ENROLLED HOUSE
BILL NO. 2464

By: Gilbert and Lindley of the House

and

Robinson of the Senate

An Act relating to professions and occupations; creating the Licensed Alcohol and Drug Counselors Act; citing act; defining terms; prohibiting the infringement of the act upon the pursuits of specified professionals; prohibiting specified professionals from using certain title; construing act; creating the Oklahoma Board of Licensed Alcohol and Drug Counselors; providing for composition of Board, qualifications of members, terms, vacancies, removal from office and reimbursement of members for travel expenses; providing for officers, terms of officers, meetings of the Board, quorums; powers and duties and compliance with the Oklahoma Open Meeting Act; requiring certificate or license to practice as certified or licensed alcohol and drug counselor unless exempted by the act; providing procedures and qualifications for application for certificate or license to practice as a certified or licensed alcohol and drug counselor; allowing certain persons to be granted a certificate or a license subject to application to the Board prior to a specified date; requiring the successful passing of an examination for licensure or certification subsequent to specified date; providing procedures for examinations; stating prerequisites for certification or licensure; providing for expiration of initial certifications or licenses; allowing for annual renewal and stating criteria thereto; stating consequences of failure to renew certificate or license; stating conditions for allowing or prohibiting reinstatement of certificate or license; providing for confidentiality and providing exception; requiring certain rules comply with state and federal law; providing for certain unlawful acts; providing for application of subsection of law; providing for penalty; construing section of law; providing grounds for denial, revocation suspension or placing on probation any certificate or license; requiring notice; making certain persons subject to an administrative penalty, stating amount maximum of such penalty and providing for enforceability; requiring deposit of all administrative penalties into specified fund; requiring promulgation of specified rules by the Board; creating fund and providing procedures thereto; requiring specified fees be fixed by the Board and providing procedures thereto; limiting amount of fees; requiring fee

accompany application for a replacement license; construing act; amending Section 1, Chapter 138, O.S.L. 2003(59 O.S. Supp. 2003, Section 493.5), 59 O.S. 2001, Sections 1355, 1361, 1362.1, 1367, 1368, 1369 and 1370, which relate to special volunteer medical license, qualifications of examiners, code of ethics, health service psychologists, amount of fees, licenses, list of licensed psychologists and standards of conduct; modifying eligibility for recipients of special volunteer medical license; modifying reappointment provisions for members of the State Board of Examiners of Psychologists; allowing Board to take into account certain principles and codes of conduct; modifying criteria for certification as a health service psychologist; deleting language relating to certain fees; making certain language gender neutral; allowing the Board to set specified fee; modifying time in which certain list shall be published; clarifying language relating to certain acts and offenses; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1870 of Title 59, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 16 of this act shall be known and may be cited as the "Licensed Alcohol and Drug Counselors Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1871 of Title 59, unless there is created a duplication in numbering, reads as follows:

For purposes of the Licensed Alcohol and Drug Counselors Act:

1. "Alcohol and drug counseling" means the application of substance use disorders and counseling principles in order to:

a. develop an understanding of alcoholism and drug dependency problems,

b. prevent, diagnose or treat alcohol and drug dependency problems,

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;

2. "Board" means the Oklahoma Board of Licensed Alcohol and Drug Counselors, created by Section 4 of this act;

3. "Certified alcohol and drug counselor" means any person who is not exempt pursuant to the provisions of Section 3 of this act

and is not licensed under this act, but who offers alcohol and drug counseling services while employed by an entity certified by the Department of Mental Health and Substance Abuse Services, or who is exempt from such certification, or who is under the supervision of a person recognized by the Oklahoma Board of Licensed Alcohol and Drug Counselors as a drug and alcohol counselor licensed by this act who is qualified to provide such supervision;

4. "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;

