

CENTER FOR HEALTH POLICY RESEARCH

COLLEGE OF OSTEOPATHIC MEDICINE
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HEALTH & MEDICINE ISSUE PAPER



● THE SECOND IN A SERIES ●

STATE LAW



KEY ISSUES
• STATE LAW
PUBLIC SYSTEMS
COMMUNITY CENTERS
PRISONS, JAILS/LOCKUPS



MENTAL HEALTH

Introduction

Pages 1-3 contain an edited version of Oklahoma's Title 43A: Mental Health Law. The document was last revised 7/31/98. It contains the Unified Mental Health Services Act that creates the current mental health services infrastructure in the state. This edited version includes only items of specific interest to subsequent discussion papers ... or of general interest to policymakers. A complete copy of the law may be obtained from the Oklahoma Department of Mental Health and Substance Abuse Services for 25 cents per printed page or \$12 on a diskette.

Page 4 contains the full text of Senate Bill 2 that provided health insurance parity for severe mental illness. The bill was passed by the Legislature, and signed by the Governor, in May 1999.

TITLE 43A: MENTAL HEALTH LAW

§1-102. Purpose of Law

The purpose of the Mental Health Law is to provide for the humane care and treatment of persons who are mentally ill or who require treatment for drug or alcohol abuse. All such residents of this state are entitled to medical care and treatment in accordance with the highest standards accepted in medical practice. Section 1-101 et seq. of this title.

§1-103. Definitions

3. "Mentally ill person" means any person afflicted with a substantial disorder of thought, mood, perception, psychological orientation or memory that significantly impairs judgment, behavior, capacity to recognize reality or ability to meet the ordinary demands of life;

9. "Care and treatment" means medical care, surgical attendance, nursing and medications, as well as food, clothing and maintenance, furnished a patient;

This Series About Mental Health

Our nation has experienced a series of highly publicized incidents concerning random acts of lethal violence. National debates concerning inanimate objects (guns) and abstract emotions (hate) immediately followed. The debates are demagogic, shallow, and misleading.

There is another common denominator in most of the acts of violence; almost every perpetrator was involved with some aspect of mental health care and services. They have either been under care, sought care, or have been using (or not using) psychotherapeutic medications.

Yet the high profile national debate continues about guns and hate ... and the silence about adequate and effective mental health care service is deafening.

The Oklahoma record is neither bad nor good. Our state struggles with this emerging health issue as do others.

This series of issue papers has been developed for Oklahoma's laypersons and policymakers. The intent is to place Oklahoma mental health needs in perspective; help promote responsible debate, and to provide a standard reference for policy discussions.

MICHAEL LAPOLLA, DIRECTOR

10. Whenever in this law, or in any other law, or in any rule, order or regulation, made or promulgated pursuant to this law, or to any other law, or in the printed forms prepared for the admission of patients or for statistical reports, the words "insane", "insanity", "lunacy", "mentally sick", "mental disease" or "mental disorder", or any of them are used they shall have equal significance to the words "mentally ill".

14. "Person requiring treatment" means either:

a. a person who has a demonstrable mental illness or is a drug-or alcohol-dependent person who as a result of that mental illness or dependency can be expected within the near future to intentionally or unintentionally seriously and physically injure himself or another person and who has engaged in one or more recent overt acts or made significant recent threats that substantially support that expectation, or

b. a person who has a demonstrable mental illness or is a drug or alcohol-dependent person and who as a result of that mental illness or dependency is unable to attend to those of his basic physical needs such as food, clothing or shelter that must be attended to in order for him to avoid serious harm in the near future and who has demonstrated such inability by failing to attend to those basic physical needs in the recent past, or

c. a person who appears to require inpatient treatment:

(1) (a) for a previously diagnosed history of schizophrenia, bipolar disorder, or major depression with suicidal intent, or

(b) due to the appearance of symptoms of schizophrenia, bipolar disorder, or major depression with suicidal intent, and

(2) or whom such treatment is reasonably believed to prevent progressively more debilitating mental impairment.

Person requiring treatment shall not mean a person whose mental processes have simply been weakened or impaired by reason of advanced years, a mentally deficient person as defined in Title 10 of The Oklahoma Statutes, or a person with epilepsy, unless the person also meets the criteria set forth in this paragraph. However, the person may be hospitalized under the voluntary admission provisions of this act if he is deemed clinically suitable and a fit subject for care and treatment by the person in charge of the facility;

INSTITUTIONS WITHIN DEPARTMENT

§3-101. Institutions maintained for residents
(*ed. note: a host of other private institutions and agencies contract with the Department to provide public services).*

The institutions within the Department of Mental Health and Substance Abuse Services, which shall be maintained for residents of the state, are:

A. Hospitals:

1. Griffin Memorial Hospital, Norman;
2. Eastern State Hospital, Vinita;
3. Oklahoma Youth Center, Norman.

B. Regional Community Mental Health and Substance Abuse Services Center, Western State Psychiatric Center, Fort Supply.

C. Community Mental Health and Substance Abuse Services Centers;

1. Carl Albert Community Mental Health and Substance Abuse Services Center, McAlester;
2. Jim Taliaferro Community Mental Health and Substance Abuse Services Center, Lawton;

3. Central Oklahoma Community Mental Health and Substance Abuse Services Center, Norman;

4. Bill Willis Community Mental Health and Substance Abuse Services Center, Tahlequah.

UNIFIED COMMUNITY MENTAL HEALTH SERVICES ACT

§3-302. Definitions

As used in the Unified Community Mental Health Services Act.

