

ENROLLED HOUSE
BILL NO. 2279

By: Stanley of the House

and

Morgan of the Senate

An Act relating to professions and occupations; amending 59 O.S. 1991, Sections 1901, 1902, as amended by Section 1, Chapter 167, O.S.L. 1995, 1903, as last amended by Section 3 of Enrolled Senate Bill No. 1333 of the 2nd Session of the 46th Oklahoma Legislature, 1904, as amended by Section 3, Chapter 167, O.S.L. 1995, 1905, as amended by Section 4, Chapter 167, O.S.L. 1995, 1906, as amended by Section 5, Chapter 167, O.S.L. 1995, 1907, 1908, as amended by Section 6, Chapter 167, O.S.L. 1995, 1910, 1912, Section 9, Chapter 167, O.S.L. 1995, Section 10, Chapter 167, O.S.L. 1995, Section 11, Chapter 167, O.S.L. 1995, 1917, as amended by Section 12, Chapter 167, O.S.L. 1995, and 1919 (59 O.S. Supp. 1997, Sections 1902, 1904, 1905, 1906, 1908, 1913.1, 1915.1, 1916.1 and 1917), which relate to the Licensed Professional Counselors Act; clarifying language; adding definition; updating language; modifying and adding powers and duties of the State Board of Health and the Oklahoma Licensed Professional Counselors Advisory Board; adding to list of qualifications necessary for licensure; adding to list of information that may be disclosed; adding to list of offenses which are grounds for denial, revocation, suspension of a license and probation; removing certain limitations on administrative penalties; providing for deposits; making certain penalties enforceable in district court; adding to exemptions for licensure; amending 59 O.S. 1991, Sections 1925.1, 1925.2, as amended by Section 13, Chapter 167, O.S.L. 1995, 1925.3, 1925.4, as amended by Section 14, Chapter 167, O.S.L. 1995, 1925.5, as amended by Section 15, Chapter 167, O.S.L. 1995, 1925.6, 1925.7, 1925.8, 1925.9, 1925.15 and 1925.18 (59 O.S. Supp. 1997, Sections 1925.2, 1925.4 and 1925.5), which relate to the Marital and Family Therapist Licensure Act; modifying cites; adding and modifying definitions; clarifying and updating statutes; removing outdated language; adding to list of persons exempt from act; prohibiting certain uses of official titles or descriptions; providing for conditions; providing exemptions; requiring certain conditions and mandates; adding to and modifying powers and duties of the Oklahoma Licensed Marital and Family Therapist Advisory Board; modifying and removing certain qualifications; modifying the powers and duties of the State Board of Health and the

Oklahoma State Department of Health; providing for penalties for certain violations; removing temporary licenses; adding and modifying certain penalties and punishment for certain activities; providing for administrative penalties; modifying construction of acts; removing references to certain committees; clarifying language; clarifying penalty provisions; authorizing probations; providing for administrative penalties; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1901, is amended to read as follows:

Section 1901. ~~Sections 1 through 20~~ Chapter 44 of this ~~act~~ title shall be known and may be cited as the "Licensed Professional Counselors Act".

SECTION 2. AMENDATORY 59 O.S. 1991, Section 1902, as amended by Section 1, Chapter 167, O.S.L. 1995 (59 O.S. Supp. 1997, Section 1902), is amended to read as follows:

Section 1902. For the purpose of the Licensed Professional Counselors Act:

1. "Licensed professional counselor" or "LPC" means any person who offers professional counseling services for compensation to any person and is licensed pursuant to the provisions of the Licensed Professional Counselors Act. The term shall not include those professions exempted by Section 1903 of this title;

2. "Board" means the State Board of Health;

3. "Department" means the State Department of Health;

4. "Advisory Board" means the Oklahoma Licensed Professional Counselors Advisory Board appointed by the ~~State Board of Health~~ Commissioner;

5. "Commissioner" means the State Commissioner of Health;

6. "Counseling" means the application of mental health and developmental principles in order to:

- a. facilitate human development and adjustment throughout the life span,
- b. prevent, diagnose or treat mental, emotional or behavioral disorders or associated distress which interfere with mental health,
- c. conduct assessments or diagnoses for the purpose of establishing treatment goals and objectives, and
- d. plan, implement or evaluate treatment plans using counseling treatment interventions;

7. "Counseling treatment interventions" means the application of cognitive, affective, behavioral and systemic counseling strategies which include principles of development, wellness, and pathology that reflect a pluralistic society. Such interventions are specifically implemented in the context of a professional counseling relationship;

8. "Consulting" means interpreting or reporting scientific fact or theory in counseling to provide assistance in solving current or potential problems of individuals, groups or organizations;

9. "Referral activities" means the evaluating of data to identify problems and to determine the advisability of referral to other specialists;

10. "Research activities" means reporting, designing, conducting or consulting on research in counseling;

11. "Specialty" means the designation of a subarea of counseling practice that is recognized by a national certification agency or by the Board; ~~and~~

12. "Supervisor" means a person who meets the requirements established by the Board and who is licensed pursuant to the Licensed Professional Counselors Act; ~~and~~