5. "Licensed alcohol and drug counselor" means any person who offers alcohol and drug counseling services for compensation to any person and is licensed pursuant to the provisions of the Licensed Alcohol and Drug Counselors Act. The term "licensed alcohol and drug counselor" shall not include those professions exempted by Section 3 of this act;

6. "Supervised practicum experience" means volunteer or paid work experience in the core functions of substance abuse counseling as delineated by the Oklahoma Board of Licensed Alcohol and Drug Counselors; and

7. "Supervised work experience" means voluntary or paid work experience in providing alcohol and drug counseling services to individuals under the supervision of a licensed alcohol and drug counselor.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1872 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Licensed Alcohol and Drug Counselors Act shall in no way infringe upon the pursuits of the following professionals acting within the scope of their licenses or employment as such professionals, nor shall such professionals use the title "licensed alcohol and drug counselor":

1. Physicians, physician assistants, psychologists, social workers, professional counselors, marital and family therapists, licensed behavioral practitioners, and registered nurses who are licensed by their respective licensing authorities;

2. Members of the clergy;

3. Persons employed by the state or federal government; and

4. Any person who provides a prepared curriculum of life skills education and training that is designed to be self-taught, and who does not provide individual, group or family counseling.

B. The Licensed Alcohol and Drug Counselors Act shall not be construed to allow the practice of any of the professions specified in subsection A of this section by a licensed alcohol and drug counselor unless the licensed alcohol and drug counselor is also licensed or accredited by the appropriate agency, institution or board.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1873 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created, to continue until July 1, 2010, in accordance with the provisions of the Oklahoma Sunset Law, the Oklahoma Board of Licensed Alcohol and Drug Counselors, consisting of seven (7) members, to be appointed by the Governor, with the advice and consent of the Senate, as follows:

1. a. Six members who shall be alcohol and drug counselors certified by an entity recognized to do professional alcohol and drug counseling certification in this state; provided, however, five of such members shall subsequently secure licensure and one such member shall subsequently secure certification, pursuant to the provisions of the Licensed Alcohol and Drug Counselors Act, no later than January 1, 2005.

b. Thereafter, five members shall be licensed alcohol and drug counselors at the time of appointment, and one member shall be certified as an alcohol and drug counselor at the time of appointment.

c. Pursuant to the provisions of this paragraph, the Governor shall appoint:

(1) four members from a list of names submitted by the Oklahoma Drug and Alcohol Professional Counselors Association,

(2) one member from a list of names submitted by the Oklahoma Substance Abuse Services Alliance, and

(3) one member from a list of names submitted by the Oklahoma Citizen Advocates for Recovery and Treatment Association.

d. One member shall be appointed from and shall represent the general public. Such member shall be a resident of this state who has attained the age of majority and shall not be, nor shall ever have been, a licensed or certified alcohol and drug counselor, or the spouse of a licensed or certified alcohol and drug counselor, or a person who has ever had any material financial interest in the provision of alcohol and drug counseling services or has engaged in any activity directly related to the practice of alcohol and drug counseling.

2. The composition of the Board shall include five members who hold a master’s or higher degree and one member whose highest degree held is a bachelor’s degree.

3. The Governor shall appoint the members to the Board no later than July 1, 2004.

B. Each member of the Board appointed as a licensed alcohol and drug counselor shall:

1. Be certified or licensed to engage in the practice of alcohol and drug counseling in this state and shall be in good standing; and

2. Have at least three (3) years of experience in the practice of alcohol and drug counseling in this state.

C. Two of the members initially appointed shall serve three-year terms; two shall serve four-year terms and three shall serve five-year terms, as designated by the Governor. Thereafter, the terms of all members shall be five (5) years.

D. A vacancy on the Board shall be filled in the same manner as the original appointment for the balance of the unexpired term. Members may succeed themselves but shall serve no more than two consecutive terms. Each member shall serve until a successor is appointed and qualified.

