

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1684

BY: THOMPSON of the HOUSE

and

BROWN of the SENATE

AS INTRODUCED

AN ACT RELATING TO PROFESSIONS AND OCCUPATIONS;

AMENDING 59 O.S. 1981, SECTIONS 1352, 1353, AS
AMENDED BY SECTION 2, CHAPTER 34, O.S.L. 1984,
1354, AS LAST AMENDED BY SECTION 1, CHAPTER 24,
O.S.L. 1985, 1355, AS AMENDED BY SECTION 2, CHAPTER
55, O.S.L. 1983, 1357, AS AMENDED BY SECTION 3,
CHAPTER 55, O.S.L. 1983, 1358, AS AMENDED BY
SECTION 4, CHAPTER 55, O.S.L. 1983, 1360, 1362, AS
AMENDED BY SECTION 3, CHAPTER 34, O.S.L. 1984,
1366, AS AMENDED BY SECTION 4, CHAPTER 34, O.S.L.
1984, AND 1370, AS AMENDED BY SECTION 5, CHAPTER
34, O.S.L. 1984 (59 O.S. SUPP. 1990, SECTIONS 1353,
1354, 1355, 1357, 1358, 1362, 1366 AND 1370), WHICH
RELATE TO THE PSYCHOLOGISTS LICENSING ACT;
MODIFYING DEFINITIONS IN THE PSYCHOLOGISTS
LICENSING ACT; MODIFYING PROVISIONS WHICH SPECIFY
WHICH ACTIVITIES SHALL BE EXEMPT FROM ACT;
MODIFYING TERM LIMITS FOR BOARD MEMBERS; PROVIDING
BOARD MEMBERS WITH IMMUNITY FROM CIVIL LIABILITY;
PROVIDING FOR REAPPOINTMENT OF BOARD MEMBER AFTER
CERTAIN TIME PERIOD; MODIFYING PROVISION FOR

FILLING VACANCIES OF BOARD; MODIFYING NAME OF
CHAIRMAN AND VICE-CHAIRMAN OF BOARD; MAKING CERTAIN
TERMS GENDER NEUTRAL; CHANGING QUALIFICATIONS OF
APPLICANTS FOR EXAMINATION FOR LICENSURE; PROVIDING
FOR CERTIFICATION AS A HEALTH SERVICE PROVIDER;
PROVIDING QUALIFICATIONS FOR CERTAIN LICENSURE;
AUTHORIZING BOARD TO ISSUE LICENSURE UPON CERTAIN
RECIPROCITY AGREEMENT; MODIFYING CIRCUMSTANCES
UNDER WHICH BOARD MAY REVOKE OR SUSPEND LICENSE;
SPECIFYING PROCEDURES FOR DETERMINATION OF ISSUE OF
MENTAL OR PHYSICAL COMPETENCE OF PSYCHOLOGIST;
AUTHORIZING PATIENT TO REFUSE TO DISCLOSE CERTAIN
INFORMATION IN COURT, LEGISLATIVE AND JUDICIAL
PROCEEDINGS; REQUIRING PSYCHOLOGIST TO INFORM
PATIENT OF LIMITATIONS OF PRIVILEGE OF
CONFIDENTIALITY; DELINEATING CIRCUMSTANCES UNDER
WHICH PSYCHOLOGIST MAY DISCLOSE CONFIDENTIAL
INFORMATION; REPEALING 58 O.S. 1981, SECTION 1371,
WHICH RELATES TO LICENSURE OF PSYCHOLOGIST AS
AUTHORIZING PRACTICE OF MEDICINE; PROVIDING FOR
CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 59 O.S. 1981, Section 1352, is
amended to read as follows:

Section 1352. In ~~this act~~ the Psychologists Licensing Act,
unless the context otherwise requires:

(a) "Board" means the Oklahoma State Board of Examiners of
Psychologists.