13. "Licensed professional counselor candidate" means a person whose application for licensure has been accepted and who is under supervision for licensure as provided in Section 1901 et seq. 1906 of this title.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 1903, as last amended by Section 3 of Enrolled Senate Bill No. 1333 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 1903. A. ~~The Licensed Professional Counselors Act, Section 1901 et seq. of this title,~~ shall not be construed to include the ~~professional pursuits of clergymen, lay pastoral counselors, practitioners of medicine,~~ the following professionals acting within the scope of their duties as such professionals, nor shall the title "Licensed Professional Counselor" or "LPC" be used by such professionals:

1. Physicians, psychologists, attorneys, social workers, certified alcohol-drug counselors, marriage marital and family therapists, certified rehabilitation and attorneys, who are licensed by their respective licensing authorities;

2. Rehabilitation counselors, certified vocational evaluation specialists, psychiatric and mental health nurses, alcohol and drug counselors, school administrators, school teachers and school counselors, who are certified by the State Department of Education within the scope of their duties in recognized public and private schools, persons their respective certifying authorities;

3. Persons in the employ of federal, state or local government or accredited institutions of higher education, or other professionals, insofar as such activities and services are a part of the official duties in salaried positions and the title "licensed professional counselor" or "LPC" is not used. Provided, the in the employ of local, state or federal government; and

4. Members of clergy.

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

~~B.~~ C. The activities and services of a person in the employ of a private, nonprofit behavioral services provider contracting with the state to provide behavioral services with the state shall be exempt from licensure as a Licensed Professional Counselor if such activities and services are a part of the official duties of such person with the private nonprofit agency.

1. Any person who is unlicensed and operating under these exemptions shall not use any of the following official titles or descriptions:

- a. psychologist, psychology or psychological,
- b. licensed social worker,
- c. clinical social worker,
- d. certified rehabilitation specialist,
- e. licensed professional counselor,

- f. psychoanalyst, or
- g. marital and family therapist.

2. Such exemption to the provisions of this ~~act~~ section shall apply only while the unlicensed individual is operating under the auspices of a contract with the state and within the employ of the nonprofit agency contracting with the state. Such exemption will not be applicable to any other setting.

3. State agencies contracting to provide behavioral health services will strive to ensure that quality of care is not compromised by contracting with external providers and that the quality of service is at least equal to the service that would be delivered if that agency were able to provide the service directly. The persons exempt under the provisions of this ~~act~~ section shall provide services that are consistent with their training and experience. Agencies will also ensure that the entity with which they are contracting has qualified professionals in its employ and that sufficient liability insurance is in place to allow for reasonable recourse by the public.

~~C.~~ D. The activities and services of a person in the employ of a private, for-profit behavioral services provider contracting with the state to provide behavioral services to youth and families in the care and custody of the Office of Juvenile Affairs or the Department of Human Services on March 14, 1997, shall be exempt from licensure as a Licensed Professional Counselor if such activities and services are a part of the official duties of such person with the private for-profit contracting agency.

1. Any person who is unlicensed and operating under these exemptions shall not use any of the following official titles or descriptions:

- a. psychologist, psychology or psychological,
- b. licensed social worker,
- c. clinical social worker,
- d. certified rehabilitation specialist,
- e. licensed professional counselor,
- f. psychoanalyst, or
- g. marital and family therapist.

2. Such exemption to the provisions of this ~~act~~ section shall apply only while the unlicensed individual is operating under the auspices of a contract with the state and within the employ of the for-profit agency contracting with the state. Such exemption shall only be available for ongoing contracts and contract renewals with the same state agency and will not be applicable to any other setting.

3. State agencies contracting to provide behavioral health services will strive to ensure that quality of care is not compromised by contracting with external providers and that the quality of service is at least equal to the service that would be delivered if that agency were able to provide the service directly. The persons exempt under the provisions of this ~~act~~ section shall provide services that are consistent with their training and experience. Agencies will also ensure that the entity with which they are contracting has qualified professionals in its employ and that sufficient liability insurance is in place to allow for reasonable recourse by the public.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 1904, as amended by Section 3, Chapter 167, O.S.L. 1995 (59 O.S. Supp. 1997, Section 1904), is amended to read as follows:

Section 1904. A. 1. There is hereby created the "Oklahoma Licensed Professional Counselors Advisory Board" whose duty shall be to advise the Department on the provisions of the Licensed

Professional Counselors Act, ~~Section 1901 et seq. of this title,~~
except as otherwise provided by law.

2. The Advisory Board shall consist of seven (7) members who shall be appointed by the State Commissioner of Health with the advice and consent of the State Board of Health. Five members shall be licensed professional counselors and two members shall be lay persons who are not affiliated with any practice of counseling or delivering of health or mental health services. ~~The five current members of the Oklahoma Licensed Professional Counselors Committee shall serve out their current terms. The Commissioner shall appoint the two new members for terms of four (4) years. Thereafter, at the expiration of the term of each member, the Commissioner shall~~ appoint ~~a successor~~ successors for four (4) years a four-year term.

3. All professional appointees shall be selected from a list of qualified candidates submitted by the Executive Committee of the Oklahoma Counseling Association acting in conjunction with the executive committees of all state professional counseling associations which represent a specialty recognized pursuant to the Licensed Professional Counselors Act.