E. Members of the Board may be removed from office for one or more of the following reasons:

1. The refusal or inability for any reason to perform the duties of a Board member in an efficient, responsible and professional manner;

2. The misuse of office for pecuniary or material gain or for personal advantage for self or another;

3. A violation of the laws or rules governing the practice of alcohol and drug counseling; or

4. Conviction of a felony as verified by a certified copy of the record of the court of conviction.

F. Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary travel expenses as provided in the State Travel Reimbursement Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1874 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Board of Licensed Alcohol and Drug Counselors shall annually elect from among its members a chair, a vice-chair and such other officers as it deems appropriate and necessary to conduct its business. The chair shall preside at all meetings of the Board. Each additional officer elected by the Board shall perform those duties customarily associated with the position and such other duties assigned by the Board. Officers elected by the Board shall serve for one (1) year and shall serve no more than three (3) consecutive years in any office to which the Board member is elected.

B. 1. The Board shall meet at least once every three (3) months to transact its business and may meet at such additional times as the Board may determine.

2. The Board shall meet in accordance with the provisions of the Oklahoma Open Meeting Act.

3. A majority of the members of the Board shall constitute a quorum for the conduct of business. All actions of the Board shall be by a majority of the quorum present.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1875 of Title 59, unless there is created a duplication in numbering, reads as follows:

In addition to any other powers and duties imposed by law, the Oklahoma Board of Licensed Alcohol and Drug Counselors shall have the power and duty to:

1. Promulgate rules necessary to effectuate the provisions of the Licensed Alcohol and Drug Counselors Act, and to make orders as it may deem necessary or expedient in the performance of its duties;

2. Prepare, conduct and grade written and oral examinations of persons who apply for certification or licensure as an alcohol and drug counselor;

3. Determine a satisfactory passing score on such examinations and issue certifications and licenses to persons who pass the examinations or who are otherwise entitled to certification and licensure;

4. Determine eligibility for certification and licensure;

5. Issue and renew certificates and licenses for alcohol and drug counselors;

6. Upon good cause shown:

a. deny the issuance of a certificate or license,

b. suspend, revoke or refuse to renew a certificate or license, or

c. place a holder of a certificate or a licensee on probation;

7. Establish and levy administrative penalties against any person or entity who violates any of the provisions of this act or any rule promulgated or order issued pursuant thereto;

8. Obtain an office, secure facilities, and employ, direct, discharge and define the duties and set the salaries of office personnel as deemed necessary by the Board;

9. Initiate disciplinary, prosecution and injunctive proceedings against any person or entity who violates any of the provisions of this act, or any rule promulgated or order issued pursuant thereto; provided, the Board shall be exempt from providing surety for the costs in connection with the commencement of any legal proceedings under the provisions of this act;

10. Investigate alleged violations of this act, or the rules, orders or final orders of the Board;

11. Promulgate rules of conduct governing the practice of certified and licensed alcohol and drug counselors;

12. Keep accurate and complete records of its proceedings;

13. Promulgate rules for continuing education requirements for certified and licensed alcohol and drug counselors;

14. Issue a certificate or license by endorsement to an applicant certified or licensed to practice as a certified or licensed alcohol and drug counselor in another state if the Board deems such applicant to have qualifications that are comparable to those required under this act and, if the Board deems the applicant as meeting the standards, provided by rules, for certification or licensure by endorsement; and

15. Perform such other duties and have such other responsibilities as necessary to implement the provisions of this act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1876 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Unless exempt pursuant to Section 3 of this act, on and after January 1, 2005, any person wishing to practice alcohol and drug counseling in this state shall obtain a certificate or license to practice pursuant to the provisions of the Licensed Alcohol and Drug Counselors Act.

B. An application for a certificate or license to practice as a certified or licensed alcohol and drug counselor shall be made to the Oklahoma Board of Licensed Alcohol and Drug Counselors in writing. Such application shall be on a form and in a manner prescribed by the Board. The application shall be accompanied by the fee required by this act, which shall be retained by the Board and not returned to the applicant.