~~(b) A person "represents himself to be a psychologist when he holds himself out to the public by any title or description of services incorporating the words 'psychology', 'psychological', 'psychologist', and/or offers to render or renders services to individuals, corporations or the public for compensation."~~

~~(c) "Practice of psychology" means the application of established principles of learning, motivation, perception, thinking, and emotional relationships to problems of personnel evaluation, group relations, and behavior adjustment. The application of said principles includes, but is not restricted to, counseling with persons or groups with adjustment problems in the areas of work, family, school, and personal relationships; measuring and testing of personality, intelligence, aptitudes, emotions, public opinion, attitudes, and skills; and doing research on problems relating to human behavior. The practice of psychology shall not include prescribing drugs, electroconvulsive therapy, or any other nonpsychological medical techniques. A psychologist shall not for a fee or compensation treat disease, injury, or deformity of persons by any drugs, surgery, manual or mechanical treatment whatsoever. "Psychologist": A person represents himself or herself to be a psychologist if that person uses any title or description of services incorporating the words "psychology", "psychological", or "psychologist", or if that person offers to the public or renders to individuals or to groups of individuals services defined as the practice of psychology in this act.~~

(c) "Practice of psychology" is defined as the observation, description, evaluation, interpretation, and modification of human behavior by the application of psychological principles, methods, and procedures, for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. The practice

of psychology, a branch of the healing arts, includes, but is not limited to, psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis and treatment of mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct, as well as of the psychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation. Psychological services may be rendered to individuals, families, groups, and the public. The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is received for services rendered.

(d) "Health service" shall mean the delivery of direct, preventive, assessment and therapeutic intervention services to individuals whose growth, adjustment, or functioning is actually impaired or may be at risk of impairment.

(e) "Health service provider": An individual licensed as a psychologist under this act to provide health services to the public and who engages in the direct practice of psychology and evidences two (2) years of formal supervised experience conducting psychological intervention services as defined by the rules and regulations of the Board.

SECTION 2. AMENDATORY 59 O.S. 1981, Section 1353, as amended by Section 2, Chapter 34, O.S.L. 1984 (59 O.S. Supp. 1990, Section 1353), is amended to read as follows:

Section 1353. No person shall represent himself or herself as a psychologist or engage in the practice of psychology unless such person is licensed pursuant to the provisions of the Psychologists Licensing Act. The provisions of the Psychologists Licensing Act shall not apply to:

1. the teaching of psychology, the conduct of psychological research, or the provision of psychological services or consultation to organizations or institutions, provided that such teaching, research, or service does not involve the delivery or supervision of direct psychological services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services, without regard to the source or extent of payment for services rendered. Nothing in the Psychologists Licensing Act shall prevent the provision of expert testimony by psychologists who are otherwise exempt by this act. Persons holding an earned doctoral degree in psychology from an institution of higher education may use the title "psychologist" in conjunction with the activities permitted by this subsection;

2. qualified members of other professions,~~including but not limited to physicians, social workers, or pastoral counselors,~~ doing work of a psychological nature consistent with their training and consistent with the code of ethics of their respective professions provided they do not hold themselves out to the public by any title or description incorporating the word psychological, psychologist, ~~or~~ psychology, psychotherapist or psychotherapy; ~~or~~

~~2. the activities, services, and use of an official title by a person in the employ of a federal, state, county, or municipal agency, other political subdivisions, or a duly chartered educational or charitable institution, if such activities and services are a part of the duties of the office or position of such person within such agency or institution; or~~

3. qualified physicians or licensed clinical social workers doing work of a psychological nature consistent with their training and consistent with the code of ethics of their respective professions provided they do not hold themselves out to the public by any title or description incorporating the word psychological, psychologist, or psychology;

4. the activities, services, and use of an official title of an individual classified as a Psychological Assistant, Psychological Assistant Supervisor or Psychological Assistant Program Coordinator by the Oklahoma Office of Personnel Management and employed by the State of Oklahoma and working under the direct supervision of a licensed psychologist. Such persons shall be restricted in their practice to employment within those settings under the purview of their respective state agency;

~~3.~~ 5. the activities and services of a student, intern, or resident in psychology, pursuing a course of study at a university or college that is regionally accredited by an organization recognized by the United States Department of Education, or working in a training center recognized by that university or college, if such activities and services constitute a part of the supervised course of study of such student, intern, or resident; ~~or~~

6. individuals who have been certified as school psychologists by the Oklahoma State Department of Education. They shall be permitted to use the term "certified school psychologist". Such persons shall be restricted in their practice to employment within those settings under the purview of the State Board of Education;

