

and

Helton of the Senate

An Act relating to public health and safety; amending 59 O.S. 1991, Sections 1906, as last amended by Section 6, Chapter 295, O.S.L. 1998, 1907, as amended by Section 7, Chapter 295, O.S.L. 1998, 1908, as last amended by Section 8, Chapter 295, O.S.L. 1998, 1909, as amended by Section 7, Chapter 167, O.S.L. 1995, 1911, as amended by Section 8, Chapter 167, O.S.L. 1995, 1917, as last amended by Section 14, Chapter 295, O.S.L. 1998 and 1919, as amended by Section 15, Chapter 295, O.S.L. 1998 (59 O.S. Supp. 1999, Sections 1906, 1907, 1908, 1909, 1911, 1917 and 1919), which relate to the Licensed Professional Counselors Act; amending 59 O.S. 1991, Sections 1925.7, as amended by Section 22, Chapter 295, O.S.L. 1998, 1925.8, as amended by Section 23, Chapter 295, O.S.L. 1998, 1925.9, as amended by Section 24, Chapter 295, O.S.L. 1998, 1925.15, as amended by Section 25, Chapter 295, O.S.L. 1998, 1925.16 and 1925.18, as amended by Section 26, Chapter 295, O.S.L. 1998 (59 O.S. Supp. 1999, Sections 1925.7, 1925.8, 1925.9, 1925.15 and 1925.18), which relate to the Licensed Marital and Family Therapist Licensure Act; amending Section 2, Chapter 133, O.S.L. 1999, Section 3, Chapter 133, O.S.L. 1999, Section 4, Chapter 133, O.S.L. 1999, Section 7, Chapter 133, O.S.L. 1999, Section 8, Chapter 133, O.S.L. 1999, Section 9, Chapter 133, O.S.L., 1999, Section 11, Chapter 133, O.S.L. 1999, Section 15, Chapter 133, O.S.L. 1999, Section 18, Chapter 133, O.S.L. 1999 and Section 20, Chapter 133, O.S.L. 1999 (59 O.S. Supp. 1999, Sections 1931, 1932, 1933, 1936, 1937, 1938, 1940, 1944, 1947 and 1949), which relate to the Licensed Behavioral Practitioner Act; updating language; removing certain limitations for reapplications; clarifying language; temporarily modifying qualification of behavioral practitioner members of Licensed Behavioral Practitioners Advisory Board; providing that they need not be licensed until certain time; requiring annual renewal; providing for forfeiture for failure to renew; providing for reinstatement; providing for license by endorsement; prohibiting certain actions; removing maximum fee for examination; providing for determination of fee; removing certain exemptions; extending grandfather clause; repealing 59 O.S. 1991, Section 1925.13, which relates to certain complaints, hearings and notices; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1906, as last amended by Section 6, Chapter 295, O.S.L. 1998 (59 O.S. Supp. 1999, 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 Department of Health in writing. Such applications shall be on a form and in a manner prescribed by the Commissioner of Health. The application shall be accompanied by the fee required by the Licensed Professional Counselors 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 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;
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 State Board of Health shall define what course work qualifies as "counseling-related" and what degrees/majors qualify as a "counseling field"; and~~

~~3.~~ 2. 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 2. AMENDATORY 59 O.S. 1991, Section 1907, as amended by Section 7, Chapter 295, O.S.L. 1998 (59 O.S. Supp. 1999, Section 1907), is amended to read as follows:

Section 1907. A. 1. 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 State Department of Health 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.

2. If an applicant fails to pass the examinations, ~~said the~~ 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 answers to any examination, and the applicant's performance on each section, as part of ~~its~~ the records of the Department for a period of two (2) years following the date of the examination.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 1908, as last amended by Section 8, Chapter 295, O.S.L. 1998 (59 O.S. Supp. 1999, 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, 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 Department of Health.

B. ~~Licenses~~ Each initial license 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 annually 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~~ result in 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 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~~ expired 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~~ reinstated. A person may reapply for a new license as provided in Section 1906 of this title.

