

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3451

By: Boatman

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; 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:

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 not sufficient
8 assets or resources to support the person and to support members of
9 the family of the person lawfully dependent on the person for
10 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, or has a verifiable relevant past
20 history of posing such risk of harm, as
21 manifested by evidence or serious threats of or
22 attempts at suicide or other significant self-
23 inflicted bodily harm,

- 1 (2) poses a substantial risk of immediate physical
2 harm to another person ~~or~~, persons, or property,
3 or has a verifiable relevant past history of
4 posing such risk of harm, as manifested by
5 evidence of violent behavior directed toward
6 another person or persons or extreme destruction
7 of property,
- 8 (3) has placed another person or persons in a
9 reasonable fear of violent behavior directed
10 towards such person or persons or serious
11 physical harm to them as manifested by serious
12 and immediate threats,
- 13 (4) is in a condition of severe deterioration such
14 that, without immediate intervention, there
15 exists a substantial risk that severe mental
16 impairment or physical injury will result to the
17 person, or
- 18 (5) poses a substantial risk of immediate serious
19 physical injury to self or death, or has a
20 verifiable relevant past history of posing such
21 risks of harm, as manifested by evidence that the
22 person is unable to provide for and is not
23 providing for his or her basic physical needs.
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1 b. ~~The~~ To the extent it is reasonably available, the
2 mental health or substance abuse history of the person
3 shall be considered and may be used proffered as part
4 of the evidence to determine whether the person is a
5 person requiring treatment or an assisted outpatient.
6 The mental health or substance abuse history of the
7 person shall not be the sole basis for this
8 determination.

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

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

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

19 (3) a person with seizure disorder,

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

21 (5) a person who is homeless.

22 d. (1) A person who meets the criteria established in
23 this paragraph but who is medically unstable may
24 be discharged and transported in accordance with
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1 Section 1-110 of this title. Alternatively, if
2 the facility holding the person is able to treat
3 the additional medical conditions of that person,
4 the facility may treat the additional medical
5 conditions in an effort to medically stabilize
6 the patient.

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

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

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

18 16. "Private hospital or facility" means any general hospital
19 maintaining a neuro-psychiatric unit or ward, or any private
20 hospital or facility for care and treatment of a person having a
21 mental illness, which is not supported by the state or federal
22 government. The term "private hospital" or "facility" shall not
23 include nursing homes or other facilities maintained primarily for
24 the care of elderly and disabled persons;

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

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

1 treatment goals in the least restrictive environment
2 possible closest to the home community of the
3 individual;

4 18. "Telemedicine" means technology-enabled health and care
5 management and delivery systems that extend capacity and access,
6 which includes:

- 7 a. synchronous mechanisms, which may include live
8 audiovisual interaction between a patient and a health
9 care professional or real-time provider to provider
10 consultation through live interactive audiovisual
11 means,
- 12 b. asynchronous mechanisms, which include store and
13 forward transfers, online exchange of health
14 information between a patient and a health care
15 professional and online exchange of health information
16 between health care professionals, but shall not
17 include the use of automated text messages or
18 automated mobile applications that serve as the sole
19 interaction between a patient and a health care
20 professional,
- 21 c. remote patient monitoring, and
- 22 d. other electronic means that support clinical health
23 care, professional consultation, patient and
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1 professional health-related education, public health
2 and health administration;

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

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

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

19 e. is, as a result of his or her mental illness, unlikely
20 to voluntarily participate in outpatient treatment
21 that would enable him or her to live safely in the
22 community,

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

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

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

22 SECTION 2. This act shall become effective November 1, 2024.
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24 59-2-9338 TJ 01/03/24
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