~~4.~~ 7. the activities and services of a person who performs psychological services pursuant to the direct supervision of a licensed psychologist or psychiatrist or an applicant for licensure who is engaged in the applicant's postdoctoral year of supervision. Such person shall be subject to approval by the Board and to such rules and regulations as the Board may prescribe pursuant to the provisions of the Psychologists Licensing Act; ~~or~~

~~5.~~ 8. the activities and services of a nonresident of this state who renders consulting or other psychological services if such activities and services are rendered for a period which does not exceed in the aggregate more than ~~sixty (60)~~ five (5) days during any year and if the nonresident is authorized pursuant to the laws

of the state or country of his residence to perform these activities and services. Such person shall inform the Board prior to initiation of services; or

~~6.~~ 9. the activities and services of a person who has recently become a resident of this state and has had his application for licensing accepted by the Board, and if the person was authorized by the laws of the state or country of his former residence to perform such activities and services.

SECTION 3. AMENDATORY 59 O.S. 1981, Section 1354, as last amended by Section 1, Chapter 24, O.S.L. 1985 (59 O.S. Supp. 1990, Section 1354), is amended to read as follows:

Section 1354. There is hereby re-created, to continue until July 1, 1991, pursuant to the provisions of the Oklahoma Sunset Law, the State Board of Examiners of Psychologists. The Board shall administer the provisions of the Psychologists Licensing Act. The Board shall consist of seven (7) members appointed by the Governor. Five members shall be psychologists from various areas in psychology and two members shall be lay persons. ~~The initial term of one of the lay members shall expire on July 1, 1984, and the initial term of the other lay member shall expire on July 1, 1985.~~ At the expiration of the term of each Board member who is a psychologist, the Governor shall appoint a successor from a list of ~~fifteen~~ ten (10) licensed psychologists which is provided by the Oklahoma State Psychological Association. Members shall serve for a term of ~~three~~ four (4) years and until a successor is appointed and qualified. Before entering upon the duties of his office, each member of the Board shall take the constitutional oath of office and file it with the Secretary of State.

SECTION 4. AMENDATORY 59 O.S. 1981, Section 1355, as amended by Section 2, Chapter 55, O.S.L. 1983 (59 O.S. Supp. 1990, Section 1355), is amended to read as follows:

Section 1355. Each member of the Board shall be a citizen of the United States and a resident of this state. The members of the Board who are psychologists shall be licensed pursuant to the provisions of the Psychologists Licensing Act. No member of the Board may succeed himself. However, a member may be reappointed after a period of ~~three (3)~~ four (4) years following the termination of his previous appointment.

SECTION 5. AMENDATORY 59 O.S. 1981, Section 1357, as amended by Section 3, Chapter 55, O.S.L. 1983 (59 O.S. Supp. 1990, Section 1357), is amended to read as follows:

Section 1357. After giving the member a written statement of the charges and an opportunity to be heard thereon, the Governor may remove any member of the Board for misconduct, incompetency, or neglect of duty. Any vacancy in the membership of the Board shall be filled by the Governor for the unexpired term. If there is a vacancy in the psychologist membership of the Board, the Governor shall fill it from a list of ~~fifteen~~ ten (10) psychologists which is provided by the Oklahoma State Psychological Association.

SECTION 6. AMENDATORY 59 O.S. 1981, Section 1358, as amended by Section 4, Chapter 55, O.S.L. 1983 (59 O.S. Supp. 1990, Section 1358), is amended to read as follows:

Section 1358. The Board shall hold a regular meeting at which it shall annually select from its membership a ~~chairman~~ chair and a ~~vice-chairman~~ vice-chair. Other regular meetings shall be held at such times as the rules of the Board may provide. Special meetings may be held at such times as may be deemed necessary by the Board or a majority of its members. Reasonable notice of all meetings shall be given in the manner prescribed by the rules of the Board. Four members of the Board shall constitute a quorum. The secretary of the Board shall be appointed by the Board and shall hold office at the pleasure of the Board. The secretary may be a member of the Board. The Board may employ such other persons and may rent or

purchase such office space and office equipment as it deems necessary to implement the provisions of the Psychologists Licensing Act. The Board shall adopt an official seal.

