

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2464:

Gilbert

AS INTRODUCED

An Act relating to professions and occupations; creating the Licensed Alcohol and Drug Counselors Act; providing short title; defining terms; providing exemptions to the Licensed Alcohol and Drug Counselors Act; creating the State Board of Licensed Alcohol and Drug Counselors; providing for appointment of members; providing eligibility requirements; setting terms of office; providing for removal of members and filling vacancies; providing for organization of Board and election of officers; providing for travel reimbursement; establishing powers and duties of the Board; exempting Board from payment of certain court costs and sureties; authorizing reciprocal licenses; establishing qualifications for licensure; providing for examinations and preservation of certain materials; prohibiting disclosure of certain information; providing exceptions; specifying unlawful acts; providing penalties; stating grounds for revocation, suspension or denial of license; requiring application of Administrative Procedures Act; creating certain revolving fund; providing for expenditures from fund; providing for certain fees and setting fee limits; clarifying scope of act; 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:

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 the purpose of the Licensed Alcohol and Drug Counselors Act:

1. "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 the Licensed Alcohol and Drug Counselors Act;

2. "Board" means the State Board of Licensed Alcohol and Drug Counselors, created by Section 4 of the Licensed Alcohol and Drug Counselors Act;

3. "Alcohol and drug counseling" means the application of mental health and developmental 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;

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; and

5. "Supervised work experience" means voluntary or paid work experience 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 not be construed to include the pursuits of the following professionals acting within the scope of their license as such professionals, nor

shall the title "licensed alcohol and drug counselor" be used by such professionals:

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

2. Members of the clergy.

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 an 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 State Board of Licensed Alcohol and Drug Counselors, consisting of seven (7) members.

B. The members of the State Board of Licensed Alcohol and Drug Counselors shall be appointed by the Governor. Membership of the Board shall be composed as follows:

1. Four of the initial appointments to the Board shall be alcohol and drug counselors certified by a recognized professional alcohol and drug counseling certification entity in the state. Provided such members shall secure licensure pursuant to the provisions of the Licensed Alcohol and Drug Counselors Act no later than January 1, 2005. Thereafter, persons appointed to the Board pursuant to this paragraph shall be licensed alcohol and drug counselors. The initial four members and the subsequent four members of the Board shall be selected from a list of names

submitted by the Oklahoma Drug and Alcohol Professional Counselor Association;

2. One member shall be a member of the Oklahoma Substance Abuse Services Alliance;

3. One member shall be a member of the Oklahoma Citizen Advocates for Recovery and Treatment Association; and

4. One member of the Board shall be selected 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.

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

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

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

D. Members shall serve terms of five (5) years; provided, of those members initially appointed to the Board, four members shall be appointed for three-year terms and three members shall be appointed for five-year terms, as designated by the Governor.

E. When a vacancy on the Board occurs or at the expiration of the term of a member, the Governor shall appoint the member's successor for a term of five (5) years. Members may serve more than two (2) terms, but shall be limited to serving no more than two (2) consecutive terms. Vacancies on the Board shall be filled in a like manner for the balance of any unexpired term. Each member shall serve until a successor is appointed and qualified.

F. Members of the Board may be removed from office upon one or more of the following grounds:

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

2. The misuse of office by a Board member for pecuniary or material gain or for personal advantage for the Board member or another;

3. Violation by any Board member of the laws or rules governing the practice of alcohol and drug counseling; or

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

G. Members of the Board shall serve without compensation, but shall be reimbursed their 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 State Board of Licensed Alcohol and Drug Counselors shall annually elect from its membership a chair and 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 consecutive years in each 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 Oklahoma Open Meeting Act.

3. A majority of the members of the Board shall constitute a quorum for the conduct of Board 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 State Board of Licensed Alcohol and Drug Counselors shall have the power and duty to:

1. Prescribe and 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 examinations, written or oral, of persons who apply for the issuance of licenses to them;

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

4. Determine eligibility for licenses;

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

6. Upon good cause shown, deny the issuance of a license or suspend, revoke or refuse to renew licenses or place a licensee on probation;

7. Establish and levy administrative penalties against any person or entity who violates any of the provisions of the Licensed Alcohol and Drug Counselors 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 the Licensed Alcohol and Drug Counselors Act or any rule promulgated 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 the Licensed Alcohol and Drug Counselors Act;

10. Investigate alleged violations of the Licensed Alcohol and Drug Counselors Act or of the rules, orders or final orders of the Board;