C. Each applicant for a certificate or license to practice as a certified or licensed alcohol and drug counselor shall:

1. Be possessed of good moral character;

2. Pass an oral and a written examination based on standards established by the International Counselor and Reciprocity Consortium;

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 the provisions of this act; and

5. Otherwise comply with the rules promulgated by the Board pursuant to the provisions of this act.

D. Except as otherwise provided by subsections E and G of this section, on and after January 1, 2005, in addition to the qualifications specified by the provisions of subsection C of this section, an applicant for a license to practice as a licensed alcohol and drug counselor shall have:

1. At a minimum, a master's degree in a behavioral science field that is recognized by the Oklahoma Board of Licensed Alcohol and Drug Counselors as appropriate to practice as a licensed alcohol and drug counselor;

2. Successfully completed at least one (1) year of full-time supervised work experience. For the purpose of this act, "one (1) year of full-time work experience" shall be defined as two thousand (2,000) hours of work experience, of which at least one thousand (1,000) hours shall consist of providing alcohol and drug counseling services to an individual and/or the individual's family;

3. Successfully completed at least one hundred eighty (180) clock hours of education related to alcohol and drug counseling subjects, theory, practice or research; and

4. Successfully completed at least three hundred (300) hours of supervised practicum experience in the field of drug and alcohol counseling.

E. Effective January 1, 2010, an applicant for a license to practice as a licensed alcohol and drug counselor shall have:

1. At least a master's degree in alcohol and substance abuse counseling from a college or university accredited by an agency recognized by the United States Department of Education; or

2. a. Possess at least a master's degree in a behavioral science or counseling-related field from a college or university accredited by an agency recognized by the United States Department of Education which is the content-equivalent of a graduate degree in alcohol and substance abuse counseling. In order to qualify as a "content-equivalent" degree, a graduate transcript shall reflect, at a minimum, the following knowledge areas and graduate hours:

(1) three courses in foundational knowledge, including one course in alcohol and drug addiction, one course in drug and alcohol counseling theory, and one course in the pharmacology of drugs of abuse,

(2) three courses in assessment and treatment of alcohol and drug problems, which may include group dynamics, individual and family counseling skills, specific counseling approaches, assessment methods, community resources and referral, or other courses primarily related to the assessment and treatment of alcohol and drug problems,

(3) one course in human development,

(4) one course in psychopathology,

(5) one course in multicultural and cultural competency issues,

(6) one course in family systems theory,

(7) one course in ethics, which includes established ethical conduct for alcohol and drug counselors,

(8) one course in research methods, and

(9) one three-hour practicum/internship in the field of drug and alcohol counseling of at least three hundred (300) clock hours.

b. All courses shall be graduate level courses and shall be three (3) semester hours or four (4) quarter credit hours which shall include a minimum of forty-five (45) class hours for each course.

F. Effective January 1, 2005, except as provided in subsection G of this section, each applicant for a certificate to practice as a certified alcohol and drug counselor shall have:

1. At a minimum, a bachelor's degree in a behavioral science field that is recognized by the Oklahoma Board of Licensed Alcohol and Drug Counselors as appropriate to practice as a certified drug and alcohol counselor in this state;

2. Successfully completed at least two (2) years of full-time supervised work experience. For the purpose of this act, "two years of full-time work experience" shall be defined as four thousand (4,000) hours of work experience of which at least two thousand (2,000) hours shall consist of providing alcohol and drug counseling services to an individual and/or the individual's family;

3. Successfully completed at least two hundred seventy (270) clock hours of education related to alcohol and drug counseling subjects, theory, practice or research;

4. Successfully completed, as part of or in addition to the education requirements established in paragraph 3 of this subsection, a minimum of forty-five (45) clock hours of specialized training approved by the Board in identifying co-occurring disorders and making appropriate referrals for treatment of co-occurring disorders; and

5. Successfully completed at least three hundred (300) hours of supervised practicum experience in the field of drug and alcohol counseling.