C. 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~~ Office of Licensed Professional Counselors. 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 4. AMENDATORY 59 O.S. 1991, Section 1909, as amended by Section 7, Chapter 167, O.S.L. 1995 (59 O.S. Supp. 1999, Section 1909), is amended to read as follows:

Section 1909. The ~~State~~ Commissioner of Health shall have the power to issue ~~licenses~~ a license by endorsement ~~for applicants to an applicant~~ licensed in ~~other states~~ another state to practice as a licensed professional counselor if the Commissioner deems such ~~states applicant~~ applicant to have qualifications ~~and standards~~ comparable to those required under ~~this act~~ the Licensed Professional Counselors Act and if the Commissioner finds the applicant meets the standards, provided by rules, for license by endorsement.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 1911, as amended by Section 8, Chapter 167, O.S.L. 1995 (59 O.S. Supp. 1999, Section 1911), is amended to read as follows:

Section 1911. A. Any person who ~~represents:~~

1. Represents himself or herself by the title "Licensed Professional Counselor" or "LPC" without having first complied with the provisions of the Licensed Professional Counselors Act, ~~Section 1901 et seq. of this title, or who otherwise;~~

2. Otherwise offers to perform counseling services, ~~or who uses;~~

3. Uses the title of Licensed Professional Counselor or any other name, style or description denoting that the person is licensed as a licensed professional counselor~~;~~ or ~~who practices~~

4. Practices counseling, upon conviction thereof, 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.

B. It shall be unlawful for any person who is not licensed ~~under or supervised pursuant to~~ or specifically exempt from ~~this act~~ the provisions of the Licensed Professional Counselors Act to advertise:

1. Advertise or otherwise offer to perform counseling services ~~or to use~~;

2. Use the title of Licensed Professional Counselor or any other name, style or description denoting that the person is licensed as a licensed professional counselor~~;~~ or ~~to practice~~

3. Practice counseling.
Such action shall be subject to injunctive action by the ~~State~~ Commissioner of Health.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 1917, as last amended by Section 14, Chapter 295, O.S.L. 1998 (59 O.S. Supp. 1999, Section 1917), is amended to read as follows:

Section 1917. A. A professional specialty designation area may be established by the State Department of Health 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 Department may establish minimum standards for specialty designations.

B. Upon receipt of credentials from the appropriate certification agency, the Department may grant the licensed professional counselor the appropriate specialty designation. The 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 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 Department and the appropriate certification agency.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 1919, as amended by Section 15, Chapter 295, O.S.L. 1998 (59 O.S. Supp. 1999, Section 1919), is amended to read as follows:

Section 1919. A. 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 Advisory 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 Licensed Professional Counselors Act and so that there are no unnecessary surpluses in the Licensed Professional Counselors Revolving Fund.

C. 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).

D. 1. The fee for the issuance of a license to replace a license which was lost, destroyed, or mutilated ~~or revoked~~ shall be Twenty-five Dollars (\$25.00).

2. The fee shall accompany the application for a replacement license.

3. The fee for specialty designation shall not exceed One Hundred Fifty Dollars (\$150.00).

4. The fee for an examination required pursuant to the Licensed Professional Counselors Act shall not exceed ~~One Hundred Dollars (\$100.00)~~ the Department's actual costs for holding and grading the examination.

SECTION 8. AMENDATORY 59 O.S. 1991, Section 1925.7, as amended by Section 22, Chapter 295, O.S.L. 1998 (59 O.S. Supp. 1999, 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 State Department of Health directs. An examination shall be held at least annually.

Examinations may be written or oral or both written and oral. In any written examination each applicant shall be designated so that such applicant's name shall not be disclosed to the Department until the examinations have been graded. Examinations shall include questions in such theoretical and applied fields as the Department deems most suitable to test an applicant's knowledge and competence to engage in the practice of marital and family therapy.

