An Act

ENROLLED SENATE
BILL NO. 295

By: Ivester and Johnson (Constance) of the Senate

and

Derby and Murphey of the House

An Act relating to mental health; amending 43A O.S. 2011, Section 1-103, as amended by Section 1 of Enrolled Senate Bill No. 725 of the 1st Session of the 54th Oklahoma Legislature, which relates to definitions; adding certain term; amending 43A O.S. 2011, Section 3-317, which relates to community-based structured crisis centers; requiring centers to comply with 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.

SUBJECT: Drug and alcohol recovery and recovery support services

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

SECTION 1. AMENDATORY 43A O.S. 2011, Section 1-103, as amended by Section 1 of Enrolled Senate Bill No. 725 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

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

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

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

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

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

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

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

7. "Facility" means any hospital, school, building, house or retreat, authorized by law to have the care, treatment or custody of an individual with mental illness, or drug or alcohol dependency, gambling addiction, eating disorders, an opioid substitution treatment program, including, but not limited to, public or private hospitals, community mental health centers, clinics, satellites or facilities; provided that facility shall not mean a child guidance center operated by the State Department of Health;

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

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

10. Whenever in this law or in any other law, or in any rule or order made or promulgated pursuant to this law or to any other law,

or in the printed forms prepared for the admission of consumers or for statistical reports, the words "insane", "insanity", "lunacy", "mentally sick", "mental disease" or "mental disorder" are used, such terms shall have equal significance to the words "mental illness";

11. "Licensed mental health professional" means:

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

b. a physician licensed pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act or the Oklahoma Osteopathic Medicine Act,

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

d. a professional counselor licensed pursuant to the Licensed Professional Counselors Act,

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

f. a licensed marital and family therapist as defined in the Marital and Family Therapist Licensure Act,

g. a licensed behavioral practitioner as defined in the Licensed Behavioral Practitioner Act,

h. an advanced practice nurse as defined in the Oklahoma Nursing Practice Act specializing in mental health,

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

j. a licensed drug and alcohol counselor/mental health ("LADC/MH") as defined in the Licensed Alcohol and Drug Counselors Act;

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

13. a. "Person requiring treatment" means a person who because of his or her mental illness or drug or alcohol dependency:

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

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

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

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

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

b. The mental health or substance abuse history of the person may be used as part of the evidence to determine whether the person is a person requiring

treatment. The mental health or substance abuse history of the person shall not be the sole basis for this determination.

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

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

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

(3) a person with seizure disorder,

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

(5) a person who is homeless.

d. A person who meets the criteria established in this section, but who is medically unstable, or the facility holding the person is unable to treat the additional medical conditions of that person should be discharged and transported in accordance with Section 1-110 of this title;

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

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

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

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

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

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

c. identification of the types of professional personnel who will carry out the treatment procedures, including appropriate medical or other professional involvement by a physician or other health professional properly qualified to fulfill legal requirements mandated under state and federal law,

d. documentation of involvement by the individual receiving treatment and, if applicable, the accordance of the individual with the treatment plan, and

e. a statement attesting that the executive director of the facility or clinical director has made a reasonable effort to meet the plan's individualized treatment goals in the least restrictive environment possible closest to the home community of the individual; ~~and~~

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

shall not include consultation provided by telephone or facsimile machine; and

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

SECTION 2. AMENDATORY 43A O.S. 2011, Section 3-317, is amended to read as follows:

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

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

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

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

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

1. The Joint Commission on Accreditation of Healthcare Organizations;

2. The Commission on Accreditation of Rehabilitation Facilities;

3. The Council on Accreditation (COA); or

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

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

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

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

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

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

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

3. A "drug-dependent person" means a person who is using a controlled substance as presently defined in Section 102 of the Federal Controlled Substances Act and who is in a state of psychic or physical dependence, or both, arising from administration of that

controlled substance on an intermittent or continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence;

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

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

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

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

8. "Intermediate care" means an organized therapeutic environment in which a client may receive diagnostic services, counseling, vocational rehabilitation and/or work therapy while benefiting from the support which a full or partial residential setting can provide. Intermediate care should provide a transition between the inpatient detoxification facility and reintegration into

community life. Intermediate care must include provision for a bed, three meals a day and medical support if needed;

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

10. "Short-term supportive care" means a service rendered to any person residing in a halfway house or transitional living facility which is sufficient to assist the person to meet or achieve an adequate level of daily living and to learn or develop adequate daily living skills. Daily living skills shall include, but not be limited to, resident participation in meal preparation and routine housekeeping and laundry tasks. Short-term supportive assistance includes, but is not limited to, assistance in the preparation of meals, housekeeping, laundry tasks and personal hygiene. Short-term supportive assistance shall not include medical services or personal care as defined in Section 1-820 of Title 63 of the Oklahoma Statutes; ~~and~~

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

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

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

Section 3-415. A. 1. The Board of Mental Health and Substance Abuse Services shall promulgate rules and standards for certification for private facilities and organizations which provide

treatment, counseling, recovery and rehabilitation services directed toward alcohol- and drug-dependent persons. These facilities and organizations shall be known as "Certified Services for the Alcohol- and Drug-Dependent". Only certified facilities may receive and assist alcohol- and drug-dependent persons by providing treatment, recovery support and rehabilitation.

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

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

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

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

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

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

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

3. Programs or facilities operated by a state agency;

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

5. Programs conducted and facilities operated by the Salvation Army;

6. Faith-based, nonresidential recovery programs;

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

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

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

1. The Joint Commission on Accreditation of Healthcare Organizations;

2. The Commission on Accreditation of Rehabilitation Facilities;

3. The Council on Accreditation (COA); or

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

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

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

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

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

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

Passed the Senate the 1st day of May, 2013.

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Presiding Officer of the Senate

Passed the House of Representatives the 15th day of April, 2013.

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Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20 _____, at _____ o'clock _____ M.

By: _____