

1 **SENATE FLOOR VERSION**

2 April 1, 2019

3 ENGROSSED HOUSE  
4 BILL NO. 1280

By: Lawson of the House

and

Haste of the Senate

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7  
8 An Act relating to Mental Health and Substance Abuse  
9 Services; amending 43A O.S. 2011, Sections 1-103, as  
10 last amended by Section 1, Chapter 246, O.S.L. 2017  
11 and 3-461 (43A O.S. Supp. 2018, Section 1-103), which  
12 relate to the Mental Health and Substance Abuse  
13 Services Law; modifying definitions; adding  
14 qualification for assisted outpatient treatment;  
15 modifying licensure requirements for ADSAC assessors;  
16 and providing an effective date.

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

18 SECTION 1. AMENDATORY 43A O.S. 2011, Section 1-103, as  
19 last amended by Section 1, Chapter 246, O.S.L. 2017 (43A O.S. Supp.  
20 2018, Section 1-103), is amended to read as follows:

21 Section 1-103. When used in this title, unless otherwise  
22 expressly stated, or unless the context or subject matter otherwise  
23 requires:

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

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

3           3. "Mental illness" means a substantial disorder of thought,  
4 mood, perception, psychological orientation or memory that  
5 significantly impairs judgment, behavior, capacity to recognize  
6 reality or ability to meet the ordinary demands of life;

7           4. "Board" means the Board of Mental Health and Substance Abuse  
8 Services as established by the Mental Health Law;

9           5. "Commissioner" means the individual selected and appointed  
10 by the Board to serve as Commissioner of Mental Health and Substance  
11 Abuse Services;

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

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

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

4       9. "Care and treatment" means medical care and behavioral  
5 health services, as well as food, clothing and maintenance,  
6 furnished to a person;

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

14       11. "Licensed mental health professional" means:

- 15           a. a psychiatrist who is a diplomate of the American  
16                Board of Psychiatry and Neurology,  
17           b. a psychiatrist who is a diplomate of the American  
18                Osteopathic Board of Neurology and Psychiatry,  
19           c. a physician licensed pursuant to the Oklahoma  
20                Allopathic Medical and Surgical Licensure and  
21                Supervision Act or the Oklahoma Osteopathic Medicine  
22                Act,

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- 1           d.    a clinical psychologist who is duly licensed to  
2                   practice by the State Board of Examiners of  
3                   Psychologists,  
4           e.    a professional counselor licensed pursuant to the  
5                   Licensed Professional Counselors Act,  
6           f.    a person licensed as a clinical social worker pursuant  
7                   to the provisions of the Social Worker's Licensing  
8                   Act,  
9           g.    a licensed marital and family therapist as defined in  
10                  the Marital and Family Therapist Licensure Act,  
11           h.    a licensed behavioral practitioner as defined in the  
12                  Licensed Behavioral Practitioner Act,  
13           i.    an advanced practice nurse as defined in the Oklahoma  
14                  Nursing Practice Act,  
15           j.    a physician's assistant who is licensed in good  
16                  standing in this state, or  
17           k.    a licensed drug and alcohol counselor/mental health  
18                  (LADC/MH) as defined in the Licensed Alcohol and Drug  
19                  Counselors Act;

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

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

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

8 (2) poses a substantial risk of immediate physical  
9 harm to another person or persons as manifested  
10 by evidence of violent behavior directed toward  
11 another person or persons,

12 (3) has placed another person or persons in a  
13 reasonable fear of violent behavior directed  
14 towards such person or persons or serious  
15 physical harm to them as manifested by serious  
16 and immediate threats,

17 (4) is in a condition of severe deterioration such  
18 that, without immediate intervention, there  
19 exists a substantial risk that severe impairment  
20 or injury will result to the person, or

21 (5) poses a substantial risk of immediate serious  
22 physical injury to self or death as manifested by  
23 evidence that the person is unable to provide for  
24

1                   and is not providing for his or her basic  
2                   physical needs.

3           b.    The mental health or substance abuse history of the  
4           person may be used as part of the evidence to  
5           determine whether the person is a person requiring  
6           treatment or an assisted outpatient.  The mental  
7           health or substance abuse history of the person shall  
8           not be the sole basis for this 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 mentally retarded or developmentally disabled  
17           person 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.    A person who meets the criteria established in this  
23           section, but who is medically unstable, or the  
24           facility holding the person is unable to treat the

1 additional medical conditions of that person, should  
2 be discharged and transported in accordance with  
3 Section 1-110 of this title;

