

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1761

By: Newhouse

4  
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 29,  
9 Chapter 475, O.S.L. 2019 (43A O.S. Supp. 2019,  
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 29, Chapter 475, O.S.L. 2019 (43A O.S. Supp.  
16 2019, 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:

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

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

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

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

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

20 b. The mental health or substance abuse history of the  
21 person may be used as part of the evidence to  
22 determine whether the person is a person requiring  
23 treatment or an assisted outpatient. The mental  
24

1 health or substance abuse history of the person shall  
2 not be the sole basis for this determination.

3 c. Unless a person also meets the criteria established in  
4 subparagraph a or b of this paragraph, "person  
5 requiring treatment" or an "assisted outpatient" shall  
6 not mean:

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

10 (2) a person with intellectual or developmental  
11 disability as defined in Title 10 of the Oklahoma  
12 Statutes,

13 (3) a person with seizure disorder,

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

15 (5) a person who is homeless.

16 d. A person who meets the criteria established in this  
17 section but who is medically unstable, or the facility  
18 holding the person is unable to treat the additional  
19 medical conditions of that person, should be  
20 discharged and transported in accordance with Section  
21 1-110 of this title;

22 14. "Petitioner" means a person who files a petition alleging  
23 that an individual is a person requiring treatment or an assisted  
24 outpatient;

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

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

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

- 14 a. a statement of treatment goals or objectives, based  
15 upon and related to a clinical evaluation, which can  
16 be reasonably achieved within a designated time  
17 interval,
- 18 b. treatment methods and procedures to be used to obtain  
19 these goals, which methods and procedures are related  
20 to each of these goals and which include specific  
21 prognosis for achieving each of these goals,
- 22 c. identification of the types of professional personnel  
23 who will carry out the treatment procedures, including  
24 appropriate medical or other professional involvement

1 by a physician or other health professional properly  
2 qualified to fulfill legal requirements mandated under  
3 state and federal law,

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

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

13 18. "Telemedicine" means the practice of health care delivery,  
14 diagnosis, consultation, evaluation, treatment, transfer of medical  
15 data, or exchange of medical education information by means of  
16 audio, video, or data communications. Telemedicine uses audio and  
17 video multimedia telecommunication equipment which permits two-way  
18 real-time communication between a health care practitioner and a  
19 patient who are not in the same physical location. Telemedicine  
20 shall not include consultation provided by telephone or facsimile  
21 machine;

22 19. "Recovery and recovery support" means nonclinical services  
23 that assist individuals and families to recover from alcohol or drug  
24 problems. They include social support, linkage to and coordination

1 among allied service providers, including but not limited to  
2 transportation to and from treatment or employment, employment  
3 services and job training, case management and individual services  
4 coordination, life skills education, relapse prevention, housing  
5 assistance, child care, and substance abuse education;

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

- 7 a. is either currently under the care of a facility  
8 certified by the Department of Mental Health and  
9 Substance Abuse Services as a Community Mental Health  
10 Center, or is being discharged from the custody of the  
11 Oklahoma Department of Corrections, or is being  
12 discharged from a residential placement by the Office  
13 of Juvenile Affairs,  
14 b. is suffering from a mental illness,  
15 c. is unlikely to survive safely in the community without  
16 supervision, based on a clinical determination,  
17 d. has a history of lack of compliance with treatment for  
18 mental illness that has:

- 19 (1) prior to the filing of a petition, at least twice  
20 within the last thirty-six (36) months been a  
21 significant factor in necessitating  
22 hospitalization or treatment in a hospital or  
23 residential facility, including admission to a  
24 community-based structured crisis center as

1 certified by the Oklahoma Department of Mental  
2 Health and Substance Abuse Services, or receipt  
3 of services in a forensic or other mental health  
4 unit of a correctional facility, or a specialized  
5 treatment plan for treatment of mental illness in  
6 a secure juvenile facility or placement in a  
7 specialized residential program for juveniles, or  
8 (2) prior to the filing of the petition, resulted in  
9 one or more acts of serious violent behavior  
10 toward self or others or threats of, or attempts  
11 at, serious physical harm to self or others  
12 within the last twenty-four (24) months,

13 e. is, as a result of his or her mental illness, unlikely  
14 to voluntarily participate in outpatient treatment  
15 that would enable him or her to live safely in the  
16 community,

17 f. in view of his or her treatment history and current  
18 behavior, is in need of assisted outpatient treatment  
19 in order to prevent a relapse or deterioration which  
20 would be likely to result in serious harm to the  
21 person or persons as defined in this section, and

22 g. is likely to benefit from assisted outpatient  
23 treatment; and  
24

1           21. "Assisted outpatient treatment" means outpatient services  
2 which have been ordered by the court pursuant to a treatment plan  
3 approved by the court to treat an assisted outpatient's mental  
4 illness and to assist the person in living and functioning in the  
5 community, or to attempt to prevent a relapse or deterioration that  
6 may reasonably be predicted to result in suicide or the need for  
7 hospitalization.

8           SECTION 2. This act shall become effective November 1, 2020.

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10           57-2-2493           DC           1/16/2020 5:06:21 PM