

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2158

By: Hamilton (Jeff)

AS INTRODUCED

An Act relating to professions and occupations;
providing short title; defining terms; providing
exemptions to the Licensed Pastoral Counselors Act;
creating the Oklahoma Licensed Pastoral Counselors
Committee; providing for the appointment of
members; providing eligibility requirements;
setting terms of office; providing for removal of
members and filling of vacancies; providing for
organization of the Board; providing for meetings;
providing for reimbursement of expenses of members
of the Committee; providing for certain powers and
duties; stating qualifications for licensure;
providing for examinations and preservation of
certain materials; authorizing reciprocal licenses;
prohibiting disclosure of certain information;
providing certain exceptions; specifying unlawful
acts; providing penalties; stating grounds for
revocation, suspension or denial of license;
providing for certain notice, hearing and
procedures; requiring a statement of professional
disclosure; authorizing specialty designations;
creating the Licensed Pastoral Counselors Revolving
Fund; providing for expenditures from the fund for
certain purposes; requiring fees and setting

certain fee limits; clarifying scope of act;
amending Section 2, Chapter 298, O.S.L. 1992 (43A
O.S. Supp. 1993, Section 5-502), which relates to
Inpatient Mental Health Treatment of Children Act;
modifying definitions; providing for codification;
providing an effective date; and declaring an
emergency.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2051 of Title 59, unless there
is created a duplication in numbering, reads as follows:

Sections 1 through 18 of this act shall be known and may be
cited as the "Licensed Pastoral Counselors Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2052 of Title 59, unless there
is created a duplication in numbering, reads as follows:

For the purpose of the Licensed Pastoral Counselors Act:

1. "Licensed pastoral counselor" means any person who offers
pastoral counseling services to any person and is licensed pursuant
to the provisions of the Licensed Pastoral Counselors Act. The term
shall not include those professions exempted by Section 3 of this
act;
2. "Board" means the State Board of Health;
3. "Department" means the State Department of Health;
4. "Committee" means the Oklahoma Licensed Pastoral Counselors
Committee appointed by the State Board of Health;
5. "Commissioner" means the Commissioner of Health;

6. "Hearing Committee" means the Oklahoma Licensed Pastoral Counselors Hearing Committee, constituted of the Oklahoma Licensed Pastoral Counselors Committee and the Commissioner of Health; and

7. "Pastoral counseling" means assisting an individual or groups, through counseling that is sensitive to issues of faith and meaning, to develop understandings of personal problems, to define goals and to plan actions reflecting his interests, abilities, aptitudes and needs as these are related to personal-social concerns.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2053 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Licensed Pastoral Counselors Act shall not be construed to include the professional pursuits of clergymen, practitioners of medicine, psychologists, attorneys, social workers, certified alcohol-drug counselors, marriage and family therapists, school administrators, school teachers and school counselors certified by the State Department of Education within the scope of their duties in recognized public and private schools, persons in the employ of federal, state or local government or accredited institutions of higher education, licensed professional counselors, or other professionals, insofar as such activities and services are a part of the official duties in salaried positions and the title "licensed pastoral counselor" is not used.

B. The Licensed Pastoral Counselors Act shall not be construed to allow the practice of any of the professions in subsection A of this section by a licensed pastoral counselor unless said licensed pastoral counselor is also licensed or accredited by an appropriate agency, institution or board.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2054 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the "Oklahoma Licensed Pastoral Counselors Committee" whose duty shall be to administer the provisions of the Licensed Pastoral Counselors Act except as otherwise provided by law. The Committee shall consist of five (5) members who shall be appointed by the Commissioner of Health with the advice and consent of the State Board of Health. Three members shall be licensed pastoral counselors and one member shall be a lay person who is not affiliated with any practice of pastoral counseling or delivering of health or mental health services. The first appointees, other than the lay person, shall meet the qualifications for licensure under this act and shall become licensed pastoral counselors immediately upon appointment. Thereafter, all appointees to the Committee except the lay person shall be licensed pastoral counselors prior to appointment. All appointees shall be citizens of the United States and residents of Oklahoma. The members of the first Committee shall be appointed January 1, 1995. The Commissioner shall select the first appointees from a list of qualified candidates submitted by executive committees of state pastoral counseling associations. One member shall be appointed from among the employees of the State Department of Health and shall serve at the pleasure of the Commissioner. The other members of the first Committee shall serve the following terms: One member for one (1) year, one member for two (2) years, one member for three (3) years and one member for four (4) years. Thereafter, at the expiration of the term of each member, the Commissioner shall appoint a successor for four (4) years. All appointees shall be selected from a list of qualified candidates submitted by the executive committees of all state pastoral counseling associations.