B. The Department shall determine the acceptable grade on examinations. If an applicant fails to pass the examinations, ~~said the 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 Department shall preserve answers to any examination, and the applicant's performance on each section, as part of ~~its~~ the

records of the Department for a period of two (2) years following the date of the examination.

SECTION 9. AMENDATORY 59 O.S. 1991, Section 1925.8, as amended by Section 23, Chapter 295, O.S.L. 1998 (59 O.S. Supp. 1999, 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 Department.

B. ~~Licenses~~ Each initial license issued pursuant to the Marital and Family Therapist Licensure Act shall expire twenty-four (24) months from the date of issuance. A license may be renewed annually upon application and payment of fees. Failure to timely renew a license shall result in expiration of the license and forfeiture of the rights and privileges granted by the license. A person whose license has expired may ~~make application~~ within one (1) year following the expiration ~~in writing to the Department requesting~~ request reinstatement in a manner prescribed by the State Board ~~and payment of the fees required by the provisions of the Marital and Family Therapist Licensure Act~~ of Health. The license of a person whose license has 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~~ reinstated.

SECTION 10. AMENDATORY 59 O.S. 1991, Section 1925.9, as amended by Section 24, Chapter 295, O.S.L. 1998 (59 O.S. Supp. 1999, Section 1925.9), is amended to read as follows:

Section 1925.9 The Commissioner of Health shall have the power to issue, upon application and payment of fees, ~~reciprocal licenses for persons~~ a license by endorsement for an applicant licensed in ~~other states~~ another state to practice as a licensed marital and

family therapist if the Commissioner deems such ~~states~~ applicant to have qualifications ~~and standards~~ equivalent to or which exceed those required pursuant to the provisions of the Marital and Family Therapist Licensure Act and if the Commissioner finds the applicant meets the standards, provided by rule, for license by endorsement.

SECTION 11. AMENDATORY 59 O.S. 1991, Section 1925.15, as amended by Section 25, Chapter 295, O.S.L. 1998 (59 O.S. Supp. 1999, Section 1925.15), is amended to read as follows:

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

1. Been convicted of a felony;
2. Been convicted of a crime the Commissioner determines after a hearing to be of such a nature as to render the person convicted unfit to practice marital and family therapy;
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;
4. Misrepresented any information required in obtaining a license;
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;
6. Knowingly aided or abetted a person not licensed pursuant to these provisions in representing himself or herself as a licensed marital and family therapist in this state;
7. Engaged in unprofessional conduct as defined by the rules ~~established~~ promulgated by the State Board of Health; or
8. Engaged in negligence or wrongful actions in the performance of ~~his~~ the duties of such person.

B. No license shall be suspended ~~or~~, revoked or placed on probation 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 pursuant to the Marital and Family Therapist Licensure Act 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 12. AMENDATORY 59 O.S. 1991, Section 1925.16, is amended to read as follows:

Section 1925.16 A. Any person who represents himself or herself by the title "licensed marital and family therapist" or any designation representing such person to be a licensed marital and family therapist without having first complied with the provisions of the Marital and Family Therapist Licensure Act, upon conviction thereof, 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.

B. The Commissioner may also proceed in district court to enjoin and restrain any unlicensed person from violating ~~the prohibitions of~~ the Marital and Family Therapist Licensure Act.

SECTION 13. AMENDATORY 59 O.S. 1991, Section 1925.18, as amended by Section 26, Chapter 295, O.S.L. 1998 (59 O.S. Supp. 1999, 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 Licensed Marital and Family Therapist Advisory Board.

B. 1. 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.

2. 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).

3. The fee for the issuance of a license to replace a license which was lost, destroyed, or mutilated ~~or revoked~~ shall be Twenty-five Dollars (\$25.00).

4. The fee shall accompany the application for a replacement license.

5. The fee for an examination required pursuant to the Marital and Family Therapist Licensure Act shall not exceed ~~One Hundred Dollars (\$100.00)~~ the actual costs incurred by the Department for holding and grading the examinations.

