

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2215

By: Derby

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8 COMMITTEE SUBSTITUTE

9 An Act relating to mental health; amending 43A O.S.
10 2011, Section 1-103, which relates to definitions;
11 adding certain term; amending 43A O.S. 2011, Section
12 3-317, which relates to community-based structured
13 crisis centers; requiring centers to comply with
14 certain standards; amending 43A O.S. 2011, Section 3-
15 403, which relates to definitions; adding certain
16 term; amending 43A O.S. 2011, Section 3-415, which
17 relates to certified services for alcohol- and drug-
18 dependent persons; adding certain exemptions; and
19 providing an effective date.

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

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

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

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

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

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

15 (3) 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 serious
19 and immediate threats,

20 (4) is in a condition of severe deterioration such
21 that, without immediate intervention, there
22 exists a substantial risk that severe impairment
23 or injury will result to the person, or
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1 (5) poses a substantial risk of immediate serious
2 physical injury to self or death as manifested by
3 evidence that the person is unable to provide for
4 and is not providing for his or her basic
5 physical needs.

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

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

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

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

21 (3) a person with seizure disorder,

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

23 (5) a person who is homeless.
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1 d. A person who meets the criteria established in this
2 section, but who is medically unstable, or the
3 facility holding the person is unable to treat the
4 additional medical conditions of that person should be
5 discharged and transported in accordance with Section
6 1-110 of this title;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 1. The Joint Commission on Accreditation of Healthcare
4 Organizations;

5 2. The Commission on Accreditation of Rehabilitation
6 Facilities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 9. "Transitional living facility" and "halfway house" means an
22 approved treatment facility which offers or provides temporary
23 residential accommodations, meals, supervision at all times

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1 residents are in the facility or on facility premises, and services,
2 including counseling, short-term supportive care, case management,
3 mental health services or treatment services;

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

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

22 12. "Faith-based" means an organization, association, facility
23 or program that offers services within a context of religious

1 beliefs that are articulated by the organization's, association's,
2 facility's or program's mission statement, affiliations, or
3 sponsoring entities.

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

6 Section 3-415. A. 1. The Board of Mental Health and Substance
7 Abuse Services shall promulgate rules and standards for
8 certification for private facilities and organizations which provide
9 treatment, counseling, recovery and rehabilitation services directed
10 toward alcohol- and drug-dependent persons. These facilities and
11 organizations shall be known as "Certified Services for the Alcohol_
12 and Drug-Dependent". Only certified facilities may receive and
13 assist alcohol- and drug-dependent persons by providing treatment,
14 recovery support and rehabilitation.

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

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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

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

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

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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

- 1 2. Properly licensed hospitals, psychiatric and medical
2 surgical facilities;
- 3 3. Programs or facilities operated by a state agency;
- 4 4. Programs conducted and facilities operated by Alcoholics
5 Anonymous; ~~or~~
- 6 5. Programs conducted and facilities operated by the Salvation
7 Army;
- 8 6. Faith-based, nonresidential recovery programs;
- 9 7. Residential recovery-based programs with a resident capacity
10 of less than twelve;
- 11 8. Residential recovery and recovery support programs that are
12 not collocated with certified treatment programs. However, the
13 Department of Mental Health and Substance Abuse Services shall offer
14 voluntary certification for those resident recovery and recovery
15 support programs that are not collocated with certified treatment
16 programs that desire Department certification.

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

- 21 1. The Joint Commission on Accreditation of Healthcare
22 Organizations;
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1 2. The Commission on Accreditation of Rehabilitation
2 Facilities;

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

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

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

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

13 I. The Department of Mental Health and Substance Abuse Services
14 is authorized to establish and collect certification and renewal
15 fees for certification of private facilities and organizations which
16 provide treatment, counseling and rehabilitation services directed
17 toward alcohol- and drug-dependent persons, as provided in Section
18 3-324 of this title.

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

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

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3 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02/28/2013 -
4 DO PASS, As Amended.
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