

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1738

By: Weaver

AS INTRODUCED

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; modifying definitions; updating statutory language; updating statutory reference; 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;
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 Commissioner of Mental Health and  
6 Substance Abuse Services;

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

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

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

22 9. "Care and treatment" means medical care and behavioral  
23 health services, as well as food, clothing and maintenance,  
24 furnished to a person;

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

8           11. "Licensed mental health professional" means:

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

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

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

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

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

1 by evidence of violent behavior directed toward  
2 another person or persons,

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

8 (4) is in a condition of severe deterioration such  
9 that, without ~~immediate~~ intervention, there  
10 exists a substantial risk that severe impairment  
11 or injury will result to the person, or

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

17 b. The mental health or substance abuse history of the  
18 person may be used as part of the evidence to  
19 determine whether the person is a person requiring  
20 treatment or an assisted outpatient. The mental  
21 health or substance abuse history of the person shall  
22 not be the sole basis for this determination.

23 c. Unless a person also meets the criteria established in  
24 subparagraph a or b of this paragraph, "person  
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1 requiring treatment" or an "assisted outpatient" shall  
2 not mean:

- 3 (1) a person whose mental processes have been  
4 weakened or impaired by reason of advanced years,  
5 dementia, or Alzheimer's disease,  
6 (2) a person with intellectual or developmental  
7 disability as defined in Title 10 of the Oklahoma  
8 Statutes,  
9 (3) a person with seizure disorder, or  
10 (4) a person with a traumatic brain injury, ~~or~~  
11 ~~(5) a person who is homeless.~~

12 d. (1) A person who meets the criteria established in  
13 this paragraph but who is medically unstable may  
14 be discharged and transported in accordance with  
15 Section 1-110 of this title. Alternatively, if  
16 the facility holding the person is able to treat  
17 the additional medical conditions of that person,  
18 the facility may treat the additional medical  
19 conditions in an effort to medically stabilize  
20 the patient.

21 (2) If the facility holding the person is unable to  
22 treat the additional medical conditions of a  
23 person who meets the criteria established in this  
24 paragraph, the patient shall be discharged and

1 transported in accordance with Section 1-110 of  
2 this title;

3 14. "Petitioner" means a person who files a petition alleging  
4 that an individual is a person requiring treatment or an assisted  
5 outpatient;

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

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

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

- 20 a. a statement of treatment goals or objectives, based  
21 upon and related to a clinical evaluation, which can  
22 be reasonably achieved within a designated time  
23 interval,

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

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

- 23           a. synchronous mechanisms, which may include live  
24           audiovisual interaction between a patient and a health  
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1 care professional or real-time provider to provider  
2 consultation through live interactive audiovisual  
3 means,

- 4 b. asynchronous mechanisms, which include store and  
5 forward transfers, online exchange of health  
6 information between a patient and a health care  
7 professional and online exchange of health information  
8 between health care professionals, but shall not  
9 include the use of automated text messages or  
10 automated mobile applications that serve as the sole  
11 interaction between a patient and a health care  
12 professional,
- 13 c. remote patient monitoring, and
- 14 d. other electronic means that support clinical health  
15 care, professional consultation, patient and  
16 professional health-related education, public health  
17 and health administration;

18 19. "Recovery and recovery support" means nonclinical services  
19 that assist individuals and families to recover from alcohol or drug  
20 problems. They include social support, linkage to and coordination  
21 among allied service providers including but not limited to  
22 transportation to and from treatment or employment, employment  
23 services and job training, case management and individual services  
24

1 coordination, life skills education, relapse prevention, housing  
2 assistance, child care, and substance abuse education;

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

- 4 a. is either currently under the care of a facility  
5 certified by the Department of Mental Health and  
6 Substance Abuse Services as a ~~Community Mental Health~~  
7 ~~Center~~ community mental health center, or is being  
8 discharged from the custody of the ~~Oklahoma~~ Department  
9 of Corrections, or is being discharged from a  
10 residential placement by the Office of Juvenile  
11 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;

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; and

5 22. "Urgent recovery clinic" means a clinic that offers  
6 voluntary services aimed at the assessment and immediate  
7 stabilization of acute symptoms of mental illness, alcohol and other  
8 drug abuse, and emotional distress. Unless the person receiving  
9 treatment consents to a longer duration or unless the person is  
10 placed into emergency detention under Sections 5-206 through 5-209  
11 of this title, no more than twenty-three (23) hours and fifty-nine  
12 (59) minutes of services may be provided to a consumer during one  
13 episode of care at an urgent recovery clinic.

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

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