SECTION 14. AMENDATORY Section 2, Chapter 133, O.S.L. 1999 (59 O.S. Supp. 1999, Section 1931), is amended to read as follows:

Section 1931. For the purpose of the Licensed Behavioral Practitioner Act:

1. "Advisory Board" means the Oklahoma Licensed Behavioral Practitioners Advisory Board appointed by the State Commissioner of Health;

2. "Behavioral health services" means the application of the scientific components of psychological and mental health 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 behavioral treatment interventions;

3. "Behavioral treatment interventions" means the application of empirically validated treatment modalities, including, but not limited to, operant and classical conditioning techniques, adherence/compliance methods, habit reversal procedures, cognitive behavior therapy, biofeedback procedures and parent training. Such interventions are specifically implemented in the context of a professional therapeutic relationship;

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

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

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

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

8. "Licensed behavioral practitioner" or "LBP" means any person who offers professional behavioral health services ~~for compensation~~ to any person and is licensed pursuant to the provisions of the Licensed Behavioral Practitioner Act. The term shall not include those professions exempted by Section ~~3~~ 1932 of this ~~act~~ title;

9. "Licensed behavioral practitioner candidate" means a person whose application for licensure has been accepted and who is under supervision for licensure as provided in Section ~~6~~ 1935 of this ~~act~~ title;

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

11. "Research activities" means reporting, designing, conducting, or consulting on research in behavioral health services;

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

13. "Supervisor" means a person who meets the requirements established by the Board.

SECTION 15. AMENDATORY Section 3, Chapter 133, O.S.L. 1999 (59 O.S. Supp. 1999, Section 1932), is amended to read as follows:

Section 1932. A. The Licensed Behavioral Practitioner Act shall not be construed to include the pursuits of the following professionals acting within the scope of their duties as such professionals, nor shall the title "Licensed Behavioral Practitioner" or "LBP" be used by such professionals:

1. Physicians, psychologists, social workers, licensed professional counselors, marital and family therapists, and attorneys, who are licensed by their respective licensing authorities;

2. Rehabilitation counselors, vocational evaluation specialists, psychiatric and mental health nurses, alcohol and drug counselors, school administrators, school teachers, and school counselors, who are certified by their respective certifying authorities;

3. Persons in the employ of accredited institutions of higher education, or in the employ of local, state, or federal government; and

4. Members of the clergy and lay pastoral counselors.

B. The Licensed Behavioral Practitioner Act shall not be construed to allow the practice of any of the professions specified in subsection A of this section by a licensed behavioral practitioner unless the licensed behavioral practitioner is also licensed or accredited by an appropriate agency, institution, or board.

C. 1. 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 Behavioral Practitioner if such activities and services are a part of the official duties of such person with the private nonprofit agency.

~~1.~~ 2. 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,
- g. marital and family therapist, or
- h. licensed behavioral practitioner~~+~~.

~~2.~~ 3. 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~~+~~and.

~~3.~~ 4. State agencies contracting to provide behavioral health services shall 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.

5. The persons exempt under the provisions of this ~~section~~ subsection shall provide services that are consistent with their training and experience.

6. Agencies shall 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.

D. 1. 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 Behavioral Practitioner if such activities and services are a part of the official duties of such person with the private for-profit contracting agency.

~~1.~~ 2. Any person who is unlicensed and operating ~~under these~~ pursuant to the exemptions specified in this subsection 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,
- g. marital and family therapist, or
- h. licensed behavioral practitioner~~+~~.

~~2.~~ 3. 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;~~and.~~

~~3.~~ 4. State agencies contracting to provide behavioral health services shall 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.

5. The persons exempt under the provisions of this section shall provide services that are consistent with their training and experience.

