

1 ENGROSSED SENATE
2 BILL NO. 1217

By: Sharp of the Senate

3 and

4 Grau of the House

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

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

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

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

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

17 2. "Minor in need of treatment" means a minor:

18 a. who has a demonstrable mental illness or who is drug
19 or alcohol dependent and as a result of that mental
20 illness or dependency can be expected within the near
21 future to inflict or attempt to inflict serious bodily
22 harm to himself or herself or another person, and who
23 has engaged in one or more recent overt acts or made
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1 significant recent threats which substantially support
2 that expectation, or

3 b. who has a demonstrable mental illness or is drug or
4 alcohol dependent of sufficient severity to cause
5 substantial impairment or disability in at least two
6 of the following major areas of functioning in the
7 life of the minor:

- 8 (1) family relations,
- 9 (2) school performance,
- 10 (3) social interactions,
- 11 (4) ability to perform independently the basic tasks
12 of personal hygiene, hydration and nutrition, or
- 13 (5) self-protection.

14 A determination regarding the ability of the minor to perform
15 independently such basic tasks shall be based upon the age of the
16 minor and the reasonable and appropriate expectation of the
17 abilities of a minor of such age to perform such tasks.

18 The term "minor in need of treatment" shall not mean a minor
19 afflicted with epilepsy, a developmental disability, organic brain
20 syndrome, physical handicaps, brief periods of intoxication caused
21 by such substances as alcohol or drugs or who is truant or sexually
22 active unless the minor also meets the criteria for a minor in need
23 of treatment pursuant to subparagraph a or b of this paragraph;

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

4 4. "Individualized treatment plan" means a specific plan for
5 the care and treatment of an individual minor who requires inpatient
6 mental health treatment. The plan shall be developed with maximum
7 involvement of the family of the minor, consistent with the desire
8 of the minor for confidentiality and with the treatment needs of the
9 minor, and shall clearly include the following:

10 a. a statement of the presenting problems of the minor,
11 short- and long-term treatment goals and the estimated
12 date of discharge. The short- and long-term goals
13 shall be based upon a clinical evaluation and shall
14 include specific behavioral and emotional goals
15 against which the success of treatment can be
16 measured,

17 b. treatment methods and procedures to be used to achieve
18 these goals, which methods and procedures are related
19 to each of these goals and which include, but are not
20 limited to, specific prognosis for achieving each of
21 these goals,

22 c. identification of the types of professional personnel
23 who will carry out the treatment procedures including,
24 but not limited to, appropriate licensed mental health

1 professionals, education professionals, and other
2 health or social service professionals, and

3 d. documentation of the involvement of the minor or the
4 parent of the minor or legal custodian in the
5 development of the treatment plan and whether all
6 persons have consented to such plan;

7 5. "Inpatient treatment" means treatment services offered or
8 provided for a continuous period of more than twenty-four (24) hours
9 in residence after admission to a mental health or substance abuse
10 treatment facility for the purpose of observation, evaluation or
11 treatment;

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

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

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

7 a. a psychiatrist who is a diplomate of the American
8 Board of Psychiatry and Neurology or American
9 Osteopathic Board of Neurology and Psychiatry,

10 b. a physician licensed pursuant to Chapter 11 or Chapter
11 14 of Title 59 of the Oklahoma Statutes who has
12 received specific training for and is experienced in,
13 performing mental health therapeutic, diagnostic, or
14 counseling functions,

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

18 d. a professional counselor licensed pursuant to Chapter
19 44 of Title 59 of the Oklahoma Statutes,

20 e. a person licensed as a clinical social worker pursuant
21 to the provisions of the Licensed Social Workers Act,

22 f. a licensed marital and family therapist as defined in
23 Chapter 44A of Title 59 of the Oklahoma Statutes,
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- 1 g. a licensed behavioral practitioner as defined in
2 Chapter 44B of Title 59 of the Oklahoma Statutes, ~~or~~
3 h. an advanced practice nurse, as defined in Chapter 12
4 of Title 59 of the Oklahoma Statutes, specializing in
5 mental health, or
6 i. a physician assistant, as defined by Section 519.2 of
7 Title 59 of the Oklahoma Statutes, licensed in good
8 standing in this state.

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

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

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

1 the Department of Mental Health and Substance Abuse Services and
2 designated by the Commissioner of the Department of Mental Health
3 and Substance Abuse Services as appropriate for the inpatient
4 evaluation or treatment of minors;

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

15 12. "Parent" means:

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

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

1 a. when the minor is in the legal custody of a private
2 child care agency, the Department of Human Services or
3 the Office of Juvenile Affairs, the caseworker or
4 other person designated by the agency to supervise the
5 case, or

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

13 14. "Initial assessment (medical necessity review)" means the
14 examination of current and recent behaviors and symptoms of a minor
15 who appears to be mentally ill, alcohol-dependent, or drug-dependent
16 and a minor requiring treatment, whose condition is such that it
17 appears that emergency detention may be warranted by a licensed
18 mental health professional at a facility approved by the
19 Commissioner of Mental Health and Substance Abuse Services, or a
20 designee, as appropriate for such examination to determine if
21 emergency detention of the minor is warranted, and whether admission
22 for inpatient mental illness or drug- or alcohol-dependence
23 treatment or evaluation constitutes the least restrictive level of
24 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 Senate the 24th day of February, 2016.

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Presiding Officer of the Senate

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17 Passed the House of Representatives the ____ day of _____,

18 2016.

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Presiding Officer of the House
of Representatives

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