1. "Catchment area or service area" means a geographic area established by the Department of Mental Health and Substance Abuse Services for support of mental health and substance abuse services;

2. "Community mental health services", in conformance with federal requirements, means services for the treatment of alcoholism, drug addiction or abuse, and mental illness, and the prevention, diagnosis, or rehabilitation or such persons;

4. "Mental health facility" means:

**§1-104
Public Policy**

The Oklahoma Legislature hereby declares that the public policy of this state is to assure adequate treatment of persons alleged to be in need of mental health treatment or treatment for drug or alcohol abuse, to establish behavioral standards for determination of dangerousness of persons in need of such treatment, to allow for the use of the least restrictive alternative in the determination of the method of treatment, to provide orderly and reliable procedures for commitment of persons alleged to be in need of treatment consistent with due process of law, and to protect the rights of patients hospitalized pursuant to law.

a. a comprehensive community mental health center offering services including, but not limited to, the following basic services: Inpatient, outpatient, partial hospitalization, emergency care, and consultation and education; and offering the following services at the option of the center: Prescreening services, rehabilitation services, precare and aftercare services, training programs, and research and evaluation programs,

b. an outpatient facility offering diagnostic and treatment services,

c. a day care facility offering a treatment program for children or adults suffering from mental or emotional problems, or

d. community residential mental health programs and facilities which provide supervised residential care, counseling, case management or other similar services to children or adults suffering from mental or emotional problems;

§3-306. Board of Mental Health and Substance Abuse Services, Responsibilities and Authority

The Board of Mental Health and Substance Abuse Services shall have the following responsibilities and authority:

1. To promulgate and enforce policies and regulations to assure statewide conformance with standards of care and operation and promulgate rules and regulations governing eligibility of public agencies or mental health facilities to contract with the Department of Mental Health and Substance Abuse Services; prescribe standards for qualifications or personnel and quality of professional services; ensure eligibility for community mental health services so that no person will be denied services on the basis of race, color or creed or inability to pay; and promulgate such other rules and regulations as may be necessary to carry out the provisions of the Unified Community Mental Health Services Act, Section 3-301 et seq. of this title;

2. To provide technical assistance to community mental health facilities and boards;

3. To provide clinical, fiscal and management audit of services and facilities;

4. To approve and compile catchment area plans and budget requests into a statewide mental health plan and budget for submission to the Governor, Legislature and federal funding sources as appropriate.

5. To provide funding to each Community Mental Health Board within available funds for the performance of its duties prescribed herein;

6. To review and evaluate local programs for community mental health services and the performance of administrative and professional personnel in municipalities having Community Mental Health Boards and make recommendations to Community Mental Health Boards;

7. To certify community mental health centers for a period of three (3) years subject to renewal as provided in the rule promulgated by the Board; and

8. To assist mental health facilities in the recruitment of qualified personnel and in conducting in-service training programs.

§3-317. Community-based Structured Crisis Centers

A. The Department of Mental Health and Substance Abuse Services shall certify community-based structured crisis centers for the provision of non-hospital emergency intervention. The Department shall promulgate rules for the certification of community-based structured crisis centers.

B. No community-based structured crisis center shall operate or continue to operate unless the facility complies with the rules promulgated by the Department and is certified by the Department as required by this section.

C. For the purposes of this section, "community-based structured crisis center" means any facility which is established and maintained for the purpose of providing community-based mental health and substance abuse crisis intervention services including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance abuse treatment services.

INMATES OF CORRECTIONAL FACILITIES

§3-701. Hospital services for inmates of correctional institutions*

It shall be the responsibility of the Department of Mental Health and Substance Abuse Services, within facilities and professional capabilities, to provide at Griffin Memorial Hospital, Norman, Oklahoma, such medical and surgical inpatient and outpatient care as may be required by inmates from the several correctional institutions that are properly referred to the hospital by the Department of Corrections.

The Department of Mental Health and Substance Abuse Services may refer to the University Hospitals, and the latter shall accept those correctional inmate patients who are beyond the facilities and professional capability of Griffin Memorial Hospital.

The Department of Corrections shall be responsible for transporting to, from, and between hospitals and for providing such physical security of correctional inmate patients as may be required beyond that security normal to hospital operation.

