

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1689

By: Newton

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5
6 AS INTRODUCED

7 An Act relating to telemedicine; amending 36 O.S.
8 2011, Section 6802, which relates to telemedicine;
9 defining term; amending 43A O.S. 2011, Section 1-103,
10 as last amended by Section 29, Chapter 475, O.S.L.
11 2019 (43A O.S. Supp. 2020, Section 1-103), which
relates to definitions; defining term; amending
12 Section 1, Chapter 228, O.S.L. 2017 (59 O.S. Supp.
13 2020, Section 478), which relates to telemedicine;
14 defining term; and providing an effective date.

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

16 SECTION 1. AMENDATORY 36 O.S. 2011, Section 6802, is
17 amended to read as follows:

18 Section 6802. As used in this act, "telemedicine" means the
19 practice of health care delivery, diagnosis, consultation,
20 treatment, including, but not limited to, the treatment and
21 prevention of strokes, transfer of medical data, or exchange of
22 medical education information by means of audio, video, or data
23 communications. Telemedicine ~~is not a~~ includes consultation
24 provided by telephone ~~or facsimile machine~~.

1 SECTION 2. AMENDATORY 43A O.S. 2011, Section 1-103, as
2 last amended by Section 29, Chapter 475, O.S.L. 2019 (43A O.S. Supp.
3 2020, Section 1-103), is amended to read as follows:

4 Section 1-103. When used in this title, unless otherwise
5 expressly stated, or unless the context or subject matter otherwise
6 requires:

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

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

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

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

17 5. "Commissioner" means the individual selected and appointed
18 by the Board to serve as Commissioner of Mental Health and Substance
19 Abuse Services;

20 6. "Indigent person" means a person who has not sufficient
21 assets or resources to support the person and to support members of
22 the family of the person lawfully dependent on the person for
23 support;

24

1 7. "Facility" means any hospital, school, building, house or
2 retreat, authorized by law to have the care, treatment or custody of
3 an individual with mental illness, ~~or~~ drug or alcohol dependency,
4 gambling addiction, or eating disorders, or an individual requiring
5 an opioid substitution treatment program, ~~including~~. Facility
6 includes, but is not limited to, public or private hospitals,
7 community mental health centers, clinics, or satellites ~~or~~
8 ~~facilities~~; provided, that facility shall not mean a child guidance
9 center operated by the State Department of Health;

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

13 9. "Care and treatment" means medical care and behavioral
14 health services, as well as food, clothing and maintenance,
15 furnished to a person;

16 10. Whenever in this law or in any other law, or in any rule or
17 order made or promulgated pursuant to this law or to any other law,
18 or in the printed forms prepared for the admission of consumers or
19 for statistical reports, the words "insane", "insanity", "lunacy",
20 "mentally sick", "mental disease" or "mental disorder" are used,
21 such terms shall have equal significance to the words "mental
22 illness";

23 11. "Licensed mental health professional" means:
24

- a. a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology,
- b. a psychiatrist who is a diplomate of the American Osteopathic Board of Neurology and Psychiatry,
- c. a physician licensed pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act or the Oklahoma Osteopathic Medicine Act,
- d. a clinical psychologist who is duly licensed to practice by the State Board of Examiners of Psychologists,
- e. a professional counselor licensed pursuant to the 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

1 k. a licensed drug and alcohol counselor/mental health
2 (LADC/MH) as defined in the Licensed Alcohol and Drug
3 Counselors Act;

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

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

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

14 (2) poses a substantial risk of immediate physical
15 harm to another person or persons as manifested
16 by evidence of violent behavior directed toward
17 another person or persons,

18 (3) has placed another person or persons in a
19 reasonable fear of violent behavior directed
20 towards such person or persons or serious
21 physical harm to them as manifested by serious
22 and immediate threats,

23 (4) is in a condition of severe deterioration such
24 that, without immediate intervention, there

1 exists a substantial risk that severe impairment
2 or injury will result to the person, or
3 (5) poses a substantial risk of immediate serious
4 physical injury to self or death as manifested by
5 evidence that the person is unable to provide for
6 and is not providing for his or her basic
7 physical needs.

8 b. The mental health or substance abuse history of the
9 person may be used as part of the evidence to
10 determine whether the person is a person requiring
11 treatment or an assisted outpatient. The mental
12 health or substance abuse history of the person shall
13 not be the sole basis for this determination.

14 c. Unless a person also meets the criteria established in
15 subparagraph a or b of this paragraph, "person
16 requiring treatment" or an "assisted outpatient" shall
17 not mean:

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

21 (2) a person with intellectual or developmental
22 disability as defined in Title 10 of the Oklahoma
23 Statutes,

24 (3) a person with seizure disorder,

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

2 (5) a person who is homeless.