B. Vacancies occurring in the Advisory Board 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 Committee of the Oklahoma Counseling Association acting in conjunction with the executive committees of all state professional counseling associations which represent a specialty recognized pursuant to the Licensed Professional Counselors Act. Such appointments shall be made within thirty (30) days after the candidates' names have been submitted if possible.

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

D. Members of the Advisory Board 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, ~~Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.~~

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

~~B.~~ F. The Advisory Board shall hold at least four regular meetings each year. Meetings shall be held at such time and place as the Advisory Board may provide. The Advisory Board shall elect annually the following officers: A chair, a vice-chair, and a secretary. Four members of the Advisory Board shall constitute a quorum.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 1905, as amended by Section 4, Chapter 167, O.S.L. 1995 (59 O.S. Supp. 1997, Section 1905), is amended to read as follows:

Section 1905. A. The State Board of Health shall, giving regard to the recommendations of the Oklahoma Licensed Professional Counselors Advisory Board:

1. Prescribe, adopt and promulgate rules to implement and enforce the provisions of the Licensed Professional Counselors Act, ~~Section 1901 et seq. of this title;~~

2. ~~Request the district attorney to bring an action to enforce the provisions of the Licensed Professional Counselors Act; and~~

~~3. Adopt and establish rules of professional conduct; and~~

3. Set license and examination fees as required by the Licensed Professional Counselors Act.

B. The State ~~Commissioner~~ Department of Health shall, giving regard to the recommendations of the Advisory Board, have the authority to:

1. ~~Initiate prosecution and~~ Seek injunctive ~~proceedings~~ relief;
2. ~~Set license and examination fees as required by~~ Request the district attorney to bring an action to enforce the provisions of the Licensed Professional Counselors Act;
3. Receive fees and deposit said fees into the Licensed Professional Counselors Revolving Fund as required by the Licensed Professional Counselors Act;
4. Issue, renew, revoke, deny ~~and~~, suspend and place on probation licenses to practice professional counseling pursuant to the provisions of the Licensed Professional Counselors Act;
5. Examine all qualified applicants for licenses to practice professional counseling;
6. Investigate complaints and possible violations of the Licensed Professional Counselors Act;
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 Professional Counselors Act.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 1906, as amended by Section 5, Chapter 167, O.S.L. 1995 (59 O.S. Supp. 1997, Section 1906), is amended to read as follows:

Section 1906. A. Applications for a license to practice as a licensed professional counselor shall be made to the State ~~Commissioner~~ Department 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 the Licensed Professional Counselors Act, ~~Section 1901 et seq. of this title,~~ 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 professional counselor shall:

1. Be possessed of good moral character;
2. Pass an examination based on standards promulgated by the State Board of Health pursuant to the Licensed Professional Counselors Act;
3. Be at least twenty-one (21) years of age; ~~and~~
4. Not have engaged in, nor be engaged in, any practice or conduct which would be grounds for denying, revoking or suspending a license pursuant to this title; and
5. Otherwise comply with the rules promulgated by the Board pursuant to the provisions of the Licensed Professional 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 professional counselor shall have:

1. Successfully completed at least forty-five (45) graduate semester hours (sixty (60) graduate quarter hours) of counseling-related course work. These forty-five (45) hours shall include at least a master's degree in a counseling field. All course work and degrees shall be earned from a regionally accredited college or university. The State Board of Health shall define what course work qualifies as "counseling-related" and what degrees/majors qualify as a "counseling field";
2. As of January 1, 2000, successfully completed at least sixty (60) graduate semester hours (ninety (90) graduate quarter hours) of counseling-related course work. These sixty (60) hours shall

include at least a master's degree in a counseling field. All courses and degrees shall be earned from a regionally accredited college or university. The Board shall define what course work qualifies as "counseling-related" and what degrees/majors qualify as a "counseling field"; and

3. Three (3) years of supervised full-time experience in professional counseling subject to the supervision of a licensed professional counselor pursuant to conditions established by the Board. One (1) or two (2) years of experience may be gained at the rate of one (1) year for each thirty (30) graduate semester hours earned beyond the master's degree, provided that such hours are clearly related to the field of counseling and are acceptable to the Board. The applicant shall have no less than one (1) year of supervised full-time experience in counseling.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 1907, is amended to read as follows:

Section 1907. A. 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 Professional Counselors Committee~~ Department shall determine the acceptable grade on examinations. The examination shall cover such technical, professional and practical subjects as relate to the practice of professional 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.

B. 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. AMENDATORY 59 O.S. 1991, Section 1908, as amended by Section 6, Chapter 167, O.S.L. 1995 (59 O.S. Supp. 1997, Section 1908), is amended to read as follows:

Section 1908. A. An applicant who meets the requirements for licensure pursuant to the provisions of the Licensed Professional Counselors Act, ~~Section 1901 et seq. of this title,~~ has paid the required license fees and has otherwise complied with the provisions of the Licensed Professional Counselors Act shall be licensed by the ~~State Board of Health~~ Department.

B. Licenses issued pursuant to the Licensed Professional 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 State Department of Health 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 Professional 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 Department requesting reinstatement in a manner prescribed by the Department and payment of the fees required by the provisions of the Licensed Professional 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 Professional Counselors Act.

C. ~~An LPC~~ A licensed professional counselor whose license is current and in good standing, who wishes to retire the license, may do so by informing the Department in writing and returning the license to the LPC office. A license so retired shall not be reinstated but does not prevent a person from applying for a new license at a future date.