Vacancies occurring in the Committee shall be filled for the unexpired term by appointment of the Commissioner with the advice and consent of the Board from a list of qualified candidates

submitted within thirty (30) days of such vacancy by the executive committees of all state pastoral counseling associations. Such appointments shall be made within thirty (30) days after the candidates' names have been submitted.

Any Committee member may be removed by the Commissioner, after written notice and hearing, for incapacity, incompetence, neglect of duty, misfeasance or malfeasance in office.

Members of the Committee shall serve without compensation, but shall be reimbursed their actual and necessary travel expenses as provided by the provisions of the State Travel Reimbursement Act.

Committee members shall be ineligible for reappointment for a period of three (3) years following completion of their term.

B. The Committee shall meet within thirty (30) days after the appointment of its members by the Commissioner. Thereafter the Committee shall hold at least four regular meetings each year. Meetings shall be held at such time and place as the Committee may provide. The Committee shall elect annually the following officers: A chairman, a vice-chairman, and a secretary. Three members of the Committee shall constitute a quorum.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2055 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Health shall, giving regard to the recommendations of the Oklahoma Licensed Pastoral Counselors Committee:

1. Prescribe, adopt and promulgate rules to implement and enforce the provisions of the Licensed Pastoral Counselors Act;

2. Request the Attorney General or district attorney to bring an action to enforce the provisions of the Licensed Pastoral Counselors Act; and

3. Adopt and establish rules of pastoral conduct.

B. The Commissioner of Health shall, giving regard to the recommendations of the Committee:

1. Initiate prosecution and injunctive proceedings;
2. Set license and examination fees as required by this act;
3. Receive fees and deposit said fees as required by this act;
4. Issue, renew, revoke, deny and suspend licenses to practice pastoral counseling pursuant to the provisions of the Licensed Pastoral Counselors Act;
5. Examine all qualified applicants for licenses to practice pastoral counseling;
6. Investigate complaints;
7. Accept grants and gifts from various foundations and institutions; and
8. Make such expenditures and employ such personnel as the Commissioner may deem necessary for the administration of the Licensed Pastoral Counselors Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2056 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Applications for a license to practice as a licensed pastoral counselor shall be made to the Commissioner of Health in writing. Such applications shall be on a form and in a manner prescribed by the Commissioner. The application shall be accompanied by the fee required by this act which shall be retained by the State Department of Health and not returned to the applicant.

B. Each applicant for a license to practice as a licensed pastoral counselor shall:

1. Be a citizen of the United States;
2. Be a resident of this state or be in the process of establishing residency in this state;
3. Be possessed of good moral character;

4. Pass an examination based on standards promulgated by the Board pursuant to the Licensed Pastoral Counselors Act;
5. Be at least twenty-one (21) years of age; and
6. Otherwise comply with the rules promulgated by the Board pursuant to the provisions of the Licensed Pastoral Counselors Act.

C. In addition to the qualifications specified by the provisions of subsection B of this section, an applicant for a license to practice as a licensed pastoral counselor shall have five (5) years of graduate education after college with at least one (1) seminary degree. A pastoral counselor's training combines a sophisticated knowledge in psychology with an equally sophisticated understanding of theology, values, meaning-making, personal philosophy and religion.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2057 of Title 59, unless there is created a duplication in numbering, reads as follows:

Examinations shall be held at such times, at such place and in such manner as the Commissioner of Health directs. An examination shall be held at least annually. The Oklahoma Licensed Pastoral Counselors Committee shall determine the acceptable grade on examinations. The examination shall cover such technical, professional and practical subjects as relate to the practice of pastoral counseling.