3 d. A person who meets the criteria established in this
4 section but who is medically unstable, or the facility
5 holding the person is unable to treat the additional
6 medical conditions of that person, should be
7 discharged and transported in accordance with Section
8 1-110 of this title;

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

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

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

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

- 1 a. a statement of treatment goals or objectives, based
2 upon and related to a clinical evaluation, which can
3 be reasonably achieved within a designated time
4 interval,
- 5 b. treatment methods and procedures to be used to obtain
6 these goals, which methods and procedures are related
7 to each of these goals and which include specific
8 prognosis for achieving each of these goals,
- 9 c. identification of the types of professional personnel
10 who will carry out the treatment procedures, including
11 appropriate medical or other professional involvement
12 by a physician or other health professional properly
13 qualified to fulfill legal requirements mandated under
14 state and federal law,
- 15 d. documentation of involvement by the individual
16 receiving treatment and, if applicable, the accordance
17 of the individual with the treatment plan, and
- 18 e. a statement attesting that the executive director of
19 the facility or clinical director has made a
20 reasonable effort to meet the plan's individualized
21 treatment goals in the least restrictive environment
22 possible closest to the home community of the
23 individual;
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1 18. "Telemedicine" means the practice of health care delivery,
2 diagnosis, consultation, evaluation, treatment, transfer of medical
3 data, or exchange of medical education information by means of
4 audio, video, or data communications. Telemedicine uses audio and
5 video multimedia telecommunication equipment which permits two-way
6 real-time communication between a health care practitioner and a
7 patient who are not in the same physical location. Telemedicine
8 shall ~~not~~ include consultation provided by telephone ~~or facsimile~~
9 ~~machine~~;

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

18 20. "Assisted outpatient" means a person who:
19 a. is either currently under the care of a facility
20 certified by the Department of Mental Health and
21 Substance Abuse Services as a Community Mental Health
22 Center, or is being discharged from the custody of the
23 Oklahoma Department of Corrections, or is being
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1 discharged from a residential placement by the Office
2 of Juvenile Affairs,

3 b. is suffering from a mental illness,

4 c. is unlikely to survive safely in the community without
5 supervision, based on a clinical determination,

6 d. has a history of lack of compliance with treatment for
7 mental illness that has:

8 (1) prior to the filing of a petition, at least twice
9 within the last thirty-six (36) months been a
10 significant factor in necessitating
11 hospitalization or treatment in a hospital or
12 residential facility, including admission to a
13 community-based structured crisis center as
14 certified by the Oklahoma Department of Mental
15 Health and Substance Abuse Services, or receipt
16 of services in a forensic or other mental health
17 unit of a correctional facility, or a specialized
18 treatment plan for treatment of mental illness in
19 a secure juvenile facility or placement in a
20 specialized residential program for juveniles, or

21 (2) prior to the filing of the petition, resulted in
22 one or more acts of serious violent behavior
23 toward self or others or threats of, or attempts
24

- 1 at, serious physical harm to self or others
2 within the last twenty-four (24) months,
3 e. is, as a result of his or her mental illness, unlikely
4 to voluntarily participate in outpatient treatment
5 that would enable him or her to live safely in the
6 community,
7 f. in view of his or her treatment history and current
8 behavior, is in need of assisted outpatient treatment
9 in order to prevent a relapse or deterioration which
10 would be likely to result in serious harm to the
11 person or persons as defined in this section, and
12 g. is likely to benefit from assisted outpatient
13 treatment; and

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

21 SECTION 3. AMENDATORY Section 1, Chapter 228, O.S.L.
22 2017 (59 O.S. Supp. 2020, Section 478), is amended to read as
23 follows:

24 Section 478. A. As used in this act:

1 1. "Store_and_forward technologies" means the transmission of a
2 patient's medical information from an originating site to the
3 physician or practitioner at the distant site; provided, photographs
4 visualized by a telecommunications system shall be specific to the
5 patient's medical condition and adequate for furnishing or
6 confirming a diagnosis or treatment plan;

7 2. "Telemedicine" means the practice of health care delivery,
8 diagnosis, consultation, evaluation and treatment, transfer of
9 medical data or exchange of medical education information by means
10 of a two-way, real-time interactive communication, not to exclude
11 store_and_forward technologies, between a patient and a physician
12 with access to and reviewing the patient's relevant clinical
13 information prior to the telemedicine visit.

14 "Telemedicine" and "store_and_forward technologies" shall ~~not~~
15 include consultations provided by telephone audio-only
16 communication, electronic mail, text message, instant messaging
17 conversation, adaptive website questionnaire, ~~nonsecure~~ and secure
18 video conference ~~or facsimile machine~~.

19 SECTION 4. This act shall become effective November 1, 2021.
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21 58-1-5916 AB 12/17/20
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