SECTION 9. AMENDATORY 59 O.S. 1991, Section 1910, is amended to read as follows:

Section 1910. A. No person licensed pursuant to the provisions of the Licensed Professional Counselors Act shall disclose any information the licensee may have acquired from persons consulting the licensee in his professional capacity as a professional 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;

4. When failure to disclose such information presents a danger to the health of any person; or

5. If the licensed professional counselor is a party to a civil, criminal or disciplinary action arising from such therapy, in which case any waiver of the privilege accorded by this section shall be limited to that action.

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

C. The Licensed Professional 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 10. AMENDATORY 59 O.S. 1991, Section 1912, is amended to read as follows:

Section 1912. ~~A. The Commissioner of Health, upon the recommendation of the Oklahoma Licensed Professional Counselors Hearing Committee, Department may deny, revoke or, suspend or place on probation any license or specialty designation issued pursuant to the provisions of this act~~ the Licensed Professional Counselors Act to a licensed professional 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 convicted of a misdemeanor determined to be of such a nature as to render the person convicted unfit to practice counseling;

3. Engaged in fraud or deceit in connection with services rendered or in establishing needed qualifications pursuant to the provisions of this act;

~~3.~~ 4. Knowingly aided or abetted a person not licensed pursuant to these provisions in representing himself as a licensed professional counselor in this state;

~~4. Been found guilty of~~ 5. Engaged in unprofessional conduct as defined by the rules established by the Board; ~~or~~

~~5. Been found guilty of~~ 6. Engaged in negligence or wrongful actions in the performance of his duties; or

7. Misrepresented any information required in obtaining a license.

B. No license or specialty designation shall be suspended or revoked, nor a licensed professional counselor placed on probation until notice is served upon the licensed professional counselor and a hearing is held before the Hearing Committee in such manner as is required by this act in conformity with Article II of the Administrative Procedures Act.

SECTION 11. AMENDATORY Section 9, Chapter 167, O.S.L. 1995 (59 O.S. Supp. 1997, Section 1913.1), is amended to read as follows:

Section 1913.1 A. The State Board of Health shall promulgate rules governing any licensure action to be taken pursuant to the Licensed Professional Counselors Act, ~~Section 1901 et seq. of this title,~~ which shall be consistent with the requirements of notice and hearing under the Administrative Procedures Act, ~~Section 250 et seq. of Title 75 of the Oklahoma Statutes.~~ No action shall be taken without prior notice unless the State Commissioner of Health determines that there exists a threat to the health and safety of the residents of Oklahoma.

B. 1. Any person who ~~has been~~ is determined by the State Department of Health to have violated any provision of the Licensed Professional Counselors Act, or any rule promulgated or order issued pursuant to these provisions thereto, may be liable for subject to an administrative penalty ~~of not more than One Hundred Dollars (\$100.00) for each day that the violation continues.~~

2. The maximum administrative penalty shall not exceed Ten Thousand Dollars (\$10,000.00) ~~for any related series of violations.~~

3. Administrative penalties imposed pursuant to this subsection shall be enforceable in the district courts of this state.

4. All administrative penalties collected shall be deposited into the Licensed Professional Counselors Revolving Fund.

SECTION 12. AMENDATORY Section 10, Chapter 167, O.S.L. 1995 (59 O.S. Supp. 1997, Section 1915.1), is amended to read as follows:

Section 1915.1 A. ~~On or before January 1, 2000, any person holding a valid license as a Licensed Professional Counselor shall be exempt from the revised education requirements of Section 4~~ 1906 of this act title.

~~B. Persons whose LPC license is inactive, under suspension, on probation, or in any other status other than active, shall remain in that status.~~

SECTION 13. AMENDATORY Section 11, Chapter 167, O.S.L. 1995 (59 O.S. Supp. 1997, Section 1916.1), is amended to read as follows:

Section 1916.1 All licensed professional counselors, except those employed by ~~public institutions~~ federal, state, or local governmental agencies, shall, prior to the performance of service, furnish the client with a copy of the Statement of Professional Disclosure as promulgated by rule of the State Board of Health. A current copy shall be on file with the State Department of Health at all times.

SECTION 14. AMENDATORY 59 O.S. 1991, Section 1917, as amended by Section 12, Chapter 167, O.S.L. 1995 (59 O.S. Supp. 1997, Section 1917), is amended to read as follows:

Section 1917. A. A professional specialty designation area may be established by the ~~State Board of Health~~ Department upon receipt of a petition signed by fifteen qualified persons who are currently licensed as licensed professional counselors, who have acquired at least sixty (60) semester hours, to increase to seventy-five (75) hours on and after January 1, 2000, of graduate credit in counseling-related course work from a regionally accredited college or university, and who meet the recognized minimum standards as established by appropriate nationally recognized certification agencies; provided, however, if a nationally recognized certification does not exist, the ~~Board~~ Department may establish minimum standards for specialty designations.

B. Upon receipt of credentials from the appropriate certification agency, the ~~Board~~ Department may grant the licensed ~~applicant~~ professional counselor the appropriate specialty designation. The ~~applicant~~ licensed professional counselor may attain specialty designation through examination. A licensed professional counselor shall not claim or advertise a counseling specialty and shall not incorporate the specialty designation into ~~his or her~~ the professional title of such licensed professional counselor, unless the qualifications and certification requirements of that specialty have been met and have been approved by the ~~Board~~ Department and the appropriate certification agency.

