

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

HOUSE BILL 3489

By: McCane

AS INTRODUCED

An Act relating to mental health crisis; creating the Oklahoma Health Crisis Communication and Patient Rights Act; defining terms; providing for intake procedures; providing for temporary decision support; establishing regulations for capacity and consent; providing for transfer notification and continuity of care; allowing for coordination with primary care providers; requiring reports to the Legislature; providing for patient rights; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Oklahoma Health Crisis Communication and Patient Rights Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-110 of Title 43A, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1        1. "Approved contact" means an individual designated verbally  
2 or in writing by the patient to receive information consistent with  
3 federal and state law including the Health Insurance Portability and  
4 Accountability Act (HIPAA);

5        2. "Capacity assessment" means a clinical determination of a  
6 patient's ability to understand, make, and communicate informed  
7 decisions concerning treatment;

8        3. "Mental health facility" means any hospital crisis center,  
9 residential treatment program, or other licensed facility that  
10 provides evaluation, stabilization, or treatment for mental health  
11 conditions; and

12        4. "Temporary decision support" means a lawful process created  
13 by this act that allows a family member or legally authorized  
14 representative to participate in treatment decisions when a patient  
15 lacks decision-making capacity.

16        SECTION 3.        NEW LAW        A new section of law to be codified  
17 in the Oklahoma Statutes as Section 4-110.1 of Title 43A, unless  
18 there is created a duplication in numbering, reads as follows:

19        A. At the time of intake, every mental health facility shall:

20        1. Request that each patient identify one or more approved  
21 contacts;

22        2. Inform the patient of the right to authorize communication  
23 with family members, caregivers, or representatives; and  
24

1        3. Document the designation or refusal to designate any  
2 approved contact.

3        B. When a patient is unable to communicate preferences, the  
4 facility may share limited information with a family member,  
5 caregiver, or responsible party based on professional judgment and  
6 in the best interest of the patient, consistent with the Health  
7 Insurance Portability and Accountability Act (HIPAA).

8        C. All attempts to obtain patient authorization and all uses of  
9 professional judgment pursuant to this section shall be documented  
10 in the patient record.

11        SECTION 4.        NEW LAW        A new section of law to be codified  
12 in the Oklahoma Statutes as Section 4-110.2 of Title 43A, unless  
13 there is created a duplication in numbering, reads as follows:

14        A. The Oklahoma Department of Mental Health and Substance Abuse  
15 Services shall establish a statewide temporary decision support  
16 process for patients who temporarily lack decision-making capacity.

17        B. The temporary decision support process shall:

18        1. Allow participation by a family member or legally authorized  
19 representative;

20        2. Apply only during periods in which a patient is unable to  
21 make informed decisions;

22        3. Terminate immediately upon the patient regaining capacity;

23        4. Not replace guardianship proceedings or alter due process  
24 requirements; and

1        5. Comply with all federal and state privacy and patient  
2 protection laws.

3        C. All determinations of lack of capacity and all uses of  
4 temporary decision support shall be documented in the patient  
5 record.

6        SECTION 5.        NEW LAW        A new section of law to be codified  
7 in the Oklahoma Statutes as Section 4-110.3 of Title 43A, unless  
8 there is created a duplication in numbering, reads as follows:

9        A. No mental health facility shall request or require a patient  
10 to sign medical, legal, or financial documents when the patient is  
11 experiencing impairment that affects decision making capacity.

12        B. Facilities shall conduct and document a capacity assessment  
13 prior to obtaining informed consent for major treatment decisions or  
14 legal acknowledgments.

15        C. When a patient lacks capacity the facility shall follow  
16 procedures established pursuant to Section 4 of this act.

17        SECTION 6.        NEW LAW        A new section of law to be codified  
18 in the Oklahoma Statutes as Section 4-110.4 of Title 43A, unless  
19 there is created a duplication in numbering, reads as follows:

20        A. Prior to transferring a patient to another facility, the  
21 originating mental health facility shall:

22        1. Notify all approved contacts unless the patient expressly  
23 restricts notification;  
24

1        2. Provide the receiving facility with relevant information  
2 necessary to ensure continuity of care; and

3        3. Document the clinical justification for any transfer and  
4 comply with all applicable requirements of the Emergency Medical  
5 Treatment and Labor Act.

6        B. A facility that fails to notify an approved contact without  
7 documented patient restriction or documented safety necessity shall  
8 be subject to administrative review by the Oklahoma Department of  
9 Mental Health and Substance Abuse Services.

10       SECTION 7.       NEW LAW       A new section of law to be codified  
11 in the Oklahoma Statutes as Section 4-110.5 of Title 43A, unless  
12 there is created a duplication in numbering, reads as follows:

13       A. When clinically appropriate and when permitted by patient  
14 authorization or professional judgment consistent with the Health  
15 Insurance Portability and Accountability Act (HIPAA), mental health  
16 facilities shall coordinate care with the patient's primary care  
17 provider.

18       B. Coordination may include the exchange of medication history,  
19 relevant medical records, discharge planning information, and other  
20 data required to support continuity of care.

21       SECTION 8.       NEW LAW       A new section of law to be codified  
22 in the Oklahoma Statutes as Section 4-110.6 of Title 43A, unless  
23 there is created a duplication in numbering, reads as follows:

1       A. The Oklahoma Department of Mental Health and Substance Abuse  
2 Services shall:

3       1. Promulgate rules to implement the provisions of this act;

4       2. Provide training to licensed facilities regarding  
5 communication procedures capacity assessment and temporary decision  
6 support; and

7       3. Establish a reporting system for communication failures,  
8 unsafe transfers, and violations of patient rights.

9       B. The Department shall submit an annual report to the  
10 Legislature summarizing compliance patterns, areas of deficiency,  
11 and recommendations for improvement.

12       SECTION 9.       NEW LAW       A new section of law to be codified  
13 in the Oklahoma Statutes as Section 4-110.7 of Title 43A, unless  
14 there is created a duplication in numbering, reads as follows:

15       A. Mental health facilities shall ensure that no patient is  
16 denied humane treatment, safe discharge planning, or access to  
17 appropriate advocacy during a period of crisis.

18       B. Facilities shall maintain written policies that protect:

19       1. The right to appropriate treatment;

20       2. The right to communication with approved contacts consistent  
21 with law;

22       3. The right to support from a legally recognized  
23 representative when the patient lacks capacity; and  
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1        4. The right to timely review of complaints related to  
2 communication transfers or treatment conditions.

3        SECTION 10. This act shall become effective November 1, 2026.  
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