G. 1. Subject to application to the Board, prior to January 1, 2005, any person practicing in the State of Oklahoma at the time of application and holding a certificate in alcohol and drug counseling from any state or nationally recognized certifying body or agency recognized by the Board and issued on or before December 31, 2004, shall be granted a certificate under this act.

2. Subject to application to the Board, prior to January 1, 2005, any person practicing in the State of Oklahoma at the time of application and holding a certificate in alcohol and drug counseling from any state or nationally recognized certifying body or agency recognized by the Board and issued on or before December 31, 2004, and a master's degree, as provided in paragraph 1 of subsection D of this section, shall be granted a license under this act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1877 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. On and after January 1, 2005, before any person is eligible to receive a license to practice as a certified or licensed alcohol and drug counselor in this state, such person shall successfully pass an examination pursuant to the provisions of this section.

2. Examinations shall be held at such times, at such place and in such manner as the Oklahoma Board of Licensed Alcohol and Drug Counselors directs. An examination shall be held at least annually. The Board shall determine the acceptable grade on examinations. The examination shall cover such technical, professional and practical subjects as relate to the practice of alcohol and drug counseling.

3. If an applicant fails to pass the examination, the applicant may reapply.

B. The Board shall preserve the answers to any examination, and the applicant's performance on each section of the examination, as part of the records of the Board for a period of two (2) years following the date of the examination.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1878 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. An applicant who meets the requirements for certification or licensure pursuant to the provisions of the Licensed Alcohol and Drug Counselors Act, pays the required certification or license fees, and otherwise complies with the provisions of the Licensed Alcohol and Drug Counselors Act shall be certified or licensed by the Oklahoma Board of Licensed Alcohol and Drug Counselors.

B. Each initial certificate or license issued pursuant to the Licensed Alcohol and Drug Counselors Act shall expire twelve (12) months from the date of issuance unless sooner revoked.

C. 1. A certificate or license may be renewed annually upon application and payment of fees. The application for renewal shall be accompanied by evidence satisfactory to the Board that the applicant has satisfied relevant professional or continuing education requirements during the previous twelve (12) months.

2. Failure to renew a certificate or license shall result in forfeiture of the rights and privileges granted by the certificate or license.

D. A person whose certificate or license has expired may make application to the Board, in writing, within one (1) year following the expiration date of the certificate or license requesting reinstatement in a manner prescribed by the Board and upon payment of the fees required by the provisions of the Licensed Alcohol and Drug Counselors Act. The certificate or license of a person whose certificate or license has been expired for more than one (1) year shall not be reinstated. A person may reapply for a new certificate or license as provided in Section 7 of this act.

E. A certified or licensed alcohol and drug counselor whose certificate or license is current and in good standing and who wishes to retire the certificate or license may do so by informing the Board in writing and returning the certificate or license to the Board. A certificate or license so retired shall not be reinstated, but such retirement shall not prevent a person from applying for a new certificate or license at a future date.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1879 of Title 59, unless there is created a duplication in numbering, reads as follows:

No person certified or licensed pursuant to the provisions of the Licensed Alcohol and Drug Counselors Act shall knowingly and willfully disclose any information that the holder of the certificate or license may have acquired from persons consulting the licensee in his or her professional capacity as an alcohol and drug counselor or be compelled to disclose such information except as provided by rules promulgated by the Oklahoma Board of Licensed Alcohol and Drug Counselors. Such rules shall comply with state and federal law.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1880 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person who is not certified or licensed or specifically exempt from the provisions of Section 3 of the Licensed Alcohol and Drug Counselors Act to:

1. Represent himself or herself by the title "licensed alcohol and drug counselor" or "certified alcohol and drug counselor" without having first complied with the provisions of the Licensed Alcohol and Drug Counselors Act;

2. Use the title of licensed alcohol and drug counselor, certified alcohol and drug counselor, or any other name, style or description denoting that the person is certified or licensed as a certified or licensed alcohol and drug counselor;

3. Practice alcohol and drug counseling; or

4. Advertise or otherwise offer to perform alcohol- or drug-abuse-related counseling services.

B. The provisions of subsection A of this section shall not apply to persons who are exempt pursuant to the provisions of Section 3 of this act.