SECTION 15. AMENDATORY 59 O.S. 1991, Section 1919, is amended to read as follows:

Section 1919. The licensing fee and the annual renewal fee shall be amounts fixed by the State Board of Health upon recommendations of the Oklahoma Licensed Professional Counselors ~~Committee~~ Advisory Board. 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 Professional Counselors Act and so that there are no unnecessary surpluses in the Licensed Professional 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 Professional Counselors Act shall not exceed One Hundred Dollars (\$100.00).

SECTION 16. AMENDATORY 59 O.S. 1991, Section 1925.1, is amended to read as follows:

Section 1925.1 ~~This act~~ Chapter 44A of this title shall be known and may be cited as the "Marital and Family Therapist Licensure Act".

SECTION 17. AMENDATORY 59 O.S. 1991, Section 1925.2, as amended by Section 13, Chapter 167, O.S.L. 1995 (59 O.S. Supp. 1997, Section 1925.2), is amended to read as follows:

Section 1925.2 For purposes of the Marital and Family Therapist Licensure Act, ~~Section 1925.1 et seq. of this title:~~

1. "Advertise" means, but is not limited to, the issuing or causing to be distributed any card, sign, or device to any person; or the causing, permitting or allowing any sign or marking on or in any building or structure, or in any newspaper or magazine or in any

directory, or on radio or television, or by advertising by any other means designed to secure public attention;

2. "Board" means the State Board of Health;

3. "Commissioner" means the State Commissioner of Health;

4. "Advisory Board" means the Oklahoma Licensed Marital and Family Therapist Advisory Board appointed by the State Board of Health;

5. "Department" means the State Department of Health;

6. "Licensed marital and family therapist" means a person holding a current license issued pursuant to the provisions of the Marital and Family Therapist Licensure Act;

7. "Marital and family therapy" means the assessment, diagnosis and treatment of disorders, whether cognitive, affective, or behavioral, within the context of marital and family systems. Marital and family therapy involves the professional application of family systems theories and techniques in the delivery of services to individuals, marital pairs, and families for the purpose of treating such disorders;

8. "Person" means any individual, firm, corporation, partnership, organization or body politic;

9. "Practice of marital and family therapy" means the rendering of professional marital and family therapy services to individuals, family groups and marital pairs, singly or in groups, whether such services are offered directly to the general public or through organizations either public or private, for a fee, monetary or otherwise;

10. "Recognized educational institution" means ~~any educational institution which grants a bachelor's, master's, or doctor's degree and which is recognized by the Oklahoma Licensed Marital and Family Therapist Committee and by a nationally or a regionally~~ accredited college or university recognized educational or professional accrediting body by the United States Department of Education; and

11. "Use a title or description of" means to hold oneself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, stationery, announcements, calling cards or other instruments of professional identification; and

12. "Licensed marital and family therapist candidate" means a person whose application for licensure has been accepted and who is under supervision for licensure as set forth in Section 1925.6 of this title.

SECTION 18. AMENDATORY 59 O.S. 1991, Section 1925.3, is amended to read as follows:

Section 1925.3 A. ~~A person shall be exempt from the requirements of the Marital and Family Therapist Licensure Act:~~

~~1. If the person is practicing marital and family therapy as part of his duties as an employee of:~~

- ~~a. a recognized academic institution, or a federal, state, county, or local governmental institution or agency while performing those duties for which he was employed by such an institution, agency or facility;~~
- ~~b. an organization which is nonprofit and which is determined by the Board to meet community needs while performing those duties for which he was employed by such an agency; or~~

~~2. If the person is a marital and family therapy intern or person preparing for the practice of marital and family therapy under qualified supervision in a training institution or facility or supervisory arrangement recognized and approved by the Board, provided he is designated by such titles as "marital therapy~~

~~intern", "family therapy intern", or others clearly indicating such training status; or~~

~~3. If the person has been issued a temporary permit by the Board to engage in the activities for which licensure is required.~~

~~B. The Marital and Family Therapist Licensure Act shall not be construed to apply to the professional pursuit of qualified members of other professional groups, including but not limited to social following professionals while acting within the scope of their respective professions:~~

~~1. Social workers, licensed;~~

~~2. Licensed professional counselors, psychiatric;~~

~~3. Psychiatric nurses, psychologists, physicians, attorneys, or members;~~

~~4. Psychologists;~~

~~5. Physicians;~~

~~6. Attorneys;~~

~~7. Members of the clergy who are in good standing in with their denominations;~~

~~8. Christian Science practitioners, lay pastoral counselors, certified;~~

~~9. Certified alcohol-drug counselors or school;~~

~~10. School administrators, school teachers and school;~~

~~11. School counselors certified by the State Department of Education within the scope of their duties in recognized public or private schools, when performing the work of marital and family therapy consistent with the accepted standards of their respective professions. Provided, however, no; or~~

~~12. Employees of a recognized academic institution, and employees of a federal, state, county or local governmental institution or agency while performing those duties for which employed by such institution or agency or facility.~~