SECTION 7. AMENDATORY 59 O.S. 1981, Section 1360, is amended to read as follows:

Section 1360. The secretary of the Board shall receive and account for all monies derived under this act. ~~He~~ The secretary shall pay these monies monthly to the State Treasurer who shall keep them in a separate fund to be known as the "Psychologists Licensing Fund". All monies received in said fund are hereby appropriated to the Board. Monies may be paid out of this fund upon proper voucher approved by the ~~chairman~~ chair of the Board and attested by the secretary of the Board. It is further provided that all monies in the "Psychologists Licensing Fund" at the end of each fiscal year, being the unexpended balance of such fund, shall be carried forward and placed to the credit of the "Psychologists Licensing Fund" for the succeeding fiscal year. The Board may make expenditures from this fund for any purpose which is reasonably necessary to carry out the provisions of this act; provided that all reimbursement for expenses shall be paid only from the "Psychologists Licensing Fund". No money shall ever be paid from the General Revenue Fund for the administration of this act and any expenses or liabilities incurred by said Board shall not constitute a charge on any state funds other than said "Psychologists Licensing Fund".

SECTION 8. AMENDATORY 59 O.S. 1981, Section 1362, as amended by Section 3, Chapter 34, O.S.L. 1984 (59 O.S. Supp. 1990, Section 1362), is amended to read as follows:

Section 1362. An applicant is qualified to take the examination to be licensed ~~as a psychologist if the applicant~~ when the applicant has met the following criteria:

~~1. has received a doctoral degree primarily based upon an organized psychological program of study from an educational~~

~~institution which has been regionally accredited by an organization recognized by the United States Department of Education, and has had at least two (2) years of satisfactory experience as determined by the Board in psychological services; and~~

~~2. is at least twenty-one (21) years of age; and~~

~~3. is a resident of this state; and~~

~~4. is of good moral character.~~

1. Applicants for licensure shall possess a doctoral degree in psychology from an institution of higher education. The degree shall be obtained from a recognized program of graduate study in psychology as defined by the rules and regulations of the Board. By January 1, 1997, applicants for licensure shall have completed a doctoral program in psychology that is accredited by the American Psychological Association (APA). In areas where no accreditation exists, applicants for licensure shall have completed a doctoral program in psychology that meets recognized acceptable professional standards as determined by the Board. When a new specialty of professional psychology is recognized as being within the accreditation scope of the APA, doctoral programs within that specialty will be afforded a transition period of eight (8) years from their first class of students to the time of their accreditation. During that transition period, graduates of such programs may sit for licensure examination whether or not the program has been accredited. This also applies to new doctoral programs of specialties previously recognized within the scope of APA accreditation. Applicants trained in institutions outside the United States shall meet requirements established by the Board.

2. For admission to the licensure examination, applicants shall demonstrate that they have completed two (2) years of supervised professional experience, one (1) year of which shall be postdoctoral. At the discretion of the Board, however, applicants may be allowed to sit for examination during the applicant's second

year of experience. The criteria for appropriate supervision shall be in accordance with regulations which shall be promulgated by the Board. Postdoctoral experience shall be compatible with the knowledge and skills acquired during formal doctoral or postdoctoral education in accordance with professional requirements and relevant to the intended area of practice.

3. Applicants shall be required to show evidence of good character, that is, that they have not been convicted of a criminal offense that bears directly on the fitness of the individual to be licensed.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1362.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Any licensed psychologist who independently provides or offers to provide health services to the public shall be certified as a Health Service Provider by the Board. The Board shall certify as a Health Service Provider an applicant who demonstrates that the applicant has at least two (2) years of full-time supervised health service experience as defined by the rules and regulations of the Board.

B. Notwithstanding the provisions of Section 1362 of this title, if application is made before January 1, 1992, to the Board of Examiners of Psychologists, by an applicant who is licensed as a psychologist in this state and who can demonstrate that the applicant has been engaged for the equivalent of at least two (2) years full-time in the provision of health services, the applicant shall be certified by the Board as a Health Service Provider. An applicant has been engaged for the equivalent of at least two (2) years full-time in the provision of health services if the applicant meets any one of the following conditions:

1. The psychologist is listed in the National Register of Health Service Providers in Psychology; or

2. The psychologist is a diplomate of the American Board of Professional Psychology; or

3. The psychologist has the equivalent of two (2) years of full-time experience satisfactory to the Board, one year of which was a doctoral internship, and one year of which was post-doctoral, at a site where health services are provided.

