

OUTPATIENT PSYCHIATRIC OVERSIGHT ACT - REQUIREMENTS

Act of Jul. 11, 2022, P.L. 773, No. 76

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No. 2022-76

HB 2419

AN ACT

Amending the act of May 31, 2018 (P.L.123, No.25), entitled "An act providing for outpatient psychiatric oversight," further providing for definitions and for requirements.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definitions of "advanced practice professional," "full-time equivalent" and "interactive audio and video" in section 2 of the act of May 31, 2018 (P.L.123, No.25), known as the Outpatient Psychiatric Oversight Act, are amended and the section is amended by adding a definition to read:

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Advanced practice professional." A person who:

(1) (i) holds a current Pennsylvania license as a certified registered nurse practitioner with a mental health certification; or

(ii) obtains a mental health certification within two years of being hired by [a psychiatric] **an** outpatient **psychiatric** clinic or within two years of the effective date of this section, whichever is later; or

(2) (i) holds a current Pennsylvania license as a physician assistant with a mental health certification; or

(ii) obtains a mental health certification within two years of being hired by [a psychiatric] **an** outpatient **psychiatric** clinic or within two years of the effective date of this section, whichever is later.

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["Full-time equivalent." Thirty-seven and one-half hours per week.

"Interactive audio and video." Real-time two-way or multiple-way communication between a psychiatrist and an individual.]

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"Telebehavioral health technology." As follows:

(1) Any of the following:

(i) Real-time interactive audio and video communication using technology that conforms to industry-wide standards and is in compliance with Federal and State privacy and security laws.

(ii) Real-time interactive audio-only telecommunication, provided that the use of audio-only telecommunication technology is consistent with Federal and State laws, guidance and requirements.

(2) The term does not include technology solely using voicemail, electronic mail messages, facsimile transmissions or instant messaging, or a combination thereof.

Section 2. Section 3 of the act is amended to read:

Section 3. Requirements.

The following shall apply:

[(1) Except as provided for in paragraph (2), an outpatient psychiatric clinic shall have a psychiatrist on site for two hours of psychiatric time per week for each full-time equivalent treatment staff member.

(2) Fifty percent of the required on-site psychiatric time under paragraph (1) may be provided by:

(i) An advanced practice professional.

(ii) A psychiatrist off-site by the use of interactive audio and video using technology that conforms to industrywide compressed audio-video communication and protects confidentiality under Federal and State law in accordance with department-issued guidelines. Interactive audio without video, electronic mail message or facsimile transmission may not be used to meet the requirement under paragraph (1).

(iii) A combination of subparagraphs (i) and (ii).]

(3) Required psychiatric time may be provided in person or by the use of telebehavioral health technology by psychiatrists, as specified by department regulations. Advanced practice professionals may also provide a portion of the psychiatric time, as specified by department regulations, either in person or by the use of telebehavioral health technology.

(4) Nothing in this section shall be construed to limit the ability of the department to issue a waiver pursuant to regulation.

Section 3. This act shall take effect immediately.

APPROVED--The 11th day of July, A.D. 2022.

TOM WOLF