~~B. The activities and services of a person in the employ of a private, nonprofit behavioral services provider contracting with the state to provide behavioral services with the state shall be exempt from licensure as a Licensed Marital and Family Therapist if such activities and services are a part of the official duties of such person with the private nonprofit agency. No such person shall use a the title or description stating or implying that such person is a licensed marital and family therapist.~~

~~1. Any person who is unlicensed and operating under these exemptions shall not use any of the following official titles or descriptions:~~

~~a. psychologist, psychology or psychological,~~

~~b. licensed social worker,~~

~~c. clinical social worker,~~

~~d. certified rehabilitation specialist,~~

~~e. licensed professional counselor,~~

~~f. psychoanalyst, or~~

~~g. marital and family therapist.~~

~~2. Such exemption to the provisions of this section shall apply only while the unlicensed individual is operating under the auspices of a contract with the state and within the employ of the nonprofit agency contracting with the state. Such exemption will not be applicable to any other setting.~~

~~3. State agencies contracting to provide behavioral health services will strive to ensure that quality of care is not compromised by contracting with external providers and that the quality of service is at least equal to the service that would be delivered if that agency were able to provide the service directly. The persons exempt under the provisions of this section shall~~

provide services that are consistent with their training and experience. Agencies will also ensure that the entity with which they are contracting has qualified professionals in its employ and that sufficient liability insurance is in place to allow for reasonable recourse by the public.

C. The activities and services of a person in the employ of a private, for-profit behavioral services provider contracting with the state to provide behavioral services to youth and families in the care and custody of the Office of Juvenile Affairs or the Department of Human Services on March 14, 1997, shall be exempt from licensure as a Licensed Marital and Family Therapist if such activities and services are a part of the official duties of such person with the private for-profit contracting agency.

1. Any person who is unlicensed and operating under these exemptions shall not use any of the following official titles or descriptions:

- a. psychologist, psychology or psychological,
- b. licensed social worker,
- c. clinical social worker,
- d. certified rehabilitation specialist,
- e. licensed professional counselor,
- f. psychoanalyst, or
- g. marital and family therapist.

2. Such exemption to the provisions of this section shall apply only while the unlicensed individual is operating under the auspices of a contract with the state and within the employ of the for-profit agency contracting with the state. Such exemption shall only be available for ongoing contracts and contract renewals with the same state agency and will not be applicable to any other setting.

3. State agencies contracting to provide behavioral health services will strive to ensure that quality of care is not compromised by contracting with external providers and that the quality of service is at least equal to the service that would be delivered if that agency were able to provide the service directly. The persons exempt under the provisions of this section shall provide services that are consistent with their training and experience. Agencies will also ensure that the entity with which they are contracting has qualified professionals in its employ and that sufficient liability insurance is in place to allow for reasonable recourse by the public.

SECTION 19. AMENDATORY 59 O.S. 1991, Section 1925.4, as amended by Section 14, Chapter 167, O.S.L. 1995 (59 O.S. Supp. 1997, Section 1925.4), is amended to read as follows:

Section 1925.4 A. 1. There is hereby created the "Oklahoma Licensed Marital and Family Therapist Advisory Board" whose duty shall be to ~~assist~~ advise in administering the provisions of the Marital and Family Therapist Licensure Act, ~~Section 1925.1 et seq. of this title,~~ except as otherwise provided by law.

2. The Advisory Board shall consist of seven (7) members who shall be appointed by the State Commissioner of Health with the advice and consent of the State Board of Health. Five members shall be licensed marital and family therapists who shall each have been for at least five (5) years immediately preceding appointment actively engaged as marital and family therapists in rendering professional services in marital and family therapy, or in rendering services in marital and family therapy as members of the clergy, who are in good standing in their denominations, or in the education and training of master's, doctoral or post-doctoral students of marital and family therapy, or in marital and family therapy research, and shall have spent the majority of the time devoted to such activity

during the two (2) years preceding appointment to the Advisory Board. Two members shall be lay persons who are not affiliated with any practice of marital and family therapy.

~~3. The first appointees, other than the lay persons, shall meet the qualifications for licensure required by the Marital and Family Therapist Licensure Act and shall become licensed marital and family therapists immediately upon appointment unless the appointee is a member of the clergy who is in good standing in the clergy's denomination. Thereafter, all appointees to the Advisory Board except the lay persons shall be licensed marital and family therapists prior to appointment.~~

~~4.~~ All appointees shall be residents of the State of Oklahoma. ~~The members of the first Advisory Board shall be appointed prior to September 1, 1991.~~ Except for the lay members, the Commissioner shall select the first appointees from a list of qualified candidates submitted by the executive committees of state marital and family therapists' associations. The other members of the first Advisory Board shall serve the following terms: One member for one (1) year, two members for two (2) years, two members 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 other than the lay members shall be selected from a list of qualified candidates submitted by the executive committees of all marital and family therapists associations in this state which represent a specialty recognized pursuant to the provisions of the Marital and Family Therapist Licensure Act.

B. Vacancies occurring on the Advisory Board 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 marital and family therapists associations in this state which represent a specialty recognized pursuant to the provisions of the Marital and Family Therapist Licensure Act. Such appointments shall be made within thirty (30) days after the candidates' names have been submitted if possible.