SECTION 10. AMENDATORY 59 O.S. 1981, Section 1366, as amended by Section 4, Chapter 34, O.S.L. 1984 (59 O.S. Supp. 1990, Section 1366), is amended to read as follows:

Section 1366. The Board may issue a license pursuant to the provisions of the Psychologists Licensing Act:

1. to a qualified applicant who has successfully passed the examination prescribed by the Board and who has paid the fee required by the rules and regulations promulgated pursuant to the provisions of the Psychologists Licensing Act; or

2. upon application to the Board and payment of the fees required by the rules and regulations of the Board promulgated pursuant to the provisions of the Psychologists Licensing Act, to any person who is a diplomate of the American Board of Professional Psychology, or who is licensed or certified as a psychologist by ~~any other state, territory, or possession of the United States if the requirements of that state, territory, or possession for such license or certificate are the substantial equivalent of the requirements of the Psychologists Licensing Act~~ a state which the Board has established a formal written agreement of reciprocity.

SECTION 11. AMENDATORY 59 O.S. 1981, Section 1370, as amended by Section 5, Chapter 34, O.S.L. 1984 (59 O.S. Supp. 1990, Section 1370), is amended to read as follows:

Section 1370. ~~A. The license of any psychologist may be suspended or revoked by the Board upon proof that the psychologist:~~

~~1. has been found guilty of a felony in this state or has been found guilty of an offense in another state if such an offense would constitute a felony pursuant to the laws of this state; or~~

~~2. excessively uses alcohol, drugs, narcotics, or other chemicals having similar effect; or~~

~~3. has been found guilty of fraud or deceit in connection with his services as a psychologist; or~~

~~4. has aided or abetted a person who is not a licensed psychologist and who has represented himself as a psychologist within this state; or~~

~~5. has been found guilty by the Board of unprofessional conduct or has violated the code of ethics promulgated by the Board.~~

A. A psychologist and persons under the supervision of the psychologist shall conduct their professional activities in conformity with ethical and professional standards promulgated by the Board under its rules and regulations.

The Board shall have the power and duty to suspend, place on probation, or require remediation for any psychologist for a specified time, to be determined at the discretion of the Board, or to revoke any license to practice psychology or to take any other action specified in the rules and regulations whenever the Board shall find by a preponderance of the evidence that the psychologist has engaged in any of the following acts or offenses:

1. Fraud in applying for or procuring a license to practice psychology;

2. Immoral, unprofessional, or dishonorable conduct as defined in the rules and regulations promulgated by the Board;

3. Practicing psychology in a manner as to endanger the welfare of clients or patients;

4. Conviction of a felony. A copy of the record of conviction, certified by the clerk of the court entering the conviction shall be conclusive evidence of conviction;

5. Conviction of any crime or offense that reflects the inability of the practitioner to practice psychology with due regard for the health and safety of clients or patients;

6. Harassment, intimidation, or abuse, sexual or otherwise, of a client or patient;

7. Engaging in sexual intercourse or other sexual contact with a client or patient;

8. Use of repeated untruthful, deceptive or improbable statements concerning the licensee's qualifications or the effects or results of proposed treatment, including practicing outside of the psychologist's professional competence established by education, training, and experience;

9. Gross malpractice or repeated malpractice or gross negligence in the practice of psychology;

10. Aiding or abetting the practice of psychology by any person not licensed by the Board;

11. Conviction of fraud in filing Medicare or Medicaid claims or in filing claims to any third party payor. A copy of the record of conviction, certified by the clerk of the court entering the conviction, shall be conclusive evidence of conviction;

12. Exercising undue influence in a manner to exploit the client, patient, student, or supervisee for financial or other personal advantage to the practitioner or a third party;

13. The suspension or revocation by another state of a license to practice psychology. A certified copy of the record of suspension or revocation of the state making such a suspension or revocation shall be conclusive evidence thereof;

