

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB295 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Doug Cox _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 PROPOSED
4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 295

By: Ivester of the Senate

and

Murphey of the House

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10 PROPOSED COMMITTEE SUBSTITUTE

11 An Act relating to mental health; amending 43A O.S.
12 2011, Section 1-103, which relates to definitions;
13 adding certain term; amending 43A O.S. 2011, Section
14 3-317, which relates to community-based structured
15 crisis centers; requiring centers to comply with
16 certain standards; amending 43A O.S. 2011, Section 3-
403, which relates to definitions; adding certain
term; amending 43A O.S. 2011, Section 3-415, which
relates to certified services for alcohol- and drug-
dependent persons; adding certain exemptions; and
providing an effective date.

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

20 SECTION 1. AMENDATORY 43A O.S. 2011, Section 1-103, is
21 amended to read as follows:

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

- 1 1. "Department" means the Department of Mental Health and
2 Substance Abuse Services;
- 3 2. "Chair" means the chair of the Board of Mental Health and
4 Substance Abuse Services;
- 5 3. "Mental illness" means a substantial disorder of thought,
6 mood, perception, psychological orientation or memory that
7 significantly impairs judgment, behavior, capacity to recognize
8 reality or ability to meet the ordinary demands of life;
- 9 4. "Board" means the "Board of Mental Health and Substance
10 Abuse Services" as established by this law;
- 11 5. "Commissioner" means the individual selected and appointed
12 by the Board to serve as Commissioner of Mental Health and Substance
13 Abuse Services;
- 14 6. "Indigent person" means a person who has not sufficient
15 assets or resources to support the person and to support members of
16 the family of the person lawfully dependent on the person for
17 support;
- 18 7. "Facility" means any hospital, school, building, house or
19 retreat, authorized by law to have the care, treatment or custody of
20 an individual with mental illness, or drug or alcohol dependency,
21 gambling addiction, eating disorders, an opioid substitution
22 treatment program, including, but not limited to, public or private
23 hospitals, community mental health centers, clinics, satellites or
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1 facilities; provided that facility shall not mean a child guidance
2 center operated by the State Department of Health;

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

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

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

16 11. "Licensed mental health professional" means:

- 17 a. a psychiatrist who is a diplomate of the American
18 Board of Psychiatry and Neurology,
19 b. a physician licensed pursuant to Section 480 et seq.
20 or Section 620 et seq. of Title 59 of the Oklahoma
21 Statutes,
22 c. a clinical psychologist who is duly licensed to
23 practice by the State Board of Examiners of
24 Psychologists,

- 1 d. a professional counselor licensed pursuant to Section
2 1901 et seq. of Title 59 of the Oklahoma Statutes,
3 e. a person licensed as a clinical social worker pursuant
4 to the provisions of the Social Worker's Licensing
5 Act,
6 f. a licensed marital and family therapist as defined in
7 Section 1925.1 et seq. of Title 59 of the Oklahoma
8 Statutes,
9 g. a licensed behavioral practitioner as defined in
10 Section 1930 et seq. of Title 59 of the Oklahoma
11 Statutes,
12 h. an advanced practice nurse as defined in Section 567.1
13 et seq. of Title 59 of the Oklahoma Statutes
14 specializing in mental health, or
15 i. a physician's assistant who is licensed in good
16 standing in this state and has received specific
17 training for and is experienced in performing mental
18 health therapeutic, diagnostic, or counseling
19 functions;

20 12. "Mentally incompetent person" means any person who has been
21 adjudicated mentally or legally incompetent by an appropriate
22 district court;
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1 13. a. "Person requiring treatment" means a person who
2 because of his or her mental illness or drug or
3 alcohol dependency:

4 (1) poses a substantial risk of immediate physical
5 harm to self as manifested by evidence or serious
6 threats of or attempts at suicide or other
7 significant self-inflicted bodily harm,

8 (2) poses a substantial risk of immediate physical
9 harm to another person or persons as manifested
10 by evidence of violent behavior directed toward
11 another person or persons,

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

17 (4) is in a condition of severe deterioration such
18 that, without immediate intervention, there
19 exists a substantial risk that severe impairment
20 or injury will result to the person, or

21 (5) poses a substantial risk of immediate serious
22 physical injury to self or death as manifested by
23 evidence that the person is unable to provide for
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1 and is not providing for his or her basic
2 physical needs.