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

D. Members of the Advisory Board shall serve without compensation, but shall be reimbursed their actual and necessary travel expenses pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

E. Advisory Board members shall be ineligible for reappointment for a period of three (3) years following completion of their terms.

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

SECTION 20. AMENDATORY 59 O.S. 1991, Section 1925.5, as amended by Section 15, Chapter 167, O.S.L. 1995 (59 O.S. Supp. 1997, Section 1925.5), is amended to read as follows:

Section 1925.5 A. The State Board of Health, giving regard to the recommendations of the Oklahoma Licensed Marital and Family Therapist Advisory Board, shall:

1. Prescribe, adopt and promulgate rules to implement and enforce the provisions of the Marital and Family Therapist Licensure Act, ~~Section 1925.1 et seq. of this title;~~

2. ~~Request the district attorney to bring an action to enforce the provisions of~~ Set license and examination fees as required by the Marital and Family Therapist Licensure Act; and

3. Adopt and establish rules of professional conduct.

B. ~~The State Commissioner of Health Department~~ shall have the authority to:

1. ~~Initiate prosecution and~~ Seek injunctive proceedings relief;

2. ~~Set license and examination fees as required by the Marital and Family Therapist Licensure Act;~~

3. ~~Receive fees and deposit said fees~~ into the Licensed Marital and Family Therapist Revolving Fund as required by the Marital and Family Therapist Licensure Act;

4. ~~3.~~ Issue, renew, revoke, deny and, suspend and place on probation licenses to practice marital and family therapy pursuant to the provisions of the Marital and Family Therapist Licensure Act;

5. ~~4.~~ Examine all qualified applicants for licenses to practice marital and family therapy except as otherwise provided by the Marital and Family Therapist Licensure Act;

6. ~~5.~~ Accept grants and gifts from various foundations and institutions; and

7. ~~6.~~ Make such expenditures and employ such personnel as the Commissioner may deem necessary for the administration of the Marital and Family Therapist Licensure Act;

8. ~~7.~~ Request the district attorney to bring an action to enforce the provisions of the Marital and Family Therapist Licensure Act; and

9. ~~8.~~ Investigate complaints and possible violations of the Marital and Family Therapist Licensure Act.

SECTION 21. AMENDATORY 59 O.S. 1991, Section 1925.6, is amended to read as follows:

Section 1925.6 A. Applications for a license to practice as a licensed marital and family therapist shall be made to the ~~Commissioner~~ State Department 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 Section ~~18~~ 1925.18 of this ~~act~~ title 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 marital and family therapist shall:

1. Be possessed of good moral character;

2. Be at least twenty-one (21) years of age;

3. Not have engaged ~~or is not in, nor be engaged in,~~ any practice or conduct which would be a grounds for ~~refusing to issue~~ revoking, suspending or placing on probation a license under Section ~~15~~ 1925.15 of this ~~act~~ title; and

4. Otherwise comply with the rules and regulations promulgated by the Board pursuant to the provisions of the Marital and Family Therapist Licensure Act.

C. ~~1. In addition to the qualifications specified by the provisions of subsection B of this section, any person applying for a license on or before September 1, 1991, to practice as a licensed marital and family therapist shall:~~

a. ~~have an appropriate graduate degree, as defined by the Board, from an accredited institution so recognized at the time of granting such degree, and at least five~~

- ~~(5) years of clinical experience in direct services to clients primarily of a marital and family nature; or~~
- b. ~~(1) have practiced full time as a marital and family therapist for at least two (2) years post-masters degree. Such two (2) years of marital and family practice shall have been supervised by a marital and family supervisor approved pursuant to conditions established by the Board, and~~
- ~~(2) possess a graduate degree from a college or university accredited by an agency recognized by the United States Department of Education with at least thirty-six (36) semester hours of graduate credit with course work primarily in marital and family studies, marital and family therapy, and human development.~~

~~2. Applicants subject to the provisions of this subsection shall also:~~

- a. ~~have current membership in or certification by an appropriate professional organization, as defined by the Board; and~~
- b. ~~be currently practicing as a marital and family therapist.~~

~~D.~~ In addition to the qualifications specified by the provisions of subsection B of this section any person applying for a license after September 1, 1991, to practice as a licensed marital and family therapist shall have the following educational and experience qualifications:

1. A master's degree or a doctoral degree in marital and family therapy, or a content-equivalent degree as defined by the Board.

2. Successful completion of two (2) calendar years of work experience in marital and family therapy following receipt of a qualifying degree, under supervision in accordance with standards established by the Board.

3. An applicant applying for a license after September 1, 1991, shall also be required to pass a written or oral examination or both written and oral examination administered by the Board if, at the discretion of the ~~Board~~ Department, such examination is deemed necessary in order to determine the applicant's qualifications for the practice of marital and family therapy.

SECTION 22. AMENDATORY 59 O.S. 1991, Section 1925.7, is amended to read as follows:

Section 1925.7 A. Examinations shall be held at such times, at such place and in such manner as the ~~Commissioner of Health Department~~ Department directs ~~if such examination is deemed necessary to determine any applicant's qualifications for the practice of marital and family therapy.~~ An examination shall be held at least annually. Examinations may be written or oral or both written and oral ~~as determined by the Board.~~ In any written examination each applicant shall be designated so that such applicant's name shall not be disclosed to the ~~Board~~ Department until the examinations have been graded. Examinations shall include questions in such theoretical and applied fields as the ~~Board~~ Department deems most suitable to test an applicant's knowledge and competence to engage in the practice of marital and family therapy.

