

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 1280

By: Lawson

AS INTRODUCED

An Act relating to Mental Health and Substance Abuse Services; amending 43A O.S. 2011, Sections 1-103, as last amended by Section 1, Chapter 246, O.S.L. 2017 and 3-461 (43A O.S. Supp. 2018, Section 1-103), which relate to the Mental Health and Substance Abuse Services Law; modifying definitions; adding qualification for assisted outpatient treatment; modifying licensure requirements for ADSAC assessors; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 2011, Section 1-103, as last amended by Section 1, Chapter 246, O.S.L. 2017 (43A O.S. Supp. 2018, 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 individual selected and appointed
8 by the Board to serve as Commissioner of Mental Health and Substance
9 Abuse Services;

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

14 7. "Facility" means any hospital, school, building, house or
15 retreat, authorized by law to have the care, treatment or custody of
16 an individual with mental illness, or drug or alcohol dependency,
17 gambling addiction, eating disorders, an opioid substitution
18 treatment program, including, but not limited to, public or private
19 hospitals, community mental health centers, clinics, satellites or
20 facilities; 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,

- f. a person licensed as a clinical social worker pursuant to the provisions of the Social Worker's Licensing Act,
- g. a licensed marital and family therapist as defined in the Marital and Family Therapist Licensure Act,
- h. a licensed behavioral practitioner as defined in the Licensed Behavioral Practitioner Act,
- i. an advanced practice nurse as defined in the Oklahoma Nursing Practice Act,
- j. a physician's assistant who is licensed in good standing in this state, or
- k. a licensed drug and alcohol counselor/mental health (LADC/MH) as defined in the Licensed Alcohol and Drug Counselors Act;

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

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

- (1) poses a substantial risk of immediate physical harm to self as manifested by evidence or serious threats of or attempts at suicide or other significant self-inflicted bodily harm,

- 1 (2) poses a substantial risk of immediate physical
2 harm to another person or persons as manifested
3 by evidence of violent behavior directed toward
4 another person or persons,
- 5 (3) has placed another person or persons in a
6 reasonable fear of violent behavior directed
7 towards such person or persons or serious
8 physical harm to them as manifested by serious
9 and immediate threats,
- 10 (4) is in a condition of severe deterioration such
11 that, without immediate intervention, there
12 exists a substantial risk that severe impairment
13 or injury will result to the person, or
- 14 (5) poses a substantial risk of immediate serious
15 physical injury to self or death as manifested by
16 evidence that the person is unable to provide for
17 and is not providing for his or her basic
18 physical needs.

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

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

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

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

11 (3) a person with seizure disorder,

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

13 (5) a person who is homeless.

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

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

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

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

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

- 12 a. a statement of treatment goals or objectives, based
13 upon and related to a clinical evaluation, which can
14 be reasonably achieved within a designated time
15 interval,
- 16 b. treatment methods and procedures to be used to obtain
17 these goals, which methods and procedures are related
18 to each of these goals and which include specific
19 prognosis for achieving each of these goals,
- 20 c. identification of the types of professional personnel
21 who will carry out the treatment procedures, including
22 appropriate medical or other professional involvement
23 by a physician or other health professional properly
24

1 qualified to fulfill legal requirements mandated under
2 state and federal law,

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

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

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

21 19. "Recovery and recovery support" means nonclinical services
22 that assist individuals and families to recover from alcohol or drug
23 problems. They include social support, linkage to and coordination
24 among allied service providers, including but not limited to

1 transportation to and from treatment or employment, employment
2 services and job training, case management and individual services
3 coordination, life skills education, relapse prevention, housing
4 assistance, child care, and substance abuse education;

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

- 6 a. is either currently under the care of a facility
7 certified by the Department of Mental Health and
8 Substance Abuse Services as a Community Mental Health
9 Center, or is being discharged from the custody of the
10 Oklahoma Department of Corrections, or is being
11 discharged from a residential placement by the Office
12 of Juvenile Affairs,
- 13 b. is suffering from a mental illness,
- 14 c. is unlikely to survive safely in the community without
15 supervision, based on a clinical determination,
- 16 d. has a history of lack of compliance with treatment for
17 mental illness that has:

- 18 (1) prior to the filing of a petition, at least twice
19 within the last thirty-six (36) months been a
20 significant factor in necessitating
21 hospitalization or treatment in a hospital or
22 residential facility, including admission to a
23 community-based structured crisis center as
24 certified by the Oklahoma Department of Mental

