiners of
21 Psychologists,
- 22 d. a professional counselor licensed pursuant to Section
23 1901 et seq. of Title 59 of the Oklahoma Statutes,

24

- 1 e. a person licensed as a clinical social worker pursuant
2 to the provisions of the Social Worker's Licensing
3 Act,
4 f. a licensed marital and family therapist as defined in
5 Section 1925.1 et seq. of Title 59 of the Oklahoma
6 Statutes,
7 g. a licensed behavioral practitioner as defined in
8 Section 1930 et seq. of Title 59 of the Oklahoma
9 Statutes,
10 h. an advanced practice nurse as defined in Section 567.1
11 et seq. of Title 59 of the Oklahoma Statutes
12 specializing in mental health, or
13 i. a physician's assistant who is licensed in good
14 standing in this state and has received specific
15 training for and is experienced in performing mental
16 health therapeutic, diagnostic, or counseling
17 functions;

18 12. "Mentally incompetent person" means any person who has been
19 adjudicated mentally or legally incompetent by an appropriate
20 district court;

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

- 22 (1) a person who because of a his or her mental
23 ~~illness of the person represents a risk of harm~~
24 ~~to self or others, or~~

1 ~~(2) a person who is a drug or alcohol dependent~~
2 ~~person and who as a result of dependency~~
3 ~~represents a risk of harm to self or others or~~
4 ~~drug or alcohol dependency:~~

5 (a) poses a substantial risk of physical harm in
6 the near future to self as manifested by
7 evidence or serious threats of or attempts
8 at suicide or other significant self-
9 inflicted bodily harm, or

10 (b) poses a substantial risk of physical harm in
11 the near future to another person or persons
12 as manifested by evidence of violent
13 behavior directed toward another person or
14 persons, or

15 (c) has placed another person or persons in a
16 reasonable fear of violent behavior directed
17 towards such person or persons or serious
18 physical harm to them as manifested by
19 serious and immediate threats, or

20 (d) is in a condition such that, without
21 intervention, there exists a substantial
22 risk that severe impairment or injury will
23 result to the person in the near future, or
24

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

7 (2) The mental health or substance abuse history of
8 the person may be used as part of the evidence to
9 determine whether the person is a "person
10 requiring treatment". The mental health or
11 substance abuse history of the person shall not
12 be the sole basis for this determination.

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

- 16 (1) a person whose mental processes have been
17 weakened or impaired by reason of advanced years,
18 dementia, or Alzheimer's disease,
19 (2) a mentally retarded or developmentally disabled
20 person as defined in Title 10 of the Oklahoma
21 Statutes,
22 (3) a person with seizure disorder,
23 (4) a person with a traumatic brain injury, or
24 (5) a person who is homeless;

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

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

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

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

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

20 b. treatment methods and procedures to be used to obtain
21 these goals, which methods and procedures are related
22 to each of these goals and which include specific
23 prognosis for achieving each of these goals,

24

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

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

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

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

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

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

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

18 ~~19.~~ "Telemedicine" means the practice of health care delivery,
19 diagnosis, consultation, evaluation, treatment, transfer of medical
20 data, or exchange of medical education information by means of
21 audio, video, or data communications. Telemedicine uses audio and
22 video multimedia telecommunication equipment which permits two-way
23 real-time communication between a health care practitioner and a
24 patient who are not in the same physical location. Telemedicine

1 shall not include consultation provided by telephone or facsimile
2 machine.

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

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

19 SECTION 3. AMENDATORY Section 9, Chapter 97, O.S.L. 2006
20 (43A O.S. Supp. 2008, Section 3-324), is amended to read as follows:

21 Section 3-324. A. The Department of Mental Health and
22 Substance Abuse Services is hereby authorized to establish and
23 collect certification ~~and~~ fees, renewal fees, and site visit fees
24 for ~~certification of~~ any program the Department is authorized by law

1 to certify, to defray the costs incurred in the certification and
2 renewal inspections and procedures.

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

5 C. Site visit fees shall not exceed Three Hundred Dollars
6 (\$300.00) per visit.

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

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

18 B. Application for certification as a peer recovery support
19 specialist shall be made to the Department of Mental Health and
20 Substance Abuse Services on prescribed forms. The Board, or the
21 Commissioner of Mental Health and Substance Abuse Services upon
22 delegation by the Board, may certify the peer recovery support
23 specialist for a period of two (2) years subject to renewal as
24 provided in the rules promulgated by the Board.

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

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

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

19 E. Failure to comply with rules promulgated by the Board shall
20 be grounds for revocation, suspension, or nonrenewal of
21 certification.

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

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

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

8 Passed the Senate the 26th day of February, 2009.

9

10

Presiding Officer of the Senate

11

12 Passed the House of Representatives the ____ day of _____,
13 2009.

14

15

Presiding Officer of the House
of Representatives

16

17

18

19

20

21

22

23

24