B. The ~~Committee~~ Department shall determine the acceptable grade on examinations. If an applicant fails to pass the examinations, said applicant may reapply and shall be allowed to take a subsequent examination after the expiration of a six-month time period. An applicant who has failed two successive

examinations may not reapply for two (2) years from the date of the last examination.

C. ~~The Commissioner~~ Department 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 23. AMENDATORY 59 O.S. 1991, Section 1925.8, is amended to read as follows:

Section 1925.8 A. An applicant who meets the requirements for licensure required by the provisions of the Marital and Family Therapist Licensure Act, has paid the required license fees and has otherwise complied with the provisions of the Marital and Family Therapist Licensure Act, shall be licensed by the ~~Board~~ Department.

B. Licenses issued pursuant to the Marital and Family Therapist Licensure Act shall expire twenty-four (24) months from the date of issuance ~~unless earlier revoked~~. A license may be renewed upon application and payment of fees. Failure to timely renew a license ~~as required by the Marital and Family Therapist Licensure Act shall constitute a suspension of said result in expiration of the license and forfeiture of the rights and privileges granted by the license~~. A person whose license has ~~been suspended~~ expired may make application within one (1) year following the ~~suspension~~ expiration in writing to the ~~Board~~ Department requesting reinstatement in a manner prescribed by the Board and payment of the fees required by the provisions of the Marital and Family Therapist Licensure Act. The license of a person whose license has ~~been suspended~~ expired pursuant to this section for more than one (1) year shall not be renewed except upon making application, the payment of fees, and taking and passing the examination as required by the Marital and Family Therapist Licensure Act.

SECTION 24. AMENDATORY 59 O.S. 1991, Section 1925.9, is amended to read as follows:

Section 1925.9 ~~A.~~ The Commissioner shall have the power to issue, upon application and payment of fees, reciprocal licenses for persons licensed in other states to practice as a licensed marital and family therapist if the Commissioner deems such states to have qualifications and standards equivalent to or which exceed those required pursuant to the provisions of the Marital and Family Therapist Licensure Act.

~~B. The Commissioner shall also have the power to issue a temporary license for up to one (1) year, to a person who files an application for licensure pursuant to the provisions of the Marital and Family Therapist Licensure Act while his application is being processed by the Department or while he is awaiting the opportunity to take the first written examination offered by the Department after filing his application.~~

SECTION 25. AMENDATORY 59 O.S. 1991, Section 1925.15, is amended to read as follows:

Section 1925.15 A. The ~~Commissioner~~ Department may deny, revoke ~~or~~, suspend or place on probation any license issued ~~pursuant~~ subject to the provisions of the Marital and Family Therapist Licensure Act ~~to a licensed marital and family therapist~~ after a hearing, if the person has:

1. Been convicted of a felony;
2. Been convicted by a court of competent jurisdiction of a crime the ~~Board~~ Commissioner determines after a hearing to be of such a nature as to render the person convicted unfit to practice marital and family therapy. ~~The Board shall compile, maintain, and publish a list of such crimes;~~

~~2.~~ 3. Violated ethical standards of such a nature as to render the person found by the Commissioner to have engaged in such violation unfit to practice marital and family therapy;

~~3.~~ 4. Misrepresented any information required in obtaining a license;

~~4.~~ 5. Engaged in fraud or deceit in connection with services rendered or in establishing needed qualifications pursuant to the provisions of the Marital and Family Therapist Licensure Act;

~~5.~~ 6. Knowingly aided or abetted a person not licensed pursuant to these provisions in representing himself as a licensed marital and family therapist in this state;

~~6.~~ 7. Engaged in unprofessional conduct as defined by the rules established by the Board; or

~~7.~~ 8. Engaged in negligence or wrongful actions in the performance of his duties.

B. No license shall be suspended or revoked until notice is served upon the licensed marital and family therapist and a hearing is held in such manner as is required by the Marital and Family Therapist Licensure Act.

C. Any person who is determined by the Department to have violated any of the provisions of the Marital and Family Therapist Licensure Act or any rule promulgated or order issued pursuant thereto may be subject to an administrative penalty. The maximum fine shall not exceed Ten Thousand Dollars (\$10,000.00). All administrative penalties collected shall be deposited into the Licensed Marital and Family Therapist Revolving Fund. Administrative penalties imposed pursuant to this subsection shall be enforceable in the district courts of this state.

SECTION 26. AMENDATORY 59 O.S. 1991, Section 1925.18, is amended to read as follows:

Section 1925.18 A. The licensing fee and the annual renewal fee shall be amounts fixed by the State Board of Health upon recommendations of the ~~Committee~~ Board.

B. 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 Marital and Family Therapist Licensure Act and so that there are no unnecessary surpluses in the Licensed Marital and Family Therapist 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 an examination required pursuant to the Marital and Family Therapist Licensure Act shall not exceed One Hundred Dollars (\$100.00).

SECTION 27. This act shall become effective November 1, 1998.

Passed the House of Representatives the 21st day of May, 1998.

Speaker of the House of
Representatives

Passed the Senate the 22nd day of May, 1998.

President of the Senate