1 Health and Substance Abuse Services, or receipt
2 of services in a forensic or other mental health
3 unit of a correctional facility, or a specialized
4 treatment plan for treatment of mental illness in
5 a secure juvenile facility or placement in a
6 specialized residential program for juveniles, or
7 (2) prior to the filing of the petition, resulted in
8 one or more acts of serious violent behavior
9 toward self or others or threats of, or attempts
10 at, serious physical harm to self or others
11 within the last twenty-four (24) months,

12 e. is, as a result of his or her mental illness, unlikely
13 to voluntarily participate in outpatient treatment
14 that would enable him or her to live safely in the
15 community,

16 f. in view of his or her treatment history and current
17 behavior, is in need of assisted outpatient treatment
18 in order to prevent a relapse or deterioration which
19 would be likely to result in serious harm to the
20 person or persons as defined in this section, and

21 g. is likely to benefit from assisted outpatient
22 treatment; and

23 21. "Assisted outpatient treatment" means outpatient services
24 which have been ordered by the court pursuant to a treatment plan

1 approved by the court to treat an assisted outpatient's mental
2 illness and to assist the person in living and functioning in the
3 community, or to attempt to prevent a relapse or deterioration that
4 may reasonably be predicted to result in suicide or the need for
5 hospitalization.

6 SECTION 2. AMENDATORY 43A O.S. 2011, Section 3-461, is
7 amended to read as follows:

8 Section 3-461. A. For purposes of this section:

9 1. "ADSAC assessor" means an individual certified by the
10 Department of Mental Health and Substance Abuse Services to conduct
11 the ADSAC assessment;

12 2. "Alcohol and drug substance abuse course ADSAC assessment"
13 means an assessment process certified by the Department of Mental
14 Health and Substance Abuse Services designed to identify the
15 severity of the alcohol or other drug problems, risks of recidivism
16 and the most appropriate referral(s) required for license
17 reinstatement, including intensity and duration of clinical
18 interventions;

19 3. "Alcohol and drug substance abuse treatment program" means a
20 program certified by the Department of Mental Health and Substance
21 Abuse Services for the treatment of alcohol and drug abuse, or
22 alcoholism and drug dependency;
23
24

1 4. "Assessment agency" means an institution or organization
2 certified by the Department to provide alcohol and drug assessments
3 and evaluations related to driver license revocation; and

4 5. "Satisfactory completion of an assessment" means the
5 participant has successfully completed the requirements of the
6 assessment and the individual conducting the assessment certifies
7 the completion of the requirements to the Department of Public
8 Safety through the Oklahoma Department of Mental Health and
9 Substance Abuse Services.

10 B. Alcohol and drug substance abuse course assessments shall be
11 offered only by individuals certified by the Department of Mental
12 Health and Substance Abuse Services. Each assessor shall be
13 certified and shall:

14 1. Possess two (2) years or more of verifiable full-time-
15 equivalent counseling experience in the addiction treatment field;

16 2. Provide documentation verifying observation of one complete
17 alcohol and drug substance abuse course assessment conducted by a
18 certified assessor. Such observation must receive prior
19 authorization by the Department;

20 3. Provide proof of attendance at an assessor training course
21 and pass the Department's certification examination for the alcohol
22 and drug substance abuse course assessor;

23 4. Provide verification of having conducted a complete alcohol
24 and drug substance abuse course assessment under the supervision of

1 a certified alcohol and drug substance abuse course assessor
2 approved by a Department representative;

3 5. Be allowed one (1) year to complete all requirements related
4 to the assessment application. Failure to meet all requirements
5 within one (1) year shall result in denial of certification. To be
6 reconsidered, the candidate shall be required to reapply to the
7 Department; and

8 6. Be licensed as a licensed mental health professional as
9 defined in Section 1-103 of this title or certified as an alcohol
10 and drug counselor pursuant to Section 1871 et seq. of Title 59 of
11 the Oklahoma Statutes.

12 C. The Department of Mental Health and Substance Abuse Services
13 shall promulgate rules and standards regulating the ADSAC assessment
14 and assessment process. Failure to comply with rules and standards
15 promulgated by the Department pursuant to this act shall be grounds
16 for reprimand, suspension, revocation or non-renewal of an
17 assessor's certification.

18 D. Any individual certified to conduct alcohol and drug
19 substance abuse course assessments pursuant to this section shall
20 certify to the Department of Public Safety through the Oklahoma
21 Department of Mental Health and Substance Abuse Services all persons
22 who successfully complete such assessments.

SECTION 3. This act shall become effective November 1, 2019.

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