If an applicant fails to pass the examinations, said applicant may reapply and shall be allowed to take subsequent examinations. An applicant who has failed two successive examinations may not reapply for two (2) years from the date of the last examination.

The Commissioner shall preserve examination materials and an accurate transcript of the questions and answers to any examination, and the applicant's performance on each section, as part of its records for a period of two (2) years following the date of the examination.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2058 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. An applicant who meets the requirements for licensure pursuant to the provisions of the Licensed Pastoral Counselors Act, has paid the required license fees and has otherwise complied with the provisions of the Licensed Pastoral Counselors Act shall be licensed by the Board.

B. Licenses issued pursuant to the Licensed Pastoral Counselors Act shall expire twenty-four (24) months from the date of issuance unless revoked. A license may be renewed upon application and payment of fees. The application for renewal shall be accompanied by evidence satisfactory to the Board that the applicant has completed relevant professional or continued educational experience during the previous twenty-four (24) months. Failure to renew a license as required by the Licensed Pastoral Counselors Act shall constitute a suspension of said license. A person whose license has been suspended may make application within one (1) year following the suspension in writing to the Board requesting reinstatement in a manner prescribed by the Board and payment of the fees required by the provisions of the Licensed Pastoral Counselors Act. The license of a person whose license has been suspended pursuant to this section for more than one (1) year shall not be renewed except upon making application and taking and passing the examination as required by the Licensed Pastoral Counselors Act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2059 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Commissioner of Health shall have the power to issue reciprocal licenses for applicants licensed in other states to practice as a licensed pastoral counselor if the Commissioner deems

such states to have qualifications and standards comparable to those required under this act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2060 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. No person licensed pursuant to the provisions of the Licensed Pastoral Counselors Act shall disclose any information the licensee may have acquired from persons consulting the licensee in his professional capacity as a pastoral counselor or be compelled to disclose such information except:

1. With the written consent of the client, or in the case of death or disability of the client, the consent of his personal representative or other person authorized to sue or the beneficiary of any insurance policy on his life, health or physical condition;

2. If the person is a child under the age of eighteen (18) years and the information acquired by the licensed person indicated that the child was the victim or subject of a crime, the licensed person may be required to testify fully in relation thereto upon an examination, trial or other proceeding in which the commission of such a crime is a subject of inquiry; or

3. If the client waives the privilege by bringing charges against the licensed person.

B. No information shall be treated as privileged and there shall be no privileges created by the Licensed Pastoral Counselors Act as to any information acquired by the person licensed pursuant to the Licensed Pastoral Counselors Act when such information pertains to criminal acts or violation of any law.

C. The Licensed Pastoral Counselors Act shall not be construed to prohibit any licensed person from testifying in court hearings concerning matters of adoption, child abuse, child neglect, battery or matters pertaining to the welfare of children or from seeking

collaboration or consultation with professional colleagues or administrative superiors on behalf of this client.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2061 of Title 59, unless there is created a duplication in numbering, reads as follows:

Any person who represents himself by the title "licensed pastoral counselor" without having first complied with the provisions of the Licensed Pastoral Counselors Act, upon conviction, shall be guilty of a misdemeanor and shall be punished by imposition of a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense and in addition may be imprisoned for a term not to exceed six (6) months in the county jail or by both such fine and imprisonment.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2062 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Commissioner of Health, upon the recommendation of the Oklahoma Licensed Pastoral Counselors Hearing Committee, may deny, revoke or suspend any license or specialty designation issued pursuant to the provisions of this act to a licensed pastoral counselor after a hearing, if the person has:

1. Been convicted of a felony and if, after investigation, the Hearing Committee finds that he has not been sufficiently rehabilitated to merit the public trust;

2. Been found guilty of fraud or deceit in connection with services rendered or in establishing needed qualifications pursuant to the provisions of this act;

3. Knowingly aided or abetted a person not licensed pursuant to these provisions in representing himself as a licensed pastoral counselor in this state;

4. Been found guilty of unprofessional conduct as defined by the rules established by the Board; or

5. Been found guilty of negligence or wrongful actions in the performance of his duties.

No license or specialty designation shall be suspended or revoked until notice is served upon the licensed pastoral counselor and a hearing is held before the Hearing Committee in such manner as is required by this act.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2063 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Whenever the Oklahoma Licensed Pastoral Counselors Hearing Committee determines that there has been a violation of any of the provisions of the Licensed Pastoral Counselors Act or of any order of the Commissioner of Health, 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 Hearing Committee 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 C of this section not less than ten (10) days before the time set for the hearing.