6. Agencies shall 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 16. AMENDATORY Section 4, Chapter 133, O.S.L. 1999 (59 O.S. Supp. 1999, Section 1933), is amended to read as follows:

Section 1933. A. 1. There is hereby created the "Oklahoma Licensed Behavioral Practitioners Advisory Board" whose duty shall be to advise the State Department of Health on the provisions of the Licensed Behavioral Practitioner Act, 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. Four members shall be licensed behavioral practitioners,~~one~~; provided, initial behavioral practitioner appointees shall not be required to be licensed under the Licensed Behavioral Practitioner Act before the end of the first year that the license is available. One member shall be a licensed mental health professional other than a licensed behavioral practitioner, and two members shall be lay persons who

are not affiliated with any practice of behavioral health service delivery or delivering of health or mental health services. The Commissioner shall appoint successors for a four-year term.

3. All professional appointees shall be selected from a list of qualified candidates submitted by the Executive Board of the North American Association of Masters in Psychology acting in conjunction with the executive committees of all state professional behavioral health associations which represent a specialty recognized pursuant to the Licensed Behavioral Practitioner Act.

B. Vacancies occurring in the Advisory Board shall be filled for the unexpired term by appointment by the Commissioner with the advice and consent of the Oklahoma State Board of Health from a list of qualified candidates submitted within thirty (30) days of such vacancy by the Executive Board of the North American Association of Masters in Psychology acting in conjunction with the executive committees of all state professional behavioral health associations which represent a specialty recognized pursuant to the Licensed Behavioral Practitioner 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, or 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.

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

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 17. AMENDATORY Section 7, Chapter 133, O.S.L. 1999 (59 O.S. Supp. 1999, Section 1936), is amended to read as follows:

Section 1936. A. Examinations for licensure shall be held at such times, at such place, and in such manner as the ~~State~~ Commissioner of Health directs. The examination shall be held at least annually. The State Department of Health shall determine the acceptable grade on examinations. The examination shall cover such technical, professional, and practical subjects as relate to the practice of behavioral science. If an applicant fails to pass the examination, the 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 ~~State~~ Commissioner of Health shall preserve answers to any examination, and the applicant's performance on each section, for a period of two (2) years following the date of the examination.

SECTION 18. AMENDATORY Section 8, Chapter 133, O.S.L. 1999 (59 O.S. Supp. 1999, Section 1937), is amended to read as follows:

Section 1937. A. An applicant who meets the requirements for licensure pursuant to the provisions of the Licensed Behavioral Practitioner Act, has paid the required license fees, and has otherwise complied with the provisions of the Licensed Behavioral Practitioner Act shall be licensed by the State Department of Health.

B. ~~Licenses~~ Each initial license issued pursuant to the Licensed Behavioral Practitioner 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 Department that the ~~applicant~~ licensed behavioral practitioner has completed relevant professional or continued educational experience during the previous twenty-four (24) months. Failure to renew a license ~~as required by Licensed Behavioral Practitioner Act~~ shall ~~constitute a suspension of~~ result in 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 Department requesting reinstatement in a manner prescribed by the Department and payment of the fees required by the provisions of Licensed Behavioral Practitioner Act. The license of a person whose license has ~~been suspended pursuant to this section~~ expired 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 Behavioral Practitioner Act~~ reinstated. A person may apply for a new license as provided in Section 1935 of this title.

C. A licensed behavioral practitioner 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 Department. A license so retired shall not be reinstated but retirement of the license shall preclude a person from applying for a new license at a future date.

SECTION 19. AMENDATORY Section 9, Chapter 133, O.S.L. 1999 (59 O.S. Supp. 1999, Section 1938), is amended to read as follows:

Section 1938. The ~~State~~ Commissioner of Health shall have the power to issue ~~licenses~~ a license by endorsement for ~~applicants~~ an applicant licensed in ~~other states~~ another state to practice as a behavioral practitioner or under similar title if the Commissioner deems such ~~states~~ applicant to have qualifications ~~and standards~~ comparable to those required under the Licensed Behavioral

Practitioner Act and if the Commissioner finds the applicant meets the standards, provided by rule, for license by endorsement.

