

1 ENGROSSED HOUSE  
2 BILL NO. 1689

By: Newton of the House

and

McCortney of the Senate

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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  
12 relates to definitions; defining term; amending  
13 Section 1, Chapter 228, O.S.L. 2017 (59 O.S. Supp.  
14 2020, Section 478), which relates to telemedicine;  
15 defining term; and providing an effective date.

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

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

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

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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:  
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- 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  
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- 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; and

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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1 Passed the House of Representatives the 3rd day of March, 2021.

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3 \_\_\_\_\_  
4 Presiding Officer of the House  
5 of Representatives

6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2021.

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9 Presiding Officer of the Senate