B. On the basis of the evidence produced at the hearing, the Hearing Committee shall make findings of fact and conclusions of law and enter a recommendation thereon in writing or stated in the record. A final recommendation adverse to the alleged violator shall be in writing. A recommendation stated in the record shall become effective immediately, provided the Hearing Committee 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 Hearing Committee itself, such person shall transmit the record of the hearing together with recommendations for findings of fact and conclusions of law to the Hearing Committee, which shall

thereupon enter its recommendation. The Commissioner may enter an order on the basis of such record or, before issuing an order, require additional hearings or further evidence to be presented. The order of the Commissioner shall become final and binding on all parties unless appealed to the district court as provided for in Article II of the Administrative Procedures Act.

C. Except as otherwise expressly provided for by law, any notice, order or other instrument issued by or pursuant to the authority of the Hearing Committee 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 Hearing Committee. 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 the same force and effect as the original certificate or affidavit of service.

D. If the counselor fails or refuses to appear, the Hearing Committee may proceed to hearing and determine the charges in his absence. If the counselor pleads guilty, or if upon hearing the charges, a majority of the Hearing Committee finds them to be true, the Commissioner may enter an order suspending or revoking the license of the counselor, reprimanding the counselor, or placing the counselor on probation or providing for both the latter actions.

E. The secretary of the Hearing Committee shall preserve a record of all proceedings of such hearings and shall furnish a transcript of such hearings to the defendant upon request.

F. A record of the hearing shall be taken and preserved. The record shall contain the notice, all papers, documents and data filed in the proceedings and all statements of the Hearing Committee pertinent thereto, the testimony and exhibits and the findings of fact and orders of the Commissioner in writing. The State of Oklahoma shall be a party in the prosecution of all such actions and hearings before the Hearing Committee pertaining to the suspension or revocation of a license, and the Attorney General, or one of his assistants, is authorized and directed to appear in behalf thereof. The hearing may be adjourned from time to time.

G. Any person aggrieved by the suspension or revocation of his license may file suit within thirty (30) days after receiving the Commissioner's order of revocation or suspension in a court of competent jurisdiction to have his license reinstated. If the court finds that the proceedings before the Hearing Committee were conducted in a manner to protect the rights of the accused, that the proceedings were held in a manner to ensure correct determination of fact, and that the Commissioner's order is consistent with the intent of this law, the court shall affirm the Commissioner's order. If not, the court may order the person's license reinstated or a rehearing before the Hearing Committee.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2064 of Title 59, unless there is created a duplication in numbering, reads as follows:

The hearings provided for by the Licensed Pastoral Counselors Act shall be conducted in conformity with, and records made thereof as provided by, the provisions of Article II of the Administrative Procedures Act.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2065 of Title 59, unless there is created a duplication in numbering, reads as follows:

Until July 1, 1995, the Board, upon receipt of applicant's proper application, completion of examination and payment of fees, shall issue licenses to persons who prior to January 1, 1995:

1. Are currently practicing as a pastoral counselor; and
2. Otherwise comply with the licensure requirements of the Licensed Pastoral Counselors Act.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2066 of Title 59, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma Board of Licensed Pastoral Counselors, to be designated the "Licensed Pastoral Counselors Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received pursuant to this act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Department of Health to meet expenses necessary for carrying out the purpose of the Licensed Pastoral Counselors Act. Expenditures from said fund shall be approved by the Commissioner and shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2067 of Title 59, unless there is created a duplication in numbering, reads as follows:

The licensing fee and the annual renewal fee shall be amounts fixed by the State Board of Health upon recommendations of the Oklahoma Licensed Pastoral Counselors Committee. The Board shall fix the amount of the fees so that the total fees collected will be sufficient to meet the expenses of administering the provisions of the Licensed Pastoral Counselors Act and so that there are no unnecessary surpluses in the Licensed Pastoral Counselors Revolving