C. Any person violating the provisions of subsection A of this section shall, upon conviction thereof, be guilty of a misdemeanor punishable by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) for each offense, imprisonment for a term not to exceed six (6) months in the county jail, or by both such fine and imprisonment.

D. Nothing in this section shall be construed as making unlawful the practice of other professionals acting within the

scopes of their licenses or employment as provided by Section 3 of this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1881 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Board of Licensed Alcohol and Drug Counselors may deny, revoke, suspend or place on probation any certificate or license issued pursuant to the provisions of the Licensed Alcohol and Drug Counselors Act to a certified or licensed alcohol and drug counselor, if the person has:

1. Been convicted of a felony;

2. Been convicted of a misdemeanor determined to be of such a nature as to render the person convicted unfit to practice alcohol and drug counseling;

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

4. Knowingly aided or abetted a person not certified or licensed pursuant to these provisions in representing himself or herself as a certified or licensed alcohol and drug counselor in this state;

5. Engaged in unprofessional conduct as defined by rules promulgated by the Board;

6. Engaged in negligence or wrongful actions in the performance of his or her duties; or

7. Misrepresented any information required in obtaining a certificate or license.

B. No certificate or license shall be suspended or revoked, nor shall a certified or licensed alcohol and drug counselor be placed on probation or subjected to an administrative penalty until notice is served upon the certified or licensed alcohol and drug counselor and an opportunity for a hearing is provided in conformity with Article II of the Administrative Procedures Act.

C. In addition to the notice provided for in subsection B of this section, notice shall also be served on the licensing board for any other license held by the certified or licensed alcohol and drug counselor.

D. 1. Any person who is determined by the Board to have violated any provision of the Licensed Alcohol and Drug Counselors Act, or any rule promulgated or order issued pursuant thereto, may be subject to an administrative penalty.

2. The maximum administrative penalty shall not exceed Ten Thousand Dollars ($10,000.00).

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 Alcohol and Drug Counselors Revolving Fund, created by Section 14 of this act.

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

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1882 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Board of Licensed Alcohol and Drug Counselors shall promulgate rules governing any certification or licensure action to be taken pursuant to the Administrative Procedures Act.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1883 of Title 59, unless there is created a duplication in numbering, reads as follows:

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

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1884 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The fee for certification, licensure or annual renewal of a certificate or license as a certified or licensed alcohol and drug counselor shall be fixed by the Oklahoma Board of Licensed Alcohol and Drug Counselors.

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 Alcohol and Drug Counselors Act and so that there are no unnecessary surpluses in the Licensed Alcohol and Drug Counselors Revolving Fund; provided, the Board shall not fix the certification or licensure fee at an amount in excess of Three Hundred Dollars ($300.00), or the annual renewal fee at an amount in excess of Two Hundred Dollars ($200.00).

C. 1. The fee for the issuance of a certificate or license to replace a lost, destroyed or mutilated certificate or license shall be Twenty-five Dollars ($25.00).

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

D. The fee for the application and examination required pursuant to the provisions of this act shall not exceed Five Hundred Dollars ($500.00).

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1885 of Title 59, unless there is created a duplication in numbering, reads as follows:

Nothing in the Licensed Alcohol and Drug Counselors Act shall be construed to require reimbursement under a health insurance or nonprofit hospital or medical service plan unless a contract specifically provides for reimbursement to certified or licensed alcohol and drug counselors.

