

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1217 By: Sharp of the Senate
3 and
4 Grau of the House
5
6

7 An Act relating to mental health; amending 43A O.S.
8 2011, Section 5-502, which relates to definitions;
9 expanding certain definition to include certain
osteopathic psychiatrist and physician assistants;
and providing an effective date.

10

11

12 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
and insert

13

14

15 "An Act relating to mental health; amending 43A O.S.
16 2011, Section 5-502, which relates to definitions;
17 modifying certain definitions; and providing an
effective date.

17

18

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

20 SECTION 1. AMENDATORY 43A O.S. 2011, Section 5-502, is
21 amended to read as follows:

22 Section 5-502. As used in the Inpatient Mental Health and
23 Substance Abuse Treatment of Minors Act:

24 1. "Minor" means any person under eighteen (18) years of age;

1 ~~minor and the reasonable and appropriate expectation of the~~
2 ~~abilities of a minor of such age to perform such tasks.~~

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

7 (2) poses a substantial risk of physical harm to
8 another person or persons in the near future as
9 manifested by evidence of violent behavior
10 directed toward another person or persons,

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

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

20 (5) poses a substantial risk of serious physical
21 injury to self or death in the near future as
22 manifested by evidence that the minor is unable
23 to provide for and is not providing for his or
24 her basic physical needs.

1 b. The mental health or substance abuse history of the
2 minor may be used as part of the evidence to determine
3 whether the minor is a minor in need of treatment as
4 defined in this section. The mental health or
5 substance abuse history of the minor shall not be the
6 sole basis for this determination.

7 c. The term "minor in need of treatment" shall not mean a
8 minor afflicted with epilepsy, a developmental
9 disability, organic brain syndrome, physical
10 handicaps, brief periods of intoxication caused by
11 such substances as alcohol or drugs or who is truant
12 or sexually active unless the minor also meets the
13 criteria for a minor in need of treatment pursuant to
14 subparagraph a or b of this paragraph;

15 3. "Consent" means the voluntary, express, and informed
16 agreement to treatment in a mental health facility by a minor
17 sixteen (16) years of age or older or by a parent of the minor;

18 4. "Individualized treatment plan" means a specific plan for
19 the care and treatment of an individual minor who requires inpatient
20 mental health treatment. The plan shall be developed with maximum
21 involvement of the family of the minor, consistent with the desire
22 of the minor for confidentiality and with the treatment needs of the
23 minor, and shall clearly include the following:

- 1 a. a statement of the presenting problems of the minor,
2 short- and long-term treatment goals and the estimated
3 date of discharge. The short- and long-term goals
4 shall be based upon a clinical evaluation and shall
5 include specific behavioral and emotional goals
6 against which the success of treatment can be
7 measured,
- 8 b. treatment methods and procedures to be used to achieve
9 these goals, which methods and procedures are related
10 to each of these goals and which include, but are not
11 limited to, specific prognosis for achieving each of
12 these goals,
- 13 c. identification of the types of professional personnel
14 who will carry out the treatment procedures including,
15 but not limited to, appropriate licensed mental health
16 professionals, education professionals, and other
17 health or social service professionals, and
- 18 d. documentation of the involvement of the minor or the
19 parent of the minor or legal custodian in the
20 development of the treatment plan and whether all
21 persons have consented to such plan;

22 5. "Inpatient treatment" means treatment services offered or
23 provided for a continuous period of more than twenty-four (24) hours
24 in residence after admission to a mental health or substance abuse

1 treatment facility for the purpose of observation, evaluation or
2 treatment;

3 6. "Least restrictive alternative" means the treatment and
4 conditions of treatment which, separately and in combination, are no
5 more intrusive or restrictive of freedom than reasonably necessary
6 to achieve a substantial therapeutic benefit to the minor, or to
7 protect the minor or others from physical injury;

8 7. "Less restrictive alternative to inpatient treatment" means
9 and includes, but is not limited to, outpatient counseling services,
10 including services provided in the home of the minor and which may
11 be referred to as "home-based services", day treatment or day
12 hospitalization services, respite care, or foster care or group home
13 care, as defined by Section 1-1-105 of Title 10A of the Oklahoma
14 Statutes, through a program established and specifically designed to
15 meet the needs of minors in need of mental health treatment, or a
16 combination thereof;

17 8. "Licensed mental health professional" means a person who is
18 not related by blood or marriage to the person being examined or
19 does not have any interest in the estate of the person being
20 examined, and who is:

21 a. a psychiatrist who is a diplomate of the American
22 Board of Psychiatry and Neurology or American
23 Osteopathic Board of Neurology and Psychiatry,
24