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

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

9 16. "Private hospital or facility" means any general hospital  
10 maintaining a neuro-psychiatric unit or ward, or any private  
11 hospital or facility for care and treatment of a person having a  
12 mental illness, which is not supported by the state or federal  
13 government. The term "private hospital" or "facility" shall not  
14 include nursing homes or other facilities maintained primarily for  
15 the care of elderly and disabled 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 the practice of health care delivery,  
21          diagnosis, consultation, evaluation, treatment, transfer of medical  
22          data, or exchange of medical education information by means of  
23          audio, video, or data communications. Telemedicine uses audio and  
24          video multimedia telecommunication equipment which permits two-way



1 real-time communication between a health care practitioner and a  
2 patient who are not in the same physical location. Telemedicine  
3 shall not include consultation provided by telephone or facsimile  
4 machine;

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

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

- 14 a. is either currently under the care of a facility  
15 certified by the Department of Mental Health and  
16 Substance Abuse Services as a Community Mental Health  
17 Center, or is being discharged from the custody of the  
18 Oklahoma Department of Corrections, or is being  
19 discharged from a residential placement by the Office  
20 of Juvenile Affairs,  
21 b. is suffering from a mental illness,  
22 c. is unlikely to survive safely in the community without  
23 supervision, based on a clinical determination,  
24

1 d. has a history of lack of compliance with treatment for  
2 mental illness that has:

- 3 (1) prior to the filing of a petition, at least twice  
4 within the last thirty-six (36) months been a  
5 significant factor in necessitating  
6 hospitalization or treatment in a hospital or  
7 residential facility, including admission to a  
8 community-based structured crisis center as  
9 certified by the Oklahoma Department of Mental  
10 Health and Substance Abuse Services, or receipt  
11 of services in a forensic or other mental health  
12 unit of a correctional facility, or a specialized  
13 treatment plan for treatment of mental illness in  
14 a secure juvenile facility or placement in a  
15 specialized residential program for juveniles, or  
16 (2) prior to the filing of the petition, resulted in  
17 one or more acts of serious violent behavior  
18 toward self or others or threats of, or attempts  
19 at, serious physical harm to self or others  
20 within the last twenty-four (24) months,

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

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

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

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

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

18 1. "ADSAC assessor" means an individual certified by the  
19 Department of Mental Health and Substance Abuse Services to conduct  
20 the ADSAC assessment;

21 2. "Alcohol and drug substance abuse course ADSAC assessment"  
22 means an assessment process certified by the Department of Mental  
23 Health and Substance Abuse Services designed to identify the  
24 severity of the alcohol or other drug problems, risks of recidivism

1 and the most appropriate referral(s) required for license  
2 reinstatement, including intensity and duration of clinical  
3 interventions;

4 3. "Alcohol and drug substance abuse treatment program" means a  
5 program certified by the Department of Mental Health and Substance  
6 Abuse Services for the treatment of alcohol and drug abuse, or  
7 alcoholism and drug dependency;

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

11 5. "Satisfactory completion of an assessment" means the  
12 participant has successfully completed the requirements of the  
13 assessment and the individual conducting the assessment certifies  
14 the completion of the requirements to the Department of Public  
15 Safety through the Oklahoma Department of Mental Health and  
16 Substance Abuse Services.

17 B. Alcohol and drug substance abuse course assessments shall be  
18 offered only by individuals certified by the Department of Mental  
19 Health and Substance Abuse Services. Each assessor shall be  
20 certified and shall:

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

23 2. Provide documentation verifying observation of one complete  
24 alcohol and drug substance abuse course assessment conducted by a

1 certified assessor. Such observation must receive prior  
2 authorization by the Department;

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

6 4. Provide verification of having conducted a complete alcohol  
7 and drug substance abuse course assessment under the supervision of  
8 a certified alcohol and drug substance abuse course assessor  
9 approved by a Department representative;

10 5. ~~The assessor candidate shall be~~ Be allowed one (1) year to  
11 complete all requirements related to the assessment application.  
12 Failure to meet all requirements within one (1) year shall result in  
13 denial of certification. To be reconsidered, the candidate shall be  
14 required to reapply to the Department; and

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

19 C. The Department of Mental Health and Substance Abuse Services  
20 shall promulgate rules and standards regulating the ADSAC assessment  
21 and assessment process. Failure to comply with rules and standards  
22 promulgated by the Department pursuant to this act shall be grounds  
23 for reprimand, suspension, revocation or non-renewal of an  
24 assessor's certification.

1 D. Any individual certified to conduct alcohol and drug  
2 substance abuse course assessments pursuant to this section shall  
3 certify to the Department of Public Safety through the Oklahoma  
4 Department of Mental Health and Substance Abuse Services all persons  
5 who successfully complete such assessments.

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

7 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES  
8 April 1, 2019 - DO PASS

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