The Department of Corrections shall immediately remove from the hospital those inmate patients as they are discharged by the hospital. The hospital services provided by Griffin Memorial Hospital and the University Hospitals shall be without cost to the Department of Corrections.

SENATE BILL 2 - A MENTAL HEALTH PARITY LAW

Analysis

Senate Bill 2 provided for "mental health parity" provisions for specific insurance plans in Oklahoma. The significance of this law was symbolic in that it was co-introduced by both the Speaker of the House and the Senate President Pro Tempore. It also achieved a certain milestone of consensus in that similar legislation was vetoed by the Governor the two prior years after being passed by the Legislature each year.

On the other hand, the legislation is not sweeping, radical nor comprehensive. The bill targeted only specific severe mental illness diagnoses; applies only to larger business, and allows for a suspension of the provisions if premiums are determined to have increased beyond a proscribed amount.

The law DOES NOT apply to plans that do not currently offer mental health benefits; DOES NOT pertain to alcohol or substance abuse benefits; and DOES NOT apply to Medicare, CHAMPUS or Medicaid recipients.

And contrary to some impressions, the law does not apply to the uninsured, nor does it require that health plans provide the benefits.

Edited Text

By: Taylor, Monson, Fisher, Williams and Henry of the Senate and Benson, Adair, Tyler, Beutler, Braddock, Bryant, Collins, Covey, Easley, Hastings, Lindley, Nations, Ostrander, Seikel, Sellers, Sullivan (John), Sweden, Thornbrugh, Turner and Roach of the House

An Act relating to insurance; defining terms; requiring group health insurance and health benefit plans to provide benefits for treatment of severe mental illness; requiring equal benefits for certain conditions and making certain exceptions; clarifying application of requirement; providing exceptions to the provisions of the act; providing for determination of exemption; requiring the Insurance Commissioner to submit a report on the costs associated with the benefit requirements; requiring health benefit plans to provide certain information to the Commissioner; requiring certain information to be confidential; providing for termination of benefit requirements under certain conditions; providing for codification; and providing an effective date.

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

2. a. "Health benefit plan" means:

- (1) **group hospital or medical insurance coverages,**
- (2) **not-for-profit hospital or medical service or indemnity plans,**
- (3) **prepaid health plans,**
- (4) **health maintenance organizations,**
- (5) **preferred provider plans,**
- (6) **the State and Education Employees Group Insurance Plan,**
- (7) **Multiple Employer Welfare Arrangements (MEWA), or**
- (8) **employer self-insured plans that are not exempt pursuant to the federal Employee Retirement Income Security Act (ERISA) provisions.**

3. "Severe mental illness" means any of the following biologically based mental illnesses for which the diagnostic criteria are prescribed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders:

- a. **schizophrenia,**
- b. **bipolar disorder (manic-depressive illness),**
- c. **major depressive disorder,**
- d. **panic disorder,**
- e. **obsessive-compulsive disorder; and**
- f. **schizoaffective disorder; and**

4. "Small employer" means any person, firm, corporation, partnership, limited liability company, association, or other legal entity that is actively engaged in business that, on at least fifty percent (50%) of its working days during the preceding calendar year, employed no more than fifty (50) employees who work on a full-time basis, which means an employee has a normal work week of twenty-four (24) or more hours.

SECTION 2. NEW LAW ...

B. The provisions of subsection A of this section shall pertain to all aspects of any health benefit plan that is offered, issued, or renewed in this state. Benefits required by subsection A of this section shall be equal to benefits for treatment of and shall be subject to the same preauthorization and utilization review mechanisms and other terms and conditions as all other physical diseases and disorders, including, but not limited to:

1. Coverage of inpatient hospital services for either twenty-six (26) days or the limit for other covered illnesses, whichever is greater;
2. Coverage of outpatient services;
3. Coverage of medication;
4. Maximum lifetime benefits;
5. Co-payments;
6. Coverage of home health visits;
7. Individual and family deductibles; and
8. Co-insurance.

SECTION 4. NEW LAW ...

A. The Insurance Commissioner shall analyze any direct incremental impact on premium costs pursuant to the requirements of Section 2 of this act. The Commissioner shall submit a report of all preliminary data and findings to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives by May 1, 2000, with subsequent updates submitted by November 1, 2000; May 1, 2001; November 1, 2001; May 1, 2002, and November 1, 2002.

D. If the report required by subsection A of this section shows that the cumulative average premium increase incurred during the first three (3) years of implementation of this act that is directly attributable to the provision of benefits for treatment of severe mental illness is greater than six percent (6%), the requirements of Section 2 of this act shall terminate May 1, 2003, and any agreement, contract or policy issued after May 1, 2003, shall not be required to provide benefits for treatment of severe mental illness.

SECTION 5. This act shall become effective January 1, 2000.

Passed the Senate, May 6, 1999
Passed the House of Representatives, May 6, 1999
Signed by the Governor, May 13, 1999