Fund. The Board shall not fix a license fee at an amount in excess of Three Hundred Dollars (\$300.00) and a renewal fee at an amount in excess of Two Hundred Dollars (\$200.00). The fee for the issuance of a license to replace a license which was lost, destroyed, mutilated or revoked shall be Twenty-five Dollars (\$25.00). The fee shall accompany the application for a replacement license. The fee for specialty designation shall not exceed One Hundred Fifty Dollars (\$150.00). The fee for an examination required pursuant to the Licensed Pastoral Counselors Act shall not exceed One Hundred Dollars (\$100.00).

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2068 of Title 59, unless there is created a duplication in numbering, reads as follows:

Nothing in this act shall be construed to require reimbursement under the policies of health insurers and nonprofit hospital or medical service plans unless the contract specifically calls for reimbursement to licensed pastoral counselors.

SECTION 19. AMENDATORY Section 2, Chapter 298, O.S.L. 1992 (43A O.S. Supp. 1993, Section 5-502), is amended to read as follows:

Section 5-502. As used in the Inpatient Mental Health Treatment of Children Act:

1. "Child" means any person under eighteen (18) years of age;
2. "Child in need of mental health treatment" means a child:
 - a. who has a demonstrable mental illness and as a result of that mental illness can be expected within the near future to inflict or attempt to inflict serious bodily harm to himself or another person if mental health services are not provided and has engaged in one or more recent overt acts or made significant recent threats which substantially support that expectation, or

- b. who has a demonstrable mental illness of sufficient severity to cause substantial impairment or disability in at least two of the following major areas of functioning in the child's life: family relations, school performance, social interactions or ability to perform independently the basic tasks of personal hygiene, hydration and nutrition, or self-protection. A determination regarding the ability of the child to perform independently said basic tasks shall be based upon the age of the child and reasonable and appropriate expectation of the abilities of a child of such age to perform said tasks.

The term "child in need of mental health treatment" shall not mean a child afflicted with epilepsy, developmental disability, organic brain syndrome, physical handicaps, brief periods of intoxication caused by such substances as alcohol or drugs or who is truant or sexually active unless the child also meets the criteria for a child in need of treatment pursuant to subparagraphs a and b of this paragraph.

Only the condition provided by subparagraph a of this paragraph shall be used as the basis for an order of a court committing a child for inpatient mental health treatment;

3. "Consent" means the voluntary, express, and informed agreement to treatment in a mental health facility by a child fourteen (14) years of age or older and by a parent having custody of the child or a legally authorized custodian;

4. "Independent" means a qualified mental health professional conducting a prescreening examination or a licensed mental health professional conducting an outpatient or inpatient mental health evaluation and submitting a report to the district attorney or court pursuant to the provisions of the Inpatient Mental Health Treatment of Children Act is not and will not be treating the child and has no

financial interest in a facility in which the child will be placed or any significant interest in the hospitalization of the child that would constitute a conflict of interest, and has signed an affidavit to that effect, provided, a qualified or licensed mental health professional employed by a community mental health center shall be exempt from the requirement that he is not and will not be treating the child;

5. "Individualized treatment plan" means a specific plan for the care and treatment of an individual child who requires inpatient mental health treatment. The plan shall be developed with maximum involvement of the child's family, consistent with the child's desire for confidentiality and with the treatment needs of the child, and shall clearly include the following:

- a. a statement of the presenting problems of the child, short- and long-term treatment goals and the estimated date of discharge. The short- and long-term goals shall be based upon a clinical evaluation and shall include specific behavioral and emotional goals against which the success of treatment can be measured,
- b. treatment methods and procedures to be used to achieve these goals, which methods and procedures are related to each of these goals and which include, but are not limited to, specific prognosis for achieving each of these goals,
- c. identification of the types of professional personnel who will carry out the treatment procedures including, but not limited to, appropriate qualified mental health professionals, education professionals, and other health or social service professionals,
- d. documentation of the involvement of the child in the development of the treatment plan and:

- (1) the involvement of a parent in the development of the treatment plan and the consent of the child to the plan, or
- (2) when the child is in the legal custody of a public or private child care agency, the involvement of a designated representative of the agency in the development of the treatment plan and documentation of the consent of the agency to the treatment plan;

6. "Inpatient treatment" means mental health treatment services offered or provided for a continuous period of more than twenty-four (24) hours in residence after admission to a mental health facility for the purpose of observation, evaluation or treatment;

7. "Least restrictive alternative" means the treatment and conditions of treatment which, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit to the child or to protect the child or others from physical injury;

8. "Less restrictive alternative to inpatient treatment" means and includes but is not limited to outpatient counseling services, including services provided in the home of the child and which may be referred to as "home-based services", day treatment or day hospitalization services, respite care, or foster care or group home care, as defined by Title 10 of the Oklahoma Statutes, through a program established and specifically designed to meet the needs of children in need of mental health treatment, or a combination thereof;

9. "Licensed mental health professional" means a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology, a clinical psychologist, a Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or

counseling functions. For the purposes of this paragraph, "licensed" means that the person holds a current, valid license issued in accordance with the laws of this state;

10. "Mental health evaluation" means an examination or evaluation of a child for the purpose of making a determination whether, in the opinion of the mental health professional making the evaluation, the child is a child in need of mental health treatment and, if so, is in need of inpatient mental health treatment and for the purpose of preparing reports or making recommendations for the most appropriate and least restrictive treatment for the child;

11. "Mental health facility" means a public or private hospital or related institution as defined by Section 1-701 of Title 63 of the Oklahoma Statutes offering or providing inpatient mental health services, a public or private facility accredited as an inpatient or residential psychiatric facility by the Joint Commission on Accreditation of Healthcare Organizations, or a facility operated by the Department of Mental Health and Substance Abuse Services and designated by the Commissioner of the Department of Mental Health and Substance Abuse Services as appropriate for the inpatient evaluation or treatment of children;

12. "Mental illness" means a substantial disorder of the child's cognitive, volitional, or emotional processes that demonstrably and significantly impairs judgment or capacity to recognize reality or to control behavior. "Mental illness" may include substance abuse, which is the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional, or physical impairment and cause socially dysfunctional or socially disordering behavior;

13. "Parent" means:

- a. a biological or adoptive parent who has legal custody of the child, including either parent if custody is shared under a joint decree or agreement, or
- b. a person judicially appointed as a legal guardian of the child, or
- c. a relative within the third degree of consanguinity who exercises the rights and responsibilities of legal custody by delegation from a parent, as provided by law;

14. "Person responsible for the supervision of the case" means:

- a. when the child is a ward of the court and in the legal custody of a public or private child care agency, the caseworker or other person designated by the agency to supervise the case, or
- b. when the child is a ward of the court and under the court-ordered supervision of the Department of Human Services or a statutorily constituted juvenile bureau, the person designated by the Department or juvenile bureau to supervise the case;

15. "Prescreening" means a face-to-face mental health evaluation conducted by a qualified or licensed mental health professional to determine whether a child requires an inpatient evaluation or an emergency mental health admission and may include consultation with other mental health professionals and a review of all available records on the child;

16. "Qualified mental health professional" means an individual having specific training and current experience in the mental health testing, examination, evaluation and diagnosis of children and who:

- a. holds at least a master's degree in a mental health field and is employed by the Department of Mental Health and Substance Abuse Services, the State Department of Health, or the Department of Human

Services as a provider of mental health services in an Office of Personnel Management employment classification of Psychological Assistant or above or Social Worker II or above, ~~or~~

- b. has been awarded a current, valid Oklahoma license in a mental health field or permission to practice by a licensure board in a mental health field, or
- c. has been awarded a current valid Oklahoma license as a licensed pastoral counselor pursuant to the Licensed Pastoral Counselors Act.

For the purpose of this paragraph, "mental health field" means medicine, psychology, counseling and guidance, applied behavioral studies, human relations or social work;

17. "Ward of the court" means a child adjudicated to be a deprived child, a child in need of supervision, or a delinquent child; and

18. "Treatment" means any planned intervention intended to improve a child's functioning in those areas which show impairment as a result of mental illness.

SECTION 20. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-7935

KSM