SECTION 17. AMENDATORY Section 1, Chapter 138, O.S.L. 2003 (59 O.S. Supp. 2003, Section 493.5), is amended to read as follows:

Section 493.5 A. There is established a special volunteer medical license for physicians who are retired from active practice and wish to donate their expertise for the medical care and treatment of indigent and needy persons of the state. The special volunteer medical license shall be:

1. Issued by the State Board of Medical Licensure and Supervision to eligible physicians;

2. Issued without the payment of an application fee, license fee or renewal fee;

3. Issued or renewed without any continuing education requirements;

4. Issued for a fiscal year or part thereof; and

5. Renewable annually upon approval of the Board.

B. A physician must meet the following requirements to be eligible for a special volunteer medical license:

1. Completion of a special volunteer medical license application, including documentation of the physician's medical school graduation and practice history;

2. Documentation that the physician has been previously issued a full and unrestricted license to practice medicine in Oklahoma or in another state of the United States and that he or she has never been the subject of any medical disciplinary action in any jurisdiction;

3. Acknowledgement and documentation that the physician's practice under the special volunteer medical license will be exclusively and totally devoted to providing medical care to needy and indigent persons in Oklahoma ~~or persons in medically underserved areas in Oklahoma~~; and

4. Acknowledgement and documentation that the physician will not receive or have the expectation to receive any payment or compensation, either direct or indirect, for any medical services rendered under the special volunteer medical license.

SECTION 18. AMENDATORY 59 O.S. 2001, Section 1355, is amended to read as follows:

Section 1355. Each member of the State Board of Examiners of Psychologists shall be a citizen of the United States and a resident of this state. The members of the Board who are psychologists shall be licensed pursuant to the provisions of the Psychologists Licensing Act. ~~No member~~ Members of the Board may ~~succeed himself~~ be reappointed for one four-year term. However, following the termination of a term of service on the Board a former member may be reappointed only after a period of ~~four (4)~~ years ~~following the termination of his~~ equal to or greater than the number of years of his or her previous ~~appointment~~ service.

SECTION 19. AMENDATORY 59 O.S. 2001, Section 1361, is amended to read as follows:

Section 1361. The State Board of Examiners of Psychologists shall publish a code of ethics. The code shall take into account the professional character of psychological service and shall be designed to protect the interest of the client and the public. In developing and revising this code, the Board shall hold hearings where interested persons may be heard on the subject and the Board may take into account the Ethical ~~Standards~~ Principles of Psychologists and Code of Conduct promulgated by the American Psychological Association and the Code of Conduct promulgated by the Association of State and Provincial Psychology Boards.

SECTION 20. AMENDATORY 59 O.S. 2001, Section 1362.1, is amended to read as follows:

Section 1362.1 A. Any licensed psychologist who independently provides or offers to provide health services to the public shall be certified as a Health Service Psychologist by the State Board of Examiners of Psychologists. The Board shall certify as a Health Service Psychologist an applicant who demonstrates that the applicant has at least two (2) years of full-time supervised health service experience as defined by the rules and regulations of the Board.

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

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

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

~~3.~~ 2. The psychologist has the equivalent of two (2) years of full-time experience satisfactory to the Board, one year of which

was a doctoral internship, and one year of which was postdoctoral, at a site where health services are provided.

SECTION 21. AMENDATORY 59 O.S. 2001, Section 1367, is amended to read as follows:

Section 1367. The ~~licensing~~ application fee and the annual renewal fee shall be amounts fixed by the Oklahoma State Board of Examiners of Psychologists. 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 Psychologists Licensing Act and so there are no unnecessary surpluses in the "Psychologists Licensing Fund". ~~The Board shall not fix a license fee at an amount in excess of Five Hundred Dollars ($500.00) and a renewal fee at an amount in excess of Three Hundred Dollars ($300.00). The fee for the issuance of a license to replace a license which was lost, destroyed, mutilated, or revoked is Twenty-five Dollars ($25.00). The fee shall accompany the application for a replacement license.~~

SECTION 22. AMENDATORY 59 O.S. 2001, Section 1368, is amended to read as follows:

Section 1368. ~~(a)~~ A. The State Board of Examiners of Psychologists shall issue a license to each person that it registers as a psychologist. The license shall show the full name of the psychologist and shall bear a serial number. The license shall be signed by the chairman and secretary of the Board under the seal of the Board.