14. Refusal to appear before the Board after having been ordered to do so in writing by the executive officer or chair of the Board;

15. Making any fraudulent or untrue statement to the Board;

16. Violation of the code of ethics adopted in the rules and regulations of the Board; and

17. Inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition.

B. When the issue is whether or not a psychologist is physically or mentally capable of practicing psychology with reasonable skill and safety to patients or clients, then, upon a showing of probable cause to the Board that the psychologist is not capable of practicing psychology with reasonable skill and safety to patients, the Board may order or may petition a court of competent jurisdiction to order the psychologist in question to submit to a psychological examination by a psychologist or psychiatrist to determine psychological status or a physical examination by a physician to determine physical condition. The examining psychologist or physician shall be designated by the Board or the court. If the objectivity or adequacy of the examination is suspect, the Board may complete an examination by its designated practitioners. When mental or physical capacity to practice is at issue, every psychologist licensed to practice psychology in the state shall be deemed to have given consent to submit to a mental or physical examination or to any combination of such examinations and to waive all objections to the admissibility of the examination, or to previously adjudicated evidence of mental incompetence.

~~B.~~ C. No license shall be suspended or revoked nor the licensee placed on probation or reprimanded until the licensee has been given an opportunity for a hearing before the Board pursuant to the provisions of subsection ~~E~~ D of this section. Whenever the Board determines that there has been a violation of any of the provisions of the Psychologists Licensing Act or of any order of the Board, it shall give written notice to the alleged violator specifying the

cause of complaint. Said notice shall require that the alleged violator appear before the Board at a time and place specified in the notice and answer the charges specified in said notice. The notice shall be delivered to the alleged violator in accordance with the provisions of subsection ~~D~~ E of this section not less than ten (10) days before the time set for the hearing.

~~C~~ D. On the basis of the evidence produced at the hearing, the Board shall make findings of fact and conclusions of law and enter an order thereon in writing or stated in the record. A final order adverse to the alleged violator shall be in writing. An order stated in the record shall become effective immediately, provided the Board gives written notice of such order to the alleged violator and to such other persons who appeared at the hearing and made written request for notice of the order. If the hearing is held before any person other than the Board itself, such person shall transmit the record of the hearing together with recommendations for findings of fact and conclusions of law to the Board, which shall thereupon enter its order. The Board may enter its order on the basis of such record or, before issuing its order, require additional hearings or further evidence to be presented. The order of the Board shall become final and binding on all parties unless appealed to the district court as provided for in Sections 301 through 326 of Title 75 of the Oklahoma Statutes.

~~D~~ E. Except as otherwise expressly provided for by law, any notice, order, or other instrument issued by or pursuant to the authority of the Board may be served on any person affected, by publication, or by mailing a copy of the notice, order, or other instrument by registered mail directed to the person affected at the last-known post office address of such person as shown by the files or records of the Board. Proof of such service shall be made as in case of service of a summons or by publication in a civil action. Proof of mailing may be made by the affidavit of the person who

mailed said notice. Proof of service shall be filed in the office of the Board.

Every certificate or affidavit of service made and filed as provided for in this section shall be prima facie evidence of the facts stated therein, and a certified copy thereof shall have same force and effect as the original certificate or affidavit of service.

~~E.~~ F. If the psychologist fails or refuses to appear, the Board may proceed to hearing and determine the charges in his absence. If the psychologist pleads guilty, or if upon hearing the charges, a majority of the Board finds them to be true, the Board may enter an order suspending or revoking the license of the psychologist, reprimanding the psychologist, or placing the psychologist on probation or any combination of such penalties pursuant to the provisions of this section.

~~F.~~ G. The secretary of the Board shall preserve a record of all proceedings of such hearings and shall furnish a transcript of such hearings to the defendant upon request. The defendant shall prepay the actual cost of preparing the transcript.

~~G.~~ H. Upon a vote of four of its members, the Board may restore a license which has been revoked, reduce the period of suspension or probation, or withdraw a reprimand.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1376 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. In judicial proceedings, whether civil, criminal, or juvenile, legislative and administrative proceedings and in proceedings preliminary and ancillary thereto, a patient or client, or his or her guardian or personal representative, may refuse to disclose or prevent the disclosure of confidential information, including information contained in administrative records, communicated to a psychologist licensed or otherwise authorized to

practice psychology under the laws of this state, or to persons reasonably believed by the patient or client to be licensed, and their agents, for the purpose of diagnosis, evaluation, or treatment of any mental or emotional condition or disorder. In the absence of evidence to the contrary, the psychologist is presumed authorized to claim the privilege on the patient's or client's behalf.