3 b. The mental health or substance abuse history of the
4 person may be used as part of the evidence to
5 determine whether the person is a person requiring
6 treatment. The mental health or substance abuse
7 history of the person shall not be the sole basis for
8 this determination.

9 c. Unless a person also meets the criteria established in
10 subparagraph a of this paragraph, person requiring
11 treatment shall not mean:

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

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

18 (3) a person with seizure disorder,

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

20 (5) a person who is homeless.

21 d. A person who meets the criteria established in this
22 section, but who is medically unstable, or the
23 facility holding the person is unable to treat the
24 additional medical conditions of that person should be

1 discharged and transported in accordance with Section
2 1-110 of this title;

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

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

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

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

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

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

3 19. "Recovery and recovery support" means nonclinical services
4 that assist individuals and families to recover from alcohol or drug
5 problems. They include social support, linkage to and coordination
6 among allied service providers, including but not limited to
7 transportation to and from treatment or employment, employment
8 services and job training, case management and individual services
9 coordination, life skills education, relapse prevention, housing
10 assistance, child care, and substance abuse education.

11 SECTION 2. AMENDATORY 43A O.S. 2011, Section 3-317, is
12 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.

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

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

14 ~~E. Failure to comply with rules and standards promulgated by~~
15 ~~the Board shall be grounds for revocation, suspension or nonrenewal~~
16 ~~of certification~~ Certified community-based structured crisis centers
17 shall comply with standards adopted by the Board. Such standards
18 shall be in compliance with:

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

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

23 3. The Council on Accreditation (COA); or
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1 4. Approved medical and professional standards as determined by
2 the Board.

3 SECTION 3. AMENDATORY 43A O.S. 2011, Section 3-403, is
4 amended to read as follows:

5 Section 3-403. As used in the Oklahoma Alcohol and Drug Abuse
6 Services Act:

7 1. "Approved treatment facility" means any facility which:

8 a. offers either inpatient, intermediate or outpatient
9 treatment to any person suffering from alcohol or drug
10 abuse, or alcohol- or drug-related problems, and

11 b. is certified by the Board of Mental Health and
12 Substance Abuse Services;

13 2. An "alcohol-dependent person" is one who uses alcoholic
14 beverages to such an extent that it impairs the health, family life,
15 or occupation of the person and compromises the health and safety of
16 the community;

17 3. A "drug-dependent person" means a person who is using a
18 controlled substance as presently defined in Section 102 of the
19 Federal Controlled Substances Act and who is in a state of psychic
20 or physical dependence, or both, arising from administration of that
21 controlled substance on an intermittent or continuous basis. Drug
22 dependence is characterized by behavioral and other responses which
23 include a strong compulsion to take the substance on a continuous
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1 basis in order to experience its psychic effects, or to avoid the
2 discomfort of its absence;

3 4. "Intoxicated person" means a person whose mental or physical
4 functioning is substantially impaired as the direct result of the
5 consumption of alcohol or drugs;

6 5. "Medical detoxification" means diagnostic and treatment
7 services performed by licensed facilities for acute alcohol
8 intoxication, delirium tremens and physical and neurological
9 complications resulting from acute intoxication. Medical
10 detoxification includes the services of a physician and attendant
11 medical personnel including nurses, interns and emergency room
12 personnel, the administration of a medical examination and a medical
13 history, the use of an emergency room and emergency medical
14 equipment if warranted, a general diet of three meals each day, the
15 administration of appropriate laboratory tests, and supervision by
16 properly trained personnel until the person is no longer medically
17 incapacitated by the effects of alcohol;

