

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 701

By: Griffin

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5
6 AS INTRODUCED

7 An Act relating to mental health; amending 43A O.S.
8 2011, Section 1-103, as last amended by Section 1,
9 Chapter 213, O.S.L. 2013 (43A O.S. Supp. 2014,
10 Section 1-103), which relates to definitions;
11 removing certain specialization criteria for certain
12 persons; and providing an effective date.

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

14 SECTION 1. AMENDATORY 43A O.S. 2011, Section 1-103, as
15 last amended by Section 1, Chapter 213, O.S.L. 2013 (43A O.S. Supp.
16 2014, Section 1-103), is amended to read as follows:

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

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

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

24 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
4 Abuse 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;

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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 physician licensed pursuant to the Oklahoma
15 Allopathic Medical and Surgical Licensure and
16 Supervision Act or the Oklahoma Osteopathic Medicine
17 Act,
- 18 c. a clinical psychologist who is duly licensed to
19 practice by the State Board of Examiners of
20 Psychologists,
- 21 d. a professional counselor licensed pursuant to the
22 Licensed Professional Counselors Act,

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- 1 e. a person licensed as a clinical social worker pursuant
2 to the provisions of the Social Worker's Licensing
3 Act,
4 f. a licensed marital and family therapist as defined in
5 the Marital and Family Therapist Licensure Act,
6 g. a licensed behavioral practitioner as defined in the
7 Licensed Behavioral Practitioner Act,
8 h. an advanced practice nurse as defined in the Oklahoma
9 Nursing Practice Act ~~specializing in mental health,~~
10 i. a physician's assistant who is licensed in good
11 standing in this state ~~and has received specific~~
12 ~~training for and is experienced in performing mental~~
13 ~~health therapeutic, diagnostic, or counseling~~
14 ~~functions, or~~
15 j. a licensed drug and alcohol counselor/mental health
16 ("LADC/MH") as defined in the Licensed Alcohol and
17 Drug Counselors Act;

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

21 13. a. "Person requiring treatment" means a person who
22 because of his or her mental illness or drug or
23 alcohol dependency:
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- 1 (1) poses a substantial risk of immediate physical
2 harm to self as manifested by evidence or serious
3 threats of or attempts at suicide or other
4 significant self-inflicted bodily harm,
- 5 (2) poses a substantial risk of immediate physical
6 harm to another person or persons as manifested
7 by evidence of violent behavior directed toward
8 another person or persons,
- 9 (3) has placed another person or persons in a
10 reasonable fear of violent behavior directed
11 towards such person or persons or serious
12 physical harm to them as manifested by serious
13 and immediate threats,
- 14 (4) is in a condition of severe deterioration such
15 that, without immediate intervention, there
16 exists a substantial risk that severe impairment
17 or injury 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 mental health or substance abuse history of the
24 person may be used as part of the evidence to

1 determine whether the person is a person requiring
2 treatment. The mental health or substance abuse
3 history of the person shall not be the sole basis for
4 this determination.

5 c. Unless a person also meets the criteria established in
6 subparagraph a of this paragraph, person requiring
7 treatment shall not mean:

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

11 (2) a mentally retarded or developmentally disabled
12 person as defined in Title 10 of the Oklahoma
13 Statutes,

14 (3) a person with seizure disorder,

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

16 (5) a person who is homeless.

17 d. A person who meets the criteria established in this
18 section, but who is medically unstable, or the
19 facility holding the person is unable to treat the
20 additional medical conditions of that person should be
21 discharged and transported in accordance with Section
22 1-110 of this title;

23 14. "Petitioner" means a person who files a petition alleging
24 that an individual is a person requiring treatment;

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

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

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

14 a. a statement of treatment goals or objectives, based
15 upon and related to a clinical evaluation, which can
16 be reasonably achieved within a designated time
17 interval,

18 b. treatment methods and procedures to be used to obtain
19 these goals, which methods and procedures are related
20 to each of these goals and which include specific
21 prognosis for achieving each of these goals,

22 c. identification of the types of professional personnel
23 who will carry out the treatment procedures, including
24 appropriate medical or other professional involvement

1 by a physician or other health professional properly
2 qualified to fulfill legal requirements mandated under
3 state and federal law,

4 d. documentation of involvement by the individual
5 receiving treatment and, if applicable, the accordance
6 of the individual with the treatment plan, and

7 e. a statement attesting that the executive director of
8 the facility or clinical director has made a
9 reasonable effort to meet the plan's individualized
10 treatment goals in the least restrictive environment
11 possible closest to the home community of the
12 individual;

13 18. "Telemedicine" means the practice of health care delivery,
14 diagnosis, consultation, evaluation, treatment, transfer of medical
15 data, or exchange of medical education information by means of
16 audio, video, or data communications. Telemedicine uses audio and
17 video multimedia telecommunication equipment which permits two-way
18 real-time communication between a health care practitioner and a
19 patient who are not in the same physical location. Telemedicine
20 shall not include consultation provided by telephone or facsimile
21 machine; and

22 19. "Recovery and recovery support" means nonclinical services
23 that assist individuals and families to recover from alcohol or drug
24 problems. They include social support, linkage to and coordination

1 among allied service providers, including but not limited to
2 transportation to and from treatment or employment, employment
3 services and job training, case management and individual services
4 coordination, life skills education, relapse prevention, housing
5 assistance, child care, and substance abuse education.

6 SECTION 2. This act shall become effective November 1, 2015.

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