

SENATE FLOOR VERSION

April 11, 2024

ENGROSSED HOUSE
BILL NO. 3451

By: Boatman and Deck of the
House

and

Rosino of the Senate

An Act relating to mental health; amending 43A O.S.
2021, Section 1-103, as amended by Section 1, Chapter
297, O.S.L. 2022 (43A O.S. Supp. 2023, Section 1-
103), which relates to definitions; clarifying a
definition; 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, as
amended by Section 1, Chapter 297, O.S.L. 2022 (43A O.S. Supp. 2023,
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;

1 3. "Mental illness" means a substantial disorder of thought,
2 mood, perception, psychological orientation or memory that
3 significantly impairs judgment, behavior, capacity to recognize
4 reality or ability to meet the ordinary demands of life;

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

7 5. "Commissioner" means the Commissioner of Mental Health and
8 Substance Abuse Services;

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

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

22 8. "Consumer" means a person under care or treatment in a
23 facility pursuant to the Mental Health Law, or in an outpatient
24 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~~ alcohol and ~~alcohol~~ drug
13 counselor/mental health (LADC/MH) as defined in the
14 Licensed Alcohol and Drug 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 meets at least one of the
21 following:

- 22 (1) poses a substantial risk of immediate physical
23 harm to self as manifested by evidence or serious
24

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 that is
13 continuing, as has been observed within the
14 previous seventy-two (72) hour period such that,
15 without immediate intervention, there exists a
16 substantial risk that severe impairment or injury
17 will result to the person, or

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

23 b. ~~The~~ To the extent it is reasonably available, the
24 relevant mental health or substance abuse history of

1 the person shall be considered and may be ~~used~~
2 proffered as part of the evidence to determine whether
3 the person is a person requiring treatment or an
4 assisted outpatient. The mental health or substance
5 abuse history of the person shall not be the sole
6 basis for this determination.

7 c. Unless a person also meets the criteria established in
8 subparagraph a or b of this paragraph, "person
9 requiring treatment" or an "assisted outpatient" shall
10 not mean:

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

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

17 (3) a person with seizure disorder,

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

19 (5) a person who is homeless.

20 d. (1) A person who meets the criteria established in
21 this paragraph but who is medically unstable may
22 be discharged and transported in accordance with
23 Section 1-110 of this title. Alternatively, if
24 the facility holding the person is able to treat

1 the additional medical conditions of that person,
2 the facility may treat the additional medical
3 conditions in an effort to medically stabilize
4 the patient.

5 (2) If the facility holding the person is unable to
6 treat the additional medical conditions of a
7 person who meets the criteria established in this
8 paragraph, the patient shall be discharged and
9 transported in accordance with Section 1-110 of
10 this title.

11 (3) All time elapsed during medical stabilization
12 tolls the twelve (12) hour time for an initial
13 assessment pursuant to paragraph 1 of subsection
14 A of Section 5-208 of this title, and the one-
15 hundred-twenty-hour emergency detention time
16 pursuant to paragraph 3 of subsection A of
17 Section 5-208 of this title;

18 14. "Petitioner" means a person who files a petition alleging
19 that an individual is a person requiring treatment or an assisted
20 outpatient;

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

23 16. "Private hospital or facility" means any general hospital
24 maintaining a neuro-psychiatric unit or ward, or any private

1 hospital or facility for care and treatment of a person having a
2 mental illness, which is not supported by the state or federal
3 government. The term "private hospital" or "facility" shall not
4 include nursing homes or other facilities maintained primarily for
5 the care of elderly and disabled persons;

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

10 a. a statement of treatment goals or objectives, based
11 upon and related to a clinical evaluation, which can
12 be reasonably achieved within a designated time
13 interval,

14 b. treatment methods and procedures to be used to obtain
15 these goals, which methods and procedures are related
16 to each of these goals and which include specific
17 prognosis for achieving each of these goals,

18 c. identification of the types of professional personnel
19 who will carry out the treatment procedures including
20 appropriate medical or other professional involvement
21 by a physician or other health professional properly
22 qualified to fulfill legal requirements mandated under
23 state and federal law,
24

- d. documentation of involvement by the individual receiving treatment and, if applicable, the accordance of the individual with the treatment plan, and
- e. a statement attesting that the executive director of the facility or clinical director has made a reasonable effort to meet the plan's individualized treatment goals in the least restrictive environment possible closest to the home community of the individual;

18. "Telemedicine" means technology-enabled health and care management and delivery systems that extend capacity and access, 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

1 interaction between a patient and a health care
2 professional,
3 c. remote patient monitoring, and
4 d. other electronic means that support clinical health
5 care, professional consultation, patient and
6 professional health-related education, public health
7 and health administration;

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

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

- 17 a. is either currently under the care of a facility
18 certified by the Department of Mental Health and
19 Substance Abuse Services as a Community Mental Health
20 Center, or is being discharged from the custody of the
21 Oklahoma Department of Corrections, or is being
22 discharged from a residential placement by the Office
23 of Juvenile Affairs,
24 b. is suffering from a mental illness,

- 1 c. is unlikely to survive safely in the community without
2 supervision, based on a clinical determination,
- 3 d. has a history of lack of compliance with treatment for
4 mental illness that has:
- 5 (1) prior to the filing of a petition, at least twice
6 within the last thirty-six (36) months been a
7 significant factor in necessitating
8 hospitalization or treatment in a hospital or
9 residential facility including admission to a
10 community-based structured crisis center as
11 certified by the Oklahoma Department of Mental
12 Health and Substance Abuse Services, or receipt
13 of services in a forensic or other mental health
14 unit of a correctional facility, or a specialized
15 treatment plan for treatment of mental illness in
16 a secure juvenile facility or placement in a
17 specialized residential program for juveniles, or
- 18 (2) prior to the filing of the petition, resulted in
19 one or more acts of serious violent behavior
20 toward self or others or threats of, or attempts
21 at, serious physical harm to self or others
22 within the last twenty-four (24) months,
- 23 e. is, as a result of his or her mental illness, unlikely
24 to voluntarily participate in outpatient treatment

1 that would enable him or her to live safely in the
2 community,

- 3 f. in view of his or her treatment history and current
4 behavior, is in need of assisted outpatient treatment
5 in order to prevent a relapse or deterioration which
6 would be likely to result in serious harm to the
7 person or persons as defined in this section, and
8 g. is likely to benefit from assisted outpatient
9 treatment;

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

17 22. "Urgent recovery clinic" means a clinic that offers
18 voluntary services aimed at the assessment and immediate
19 stabilization of acute symptoms of mental illness, alcohol and other
20 drug abuse, and emotional distress. Unless the person receiving
21 treatment consents to a longer duration or unless the person is
22 placed into emergency detention under Sections 5-206 through 5-209
23 of this title, no more than twenty-three (23) hours and fifty-nine
24

1 (59) minutes of services may be provided to a consumer during one
2 episode of care at an urgent recovery clinic.

3 SECTION 2. This act shall become effective November 1, 2024.

4 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
5 April 11, 2024 - DO PASS
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