SECTION 20. AMENDATORY Section 11, Chapter 133, O.S.L. 1999 (59 O.S. Supp. 1999, Section 1940), is amended to read as follows:

Section 1940. A. Any person who represents himself or herself by the title "Licensed Behavioral Practitioner" or "LBP" without having first complied with the provisions of the Licensed Behavioral Practitioner Act, or who otherwise offers to perform behavioral health services, or who uses the title of Licensed Behavioral Practitioner or any other name, style, or description denoting that the person is licensed as a behavioral practitioner, or who practices behavioral science, upon conviction thereof, 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.

B. It shall be unlawful for any person not licensed ~~under~~ or supervised pursuant to or specifically exempt from the Licensed Behavioral Practitioner Act to advertise or otherwise offer to perform behavioral health services or to use the title of Licensed Behavioral Practitioner or any other name, style, or description denoting that the person is licensed as a licensed behavioral practitioner, or to practice behavioral science. Such action shall be subject to injunctive action by the State Commissioner of Health.

SECTION 21. AMENDATORY Section 15, Chapter 133, O.S.L. 1999 (59 O.S. Supp. 1999, Section 1944), is amended to read as follows:

Section 1944. All licensed behavioral practitioners, except those employed by 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 of the document, ~~signed by the client,~~ shall be on file with the ~~State~~ Department of Health at all times.

SECTION 22. AMENDATORY Section 18, Chapter 133, O.S.L. 1999 (59 O.S. Supp. 1999, Section 1947), is amended to read as follows:

Section 1947. A. Licensing fees and annual renewal fees shall be amounts fixed by the State Board of Health upon recommendations of the Oklahoma Licensed Behavioral Practitioners 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 Behavioral Practitioner Act and so that excess funds do not accumulate from year to year in the Licensed Behavioral Practitioners Revolving Fund.

B. 1. 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).

2. The fee for the issuance of a license to replace a license which was lost, destroyed, or mutilated, ~~or revoked~~ shall be Twenty-five Dollars (\$25.00).

3. The fee shall accompany the application for a replacement license.

4. The fee for specialty designation shall not exceed One Hundred Fifty Dollars (\$150.00).

5. The fee for an examination required pursuant to the Licensed Behavioral Practitioner Act shall not exceed ~~One Hundred Dollars (\$100.00)~~ the actual costs incurred by the Department for holding and grading examinations.

SECTION 23. AMENDATORY Section 20, Chapter 133, O.S.L. 1999 (59 O.S. Supp. 1999, Section 1949), is amended to read as follows:

Section 1949. A. Until January 1, ~~2001~~ 2002, the State Board of Health, upon receipt of an applicant's proper application, completion of examination, and payment of fees, shall issue licenses to persons who, prior to January 1, ~~2001~~ 2002:

1. Have practiced full time as a behavioral practitioner for at least two (2) years and possess a master's degree from a program in psychology from a college or university accredited by an agency recognized by the United States Department of Education;

2. Are currently practicing as a behavioral practitioner;

3. Have satisfactorily completed ten (10) hours of continuing education pursuant to Section ~~19~~ 1948 of this ~~act~~ title; and

4. Otherwise comply with the licensure requirements of the Licensed Behavioral Practitioner Act.

B. The Commissioner of Health shall consider experience of the applicant prior to application for licensure pursuant to the provisions of this section as a waiver of all or part of the supervised experience requirement required by paragraph 3 of subsection C of Section ~~6~~ 1935 of this ~~act~~ title.

C. The Commissioner shall require applicants for licensure pursuant to the provisions of this section to file a Statement of Professional Disclosure as provided by Section ~~15~~ 1944 of this ~~act~~ title.

SECTION 24. REPEALER 59 O.S. 1991, Section 1925.13, is hereby repealed.

SECTION 25. 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.

Passed the House of Representatives the 2nd day of March, 2000.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 2000.

President of the Senate