~~(b)~~ B. Licenses expire on the thirty-first day of December following their issuance or renewal and are invalid thereafter unless renewed.

~~(c)~~ C. The Board shall notify every person licensed under this act of the date of expiration and the amount of the renewal fee. This notice shall be mailed at least one (1) month before the expiration of the license. Renewal may be made at any time during the months of November or December upon application therefor by payment of the renewal fee. Failure on the part of any person licensed to pay his or her renewal fee before the first day of January does not deprive ~~him~~ such person of ~~his~~ the right to renew his or her license, but the fee to be paid for renewal after December shall be increased ten percent (10%) for each month or fraction thereof that the payment of the renewal fee is delayed. However, the maximum fee for delayed renewal shall not exceed twice the normal renewal fee. A psychologist who wishes to place his or her license ~~upon an~~ on inactive status may do so upon application by payment of a fee ~~of Twenty-five Dollars ($25.00)~~ as fixed by the Board; such a psychologist shall not accrue any penalty for late payment of the renewal fee.

SECTION 23. AMENDATORY 59 O.S. 2001, Section 1369, is amended to read as follows:

Section 1369. ~~During the month of April of each year, the~~ The State Board of Examiners of Psychologists shall annually publish a list of all psychologists licensed under this act. The list shall contain the name and address of the psychologist and such other information that the Board deems desirable. The list shall be

arranged both alphabetically and geographically. The Board shall mail a copy of this list to each person licensed under this act, shall place a copy on file with the Secretary of State and shall furnish copies to the public upon request.

SECTION 24. AMENDATORY 59 O.S. 2001, Section 1370, is amended to read as follows:

Section 1370. A. A psychologist and any other persons under the supervision of the psychologist shall conduct their professional activities in conformity with ethical and professional standards promulgated by the ~~Oklahoma~~ State Board of Examiners of Psychologists by rule.

B. The Board shall have the power and duty to suspend, place on probation, require remediation, or revoke any license to practice psychology or to take any other action specified in the rules ~~and regulations~~ whenever the Board shall find by clear and convincing evidence that the psychologist has engaged in any of the following acts or offenses:

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

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

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

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

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

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

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

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

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

10. Aiding or abetting the practice of psychology by any person not approved by the Board or not otherwise exempt from the provisions of Section 1351 et seq. of this title;

11. Conviction of <u>or pleading guilty or nolo contendre to</u> fraud in filing Medicare or Medicaid claims or in filing claims with any third party payor. A copy of the record of <u>plea or</u> conviction,

certified by the clerk of the court entering the plea or conviction, shall be conclusive evidence of the plea or conviction;

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

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

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

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

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

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

C. No license shall be suspended or revoked nor the licensee placed on probation or reprimanded until the licensee has been given an opportunity for a hearing before the Board pursuant to the provisions of subsection D of this section. Whenever the Board determines that there has been a violation of any of the provisions of the Psychologists Licensing Act or of any order of the Board, it shall give written notice to the alleged violator specifying the cause of complaint. The notice shall require that the alleged violator appear before the Board at a time and place specified in the notice and answer the charges specified in the notice. The notice shall be delivered to the alleged violator in accordance with the provisions of subsection E of this section not less than ten (10) days before the time set for the hearing.

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

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

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

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

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

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

SECTION 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 12th day of May, 2004.

_____
Presiding Officer of the House
of Representatives

Passed the Senate the 22nd day of April, 2004.

_____
Presiding Officer of the Senate