

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3877

By: Boatman

AS INTRODUCED

An Act relating to mental health; amending 43A O.S. 2021, Section 1-103, which relates to definitions; modifying definitions; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 2021, Section 1-103, is amended to read as follows:

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

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

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

3. "Mental illness" means a substantial disorder of thought, 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,

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

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

13. a. "Person requiring treatment" means a person who because of his or her mental illness or drug or alcohol dependency:

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

- 1 (2) poses a substantial risk of ~~immediate~~ physical  
2 harm to another person ~~or~~, persons, or property  
3 as manifested by evidence of violent behavior  
4 directed toward another person or persons or  
5 extreme destruction of property,
- 6 (3) has placed another person or persons in a  
7 reasonable fear of violent behavior directed  
8 towards such person or persons or serious  
9 physical harm to them as manifested by serious  
10 and immediate threats,
- 11 (4) is in a condition of severe deterioration such  
12 that, without immediate intervention, there  
13 exists a substantial risk that severe mental  
14 impairment or physical injury will result to the  
15 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, or
- 21 (6) has a relevant past history of inflicting or  
22 attempting to inflict harm to one or more  
23 persons, which indicates that there is a  
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1                   substantial reasonable probability that the  
2                   conduct will occur again.

3       b.   ~~The~~ To the extent it is reasonably available, the  
4           mental health or substance abuse history of the person  
5           shall be considered and may be ~~used~~ proffered as part  
6           of the evidence to determine whether the person is a  
7           person requiring treatment or an assisted outpatient.  
8           The mental health or substance abuse history of the  
9           person shall not be the sole basis for this  
10          determination.

11       c.   Unless a person also meets the criteria established in  
12           subparagraph a or b of this paragraph, "person  
13           requiring treatment" or an "assisted outpatient" shall  
14           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 person with intellectual or developmental  
19                 disability 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.

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

a. a statement of treatment goals or objectives, based upon and related to a clinical evaluation, which can

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;

22 18. "Telemedicine" means technology-enabled health and care  
23 management and delivery systems that extend capacity and access,  
24 which includes:



- a. synchronous mechanisms, which may include live audiovisual interaction between a patient and a health care professional or real-time provider to provider consultation through live interactive audiovisual means,
- b. asynchronous mechanisms, which include store and forward transfers, online exchange of health information between a patient and a health care professional and online exchange of health information between health care professionals, but shall not include the use of automated text messages or automated mobile applications that serve as the sole interaction between a patient and a health care professional,
- c. remote patient monitoring, and
- d. other electronic means that support clinical health care, professional consultation, patient and professional health-related education, public health and health administration;

19. "Recovery and recovery support" means nonclinical services that assist individuals and families to recover from alcohol or drug problems. They include social support, linkage to and coordination among allied service providers including but not limited to transportation to and from treatment or employment, employment

1 services and job training, case management and individual services  
2 coordination, life skills education, relapse prevention, housing  
3 assistance, child care, and substance abuse education;

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

- 5 a. is either currently under the care of a facility  
6 certified by the Department of Mental Health and  
7 Substance Abuse Services as a Community Mental Health  
8 Center, or is being discharged from the custody of the  
9 Oklahoma Department of Corrections, or is being  
10 discharged from a residential placement by the Office  
11 of Juvenile Affairs,
- 12 b. is suffering from a mental illness,
- 13 c. is unlikely to survive safely in the community without  
14 supervision, based on a clinical determination,
- 15 d. has a history of lack of compliance with treatment for  
16 mental illness that has:
  - 17 (1) prior to the filing of a petition, at least twice  
18 within the last thirty-six (36) months been a  
19 significant factor in necessitating  
20 hospitalization or treatment in a hospital or  
21 residential facility including admission to a  
22 community-based structured crisis center as  
23 certified by the Oklahoma Department of Mental  
24 Health and Substance Abuse Services, or receipt

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

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

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

20 g. is likely to benefit from assisted outpatient  
21 treatment; and

22 21. "Assisted outpatient treatment" means outpatient services  
23 which have been ordered by the court pursuant to a treatment plan  
24 approved by the court to treat an assisted outpatient's mental

1 illness and to assist the person in living and functioning in the  
2 community, or to attempt to prevent a relapse or deterioration that  
3 may reasonably be predicted to result in suicide or the need for  
4 hospitalization.

5 SECTION 2. This act shall become effective November 1, 2022.

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