18 6. "Nonmedical detoxification" means detoxification services
19 for intoxicated clients with no apparent physical or neurological
20 symptoms requiring medical treatment as a result of their
21 intoxication. Nonmedical detoxification includes providing a bed,
22 oral administration of fluids, three meals a day and the taking of
23 the client's temperature, blood pressure and pulse at least once
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1 every six (6) hours for the duration of the client's stay in the
2 nonmedical detoxification service;

3 7. "Inpatient treatment" means the process of providing
4 residential diagnostic and treatment services on a scheduled basis;

5 8. "Intermediate care" means an organized therapeutic
6 environment in which a client may receive diagnostic services,
7 counseling, vocational rehabilitation and/or work therapy while
8 benefiting from the support which a full or partial residential
9 setting can provide. Intermediate care should provide a transition
10 between the inpatient detoxification facility and reintegration into
11 community life. Intermediate care must include provision for a bed,
12 three meals a day and medical support if needed;

13 9. "Transitional living facility" and "halfway house" means an
14 approved treatment facility which offers or provides temporary
15 residential accommodations, meals, supervision at all times
16 residents are in the facility or on facility premises, and services,
17 including counseling, short-term supportive care, case management,
18 mental health services or treatment services;

19 10. "Short-term supportive care" means a service rendered to
20 any person residing in a halfway house or transitional living
21 facility which is sufficient to assist the person to meet or achieve
22 an adequate level of daily living and to learn or develop adequate
23 daily living skills. Daily living skills shall include, but not be
24 limited to, resident participation in meal preparation and routine

1 housekeeping and laundry tasks. Short-term supportive assistance
2 includes, but is not limited to, assistance in the preparation of
3 meals, housekeeping, laundry tasks and personal hygiene. Short-term
4 supportive assistance shall not include medical services or personal
5 care as defined in Section 1-820 of Title 63 of the Oklahoma
6 Statutes; and

7 11. "Treatment" means the broad range of emergency, inpatient,
8 intermediate and outpatient services and care, including diagnostic
9 evaluation, medical, psychiatric, psychological and social service
10 care, vocational rehabilitation and career counseling, which may be
11 extended to alcohol-dependent, intoxicated and drug-dependent
12 persons; and

13 12. "Faith-based" means an organization, association, facility
14 or program that offers services within a context of religious
15 beliefs that are articulated by the organization's, association's,
16 facility's or program's mission statement, affiliations, or
17 sponsoring entities.

18 SECTION 4. AMENDATORY 43A O.S. 2011, Section 3-415, is
19 amended to read as follows:

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

1 organizations shall be known as "Certified Services for the Alcohol_
2 and Drug-Dependent". Only certified facilities may receive and
3 assist alcohol- and drug-dependent persons by providing treatment,
4 recovery support and rehabilitation.

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

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

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

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

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 6. Faith-based, nonresidential recovery programs;

19 7. Residential recovery-based programs with a resident capacity
20 of less than twelve; or

21 8. Residential recovery and recovery support programs that are
22 not collocated with certified treatment programs. However, the
23 Department of Mental Health and Substance Abuse Services shall offer
24 voluntary certification for those resident recovery and recovery

1 support programs that are not collocated with certified treatment
2 programs that desire Department certification.

3 F. Certified services for the alcohol- or drug-dependent person
4 shall comply with standards adopted by the Board. Such standards
5 shall require that treatment and therapeutic methods shall be in
6 compliance with:

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

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

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

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

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

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

21 I. The Department of Mental Health and Substance Abuse Services
22 is authorized to establish and collect certification and renewal
23 fees for certification of private facilities and organizations which
24 provide treatment, counseling and rehabilitation services directed

1 toward alcohol- and drug-dependent persons, as provided in Section
2 3-324 of this title.

3 J. Any materials or information received by the Department from
4 an applicant regarding the applicant's financial status shall not be
5 construed to be open records pursuant to the Oklahoma Open Records
6 Act.

7 SECTION 5. This act shall become effective November 1, 2013.

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