- 1 b. a physician licensed pursuant to ~~Chapter 11 or Chapter~~
2 ~~14 of Title 59 of the Oklahoma Statutes who has~~
3 ~~received specific training for and is experienced in,~~
4 ~~performing mental health therapeutic, diagnostic, or~~
5 ~~counseling functions~~ the Oklahoma Allopathic Medical
6 and Surgical Licensure and Supervision Act or the
7 Oklahoma Osteopathic Medicine Act,
- 8 c. a clinical psychologist who is duly licensed to
9 practice by the State Board of Examiners of
10 Psychologists,
- 11 d. a professional counselor licensed pursuant to ~~Chapter~~
12 ~~44 of Title 59 of the Oklahoma Statutes~~ the Licensed
13 Professional Counselors Act,
- 14 e. a person licensed as a clinical social worker pursuant
15 to the provisions of the Licensed Social Workers Act,
- 16 f. a licensed marital and family therapist as defined in
17 ~~Chapter 44A of Title 59 of the Oklahoma Statutes~~ the
18 Marital and Family Therapist Licensure Act,
- 19 g. a licensed behavioral practitioner as defined in
20 ~~Chapter 44B of Title 59 of the Oklahoma Statutes~~ the
21 Licensed Behavioral Practitioner Act, ~~or~~
- 22 h. an advanced practice nurse, as defined in ~~Chapter 12~~
23 ~~of Title 59 of the Oklahoma Statutes~~ the Oklahoma
24 Nursing Practice Act, specializing in mental health,

1 i. a physician assistant, who is licensed in good
2 standing in this state, or

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

6 For the purposes of this paragraph, "licensed" means that the person
7 holds a current, valid license issued in accordance with the laws of
8 this state;

9 9. "Mental health evaluation" means an examination or
10 evaluation of a minor for the purpose of making a determination
11 whether, in the opinion of the licensed mental health professional
12 making the evaluation, the minor is a minor in need of treatment
13 and, if so, is in need of inpatient treatment and for the purpose of
14 preparing reports or making recommendations for the most appropriate
15 and least restrictive treatment for the minor;

16 10. "Mental health facility" means a public or private hospital
17 or related institution as defined by Section 1-701 of Title 63 of
18 the Oklahoma Statutes offering or providing inpatient mental health
19 services, a public or private facility accredited as an inpatient or
20 residential psychiatric facility by the Joint Commission on
21 Accreditation of Healthcare Organizations, or a facility operated by
22 the Department of Mental Health and Substance Abuse Services and
23 designated by the Commissioner of the Department of Mental Health
24

1 and Substance Abuse Services as appropriate for the inpatient
2 evaluation or treatment of minors;

3 11. "Mental illness" means a substantial disorder of the
4 child's thought, mood, perception, psychological orientation or
5 memory that demonstrably and significantly impairs judgment,
6 behavior or capacity to recognize reality or to meet the ordinary
7 demands of life. "Mental illness" may include substance abuse,
8 which is the use, without compelling medical reason, of any
9 substance which results in psychological or physiological dependency
10 as a function of continued use in such a manner as to induce mental,
11 emotional, or physical impairment and cause socially dysfunctional
12 or socially disordering behavior;

13 12. "Parent" means:

- 14 a. a biological or adoptive parent who has legal custody
15 of the minor or has visitation rights, or
- 16 b. a person judicially appointed as a legal guardian of
17 the minor, or
- 18 c. a relative within the third degree of consanguinity
19 who exercises the rights and responsibilities of legal
20 custody by delegation from a parent, as provided by
21 law;

22 13. "Person responsible for the supervision of the case" means:

- 23 a. when the minor is in the legal custody of a private
24 child care agency, the Department of Human Services or

1 the Office of Juvenile Affairs, the caseworker or
2 other person designated by the agency to supervise the
3 case, or

4 b. when the minor is a ward of the court and under the
5 court-ordered supervision of the Department of Human
6 Services, the Office of Juvenile Affairs or a
7 statutorily constituted juvenile bureau, the person
8 designated by the Department of Human Services, the
9 Office of Juvenile Affairs or juvenile bureau to
10 supervise the case;

11 14. "Initial assessment (medical necessity review)" means the
12 examination of current and recent behaviors and symptoms of a minor
13 who appears to be mentally ill, alcohol-dependent, or drug-dependent
14 and a minor requiring treatment, whose condition is such that it
15 appears that emergency detention may be warranted by a licensed
16 mental health professional at a facility approved by the
17 Commissioner of Mental Health and Substance Abuse Services, or a
18 designee, as appropriate for such examination to determine if
19 emergency detention of the minor is warranted, and whether admission
20 for inpatient mental illness or drug- or alcohol-dependence
21 treatment or evaluation constitutes the least restrictive level of
22 care necessary;

1 15. "Ward of the court" means a minor adjudicated to be a
2 deprived child, a child in need of supervision, or a delinquent
3 child;

4 16. "Treatment" means any planned intervention intended to
5 improve the functioning of a minor in those areas which show
6 impairment as a result of mental illness or drug or alcohol
7 dependence; and

8 17. "Prehearing detention order" means a court order that
9 authorizes a facility to detain a minor pending a hearing on a
10 petition to determine whether the minor is a minor in need of
11 treatment.

12 SECTION 2. This act shall become effective November 1, 2016."

13 Passed the House of Representatives the 14th day of April, 2016.

14

15

16 _____
17 Presiding Officer of the House of
Representatives

18 Passed the Senate the ____ day of _____, 2016.

19

20

21 _____
22 Presiding Officer of the Senate

22

23

24