

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 385

By: Newhouse

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5
6 AS INTRODUCED

7 An Act relating to mental health; amending 43A O.S.
8 2011, Section 1-103, as last amended by Section 1,
9 Chapter 246, O.S.L. 2017 (43A O.S. Supp. 2018,
10 Section 1-103), which relates to definitions;
11 modifying certain definition; and providing an
12 effective date.

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

14 SECTION 1. AMENDATORY 43A O.S. 2011, Section 1-103, as
15 last amended by Section 1, Chapter 246, O.S.L. 2017 (43A O.S. Supp.
16 2018, Section 1-103), is amended to read as follows:

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

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

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

24 3. "Mental illness" means a substantial disorder of thought,
25 mood, perception, psychological orientation or memory that

1 significantly impairs judgment, behavior, capacity to recognize
2 reality or ability to meet the ordinary demands of life;

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

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

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

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

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

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

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

11 11. "Licensed mental health professional" means:

- 12 a. a psychiatrist who is a diplomate of the American
13 Board of Psychiatry and Neurology,
- 14 b. a psychiatrist who is a diplomate of the American
15 Osteopathic Board of Neurology and Psychiatry,
- 16 c. a physician licensed pursuant to the Oklahoma
17 Allopathic Medical and Surgical Licensure and
18 Supervision Act or the Oklahoma Osteopathic Medicine
19 Act,
- 20 d. a clinical psychologist who is duly licensed to
21 practice by the State Board of Examiners of
22 Psychologists,
- 23 e. a professional counselor licensed pursuant to the
24 Licensed Professional Counselors Act,

- 1 f. a person licensed as a clinical social worker pursuant
2 to the provisions of the Social Worker's Licensing
3 Act,
4 g. a licensed marital and family therapist as defined in
5 the Marital and Family Therapist Licensure Act,
6 h. a licensed behavioral practitioner as defined in the
7 Licensed Behavioral Practitioner Act,
8 i. an advanced practice nurse as defined in the Oklahoma
9 Nursing Practice Act,
10 j. a physician's assistant who is licensed in good
11 standing in this state, or
12 k. a licensed drug and alcohol counselor/mental health
13 (LADC/MH) as defined in the Licensed Alcohol and Drug
14 Counselors Act;

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

18 13. a. "Person requiring treatment" means a person who
19 because of his or her mental illness ~~or drug or~~
20 ~~alcohol dependency~~ poses a substantial likelihood of
21 bodily harm, such that:

- 22 (1) ~~poses a substantial risk of immediate physical~~
23 ~~harm to self as manifested by evidence or serious~~

1 ~~threats of or attempts at suicide or other~~
2 ~~significant self-inflicted bodily harm,~~

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

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

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

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

21 the person has threatened or attempted to inflict
22 serious bodily harm to self,

23 (2) the person has threatened or attempted to inflict
24 serious bodily harm to others,

1 (3) the person has placed others in reasonable fear
2 of violent behavior and serious physical harm to
3 them,

4 (4) the person is unable to avoid severe impairment
5 or injury from specific risks, and

6 (5) there is substantial likelihood that serious harm
7 will occur unless the person is placed under
8 emergency treatment.

9 b. The mental health or substance abuse history of the
10 person may be used as part of the evidence to
11 determine whether the person is a person requiring
12 treatment or an assisted outpatient. The mental
13 health or substance abuse history of the person shall
14 not be the sole basis for this determination.

15 c. Unless a person also meets the criteria established in
16 subparagraph a or b of this paragraph, person
17 requiring treatment or an assisted outpatient shall
18 not mean:

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

22 (2) a mentally retarded or developmentally disabled
23 person as defined in Title 10 of the Oklahoma
24 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 or an assisted outpatient;

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

1 of this title, which is specifically tailored to the treatment needs
2 of the individual. Each plan shall clearly include the following:

- 3 a. a statement of treatment goals or objectives, based
4 upon and related to a clinical evaluation, which can
5 be reasonably achieved within a designated time
6 interval,
- 7 b. treatment methods and procedures to be used to obtain
8 these goals, which methods and procedures are related
9 to each of these goals and which include specific
10 prognosis for achieving each of these goals,
- 11 c. identification of the types of professional personnel
12 who will carry out the treatment procedures, including
13 appropriate medical or other professional involvement
14 by a physician or other health professional properly
15 qualified to fulfill legal requirements mandated under
16 state and federal law,
- 17 d. documentation of involvement by the individual
18 receiving treatment and, if applicable, the accordance
19 of the individual with the treatment plan, and
- 20 e. a statement attesting that the executive director of
21 the facility or clinical director has made a
22 reasonable effort to meet the plan's individualized
23 treatment goals in the least restrictive environment
24

1 possible closest to the home community of the
2 individual;

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

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

20 20. "Assisted outpatient" means a person who:

- 21 a. is either currently under the care of a facility
22 certified by the Department of Mental Health and
23 Substance Abuse Services as a Community Mental Health
24 Center, or is being discharged from the custody of the
25

1 Oklahoma Department of Corrections, or is being
2 discharged from a residential placement by the Office
3 of Juvenile Affairs,

4 b. is suffering from a mental illness,

5 c. is unlikely to survive safely in the community without
6 supervision, based on a clinical determination,

7 d. has a history of lack of compliance with treatment for
8 mental illness that has:

9 (1) prior to the filing of a petition, at least twice
10 within the last thirty-six (36) months been a
11 significant factor in necessitating
12 hospitalization or treatment in a hospital or
13 residential facility, or receipt of services in a
14 forensic or other mental health unit of a
15 correctional facility, or a specialized treatment
16 plan for treatment of mental illness in a secure
17 juvenile facility or placement in a specialized
18 residential program for juveniles, or

19 (2) prior to the filing of the petition, resulted in
20 one or more acts of serious violent behavior
21 toward self or others or threats of, or attempts
22 at, serious physical harm to self or others
23 within the last twenty-four (24) months,

- 1 e. is, as a result of his or her mental illness, unlikely
2 to voluntarily participate in outpatient treatment
3 that would enable him or her to live safely in the
4 community,
5 f. in view of his or her treatment history and current
6 behavior, is in need of assisted outpatient treatment
7 in order to prevent a relapse or deterioration which
8 would be likely to result in serious harm to the
9 person or persons as defined in this section, and
10 g. is likely to benefit from assisted outpatient
11 treatment; and

12 21. "Assisted outpatient treatment" means outpatient services
13 which have been ordered by the court pursuant to a treatment plan
14 approved by the court to treat an assisted outpatient's mental
15 illness and to assist the person in living and functioning in the
16 community, or to attempt to prevent a relapse or deterioration that
17 may reasonably be predicted to result in suicide or the need for
18 hospitalization.

19 SECTION 2. This act shall become effective November 1, 2019.
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21 57-1-1603 DC 5/19/2020 6:58:00 PM
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