B. At the initiation of the professional relationship the psychologist shall inform the patient of the following limitations to the confidentiality of their communications. No psychologist, colleague, agent or employee of any psychologist, whether professional, clerical, academic or therapeutic, shall disclose any information acquired or revealed in the course of or in connection with the performance of the psychologist's professional services, including the fact, circumstances, findings or records of such services, except under the following circumstances:

1. upon specific, expressed, written, and informed consent of the patient; or

2. where abuse or harmful neglect of children, the elderly, or disabled or incompetent individuals is known or reasonably suspected; or

3. where the validity of a will of a former patient or client is contested; or

4. where such information is necessary for the psychologist to defend against a malpractice action brought by the patient or client; or

5. where an immediate threat of physical violence against a readily identifiable victim is disclosed to the psychologist and:

- a. the patient has communicated to the psychologist an explicit threat to kill or inflict serious bodily injury upon the identified person and the patient has the apparent intent and ability to carry out the threat. In such circumstances the psychologist shall

have a duty to take reasonable precautions. A psychologist shall be deemed to have taken reasonable precautions if the psychologist makes reasonable efforts to take one or more of the following actions:

1. to communicate the threat of death or serious bodily injury to a reasonably identified person;
2. to notify an appropriate law enforcement agency in the vicinity where the patient or any potential victim resides;
3. to arrange for the patient to be hospitalized voluntarily; or
4. to take appropriate steps to initiate proceedings for involuntary hospitalization pursuant to law; or

b. the patient has a history of physical violence which is known to the psychologist and the psychologist has a reasonable basis to believe that there is a clear and imminent danger that the patient will attempt to kill or inflict serious bodily injury upon an identified person. In such circumstances the psychologist shall have a duty to take reasonable precautions. A psychologist shall be deemed to have taken reasonable precautions if the psychologist makes reasonable efforts to take one or more of the following actions:

1. to communicates the threat of death or serious bodily injury to the identified person;
2. to notify an appropriate law enforcement agency in the vicinity where the patient or any potential victim resides;
3. to arrange for the patient to be hospitalized voluntarily;

4 to take appropriate steps to initiate proceedings
for involuntary hospitalization pursuant to law.

Nothing contained in paragraph 5 of subsection B of this section shall require a psychologist to take any action which, in the exercise of reasonable professional judgment, would endanger the psychologist or increase the danger to a potential victim or victims. The psychologist shall only disclose that information which is essential in order to protect the rights and safety of others; or

6. where an immediate threat of self-inflicted damage is disclosed to the psychologist and the patient presents a clear and imminent danger to himself and refuses explicitly or by behavior, to voluntarily accept further appropriate treatment. In such circumstances, where the psychologist has a reasonable basis to believe that a patient can be committed to a hospital, the psychologist shall have a duty to seek commitment. The psychologist may also contact members of the patient's family or other individuals if, in the opinion of the psychologist, such contact would assist in protecting the safety of the patient; or

7. where the patient or client, by alleging mental or emotional damages in litigation, puts the mental state of the patient at issue; or

8. where the patient or client is examined pursuant to court order; or

9. in the context of investigations and hearings brought by the patient or client and conducted by the Board, where violations of the Psychologists Licensing Act are at issue; or

10. in order to collect amounts owed by the patient for professional services rendered by the psychologist or the employees of the psychologist. The psychologist may only disclose the nature of services provided, the dates of services, the amount due for services and other relevant financial information. If the patient

raises as a defense to said action substantive assertions concerning the competence of the psychologist or the quality of the services provided, the psychologist may disclose whatever information is necessary to rebut such assertions; or

11. in such other situations as shall be defined by the rules and regulations of the Board.

SECTION 13. REPEALER 59 O.S. 1981, Section 1371, is hereby repealed.

SECTION 14. This act shall become effective September 1, 1991.

43-1-5605 KVR