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

12. Keep accurate and complete records of its proceedings;

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

14. Issue a license by endorsement to an applicant licensed in another state to practice as a licensed alcohol and drug counselor if the Board deems such applicant to have qualifications comparable to those required under the Licensed Alcohol and Drug Counselors Act and if the Board finds the applicant meets the standards, provided by rules, for license by endorsement; and

15. Perform such other duties and have such other responsibilities necessary to implement the provisions of the Licensed Alcohol and Drug Counselors 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. On and after January 1, 2005, any person wishing to practice alcohol and drug counseling shall obtain a license to practice pursuant to the provisions of the Licensed Alcohol and Drug Counselors Act.

B. Applications for a license to practice as a licensed alcohol and drug counselor shall be made to the State Board of Licensed Alcohol and Drug Counselors in writing. Such applications shall be on a form and in a manner prescribed by the Board. The application shall be accompanied by the fee required by the Licensed Alcohol and Drug Counselors Act, which shall be retained by the Board and not returned to the applicant.

C. Each applicant for a license to practice as a 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 Licensed Alcohol and Drug Counselors Act; and
5. Otherwise comply with the rules promulgated by the Board pursuant to the provisions of the Licensed Alcohol and Drug Counselors Act.

D. Except as otherwise provided by subsection E 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:

1. Have, at a minimum, a bachelor's degree in a behavioral science field;
2. Have successfully completed at least two (2) years' full-time supervised work experience in conjunction with a bachelor's degree in a behavioral science field or at least one (1) year's full-time supervised work experience in conjunction with a

postgraduate degree in a behavioral science field. For the purpose of the Licensed Alcohol and Drug Counselors Act, "one (1) year's full-time work experience" shall be defined as two thousand (2,000) hours' work experience, of which at least one thousand (1,000) hours consists of providing alcohol and drug counseling services to an individual and the individual's family;

3. Have successfully completed at least two hundred seventy (270) clock hours of education related to alcohol and drug counseling subjects, theory, practice or research in conjunction with a bachelor's degree in a behavioral science field or at least one hundred eighty (180) clock hours of education related to alcohol and drug counseling subjects, theory, practice or research in conjunction with a postgraduate degree in a behavioral science field; and

4. Have successfully completed at least three hundred (300) hours of supervised practicum experience.

E. Any person certified by a recognized professional alcohol and drug counseling certification entity in the state and currently practicing alcohol and drug counseling shall be eligible to obtain a license as required by subsection A of this section without meeting the educational requirements of subsection D of this section and the testing requirements of Section 8 of the Licensed Alcohol and Drug Counselors Act, provided the individual has applied for a license in accordance with the provisions of the Licensed Alcohol and Drug Counselors 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 licensed alcohol and drug counselor, such person shall successfully pass an examination pursuant to this section.

2. Examinations shall be held at such times, at such place and in such manner as the State 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 examinations, the applicant may reapply.

B. The Board shall preserve answers to any examination, and the applicant's performance on each section, 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 licensure pursuant to the provisions of the Licensed Alcohol and Drug Counselors Act, has paid the required license fees and has otherwise complied with the provisions of the Licensed Alcohol and Drug Counselors Act shall be licensed by the State Board of Licensed Alcohol and Drug Counselors.

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

C. 1. A 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 completed relevant professional or continued educational experience during the previous twelve (12) months.

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

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

E. A licensed alcohol and drug counselor whose license is current and in good standing, who wishes to retire the license, may do so by informing the Board in writing and returning the license to the Board. 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 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:

A. No person licensed pursuant to the provisions of the Licensed Alcohol and Drug Counselors Act shall knowingly and willfully disclose any information the licensee 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:

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

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

trial or other proceeding in which the commission of such a crime is a subject of inquiry;

3. If the client waives the privilege by bringing charges against the licensee;

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

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

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

C. The Licensed Alcohol and Drug Counselors Act shall not be construed to prohibit any licensed person from testifying in court hearings concerning matters of adoption, child abuse, child neglect, battery or matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues or administrative superiors on behalf of this client.

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

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

1. Represent himself or herself by the title "licensed 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 or any other name, style or description denoting that the person is licensed as a 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.

Upon conviction thereof, such person shall be guilty of a misdemeanor and shall be punished by imposition of a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00) for each offense and in addition may be imprisoned for a term not to exceed six (6) months in the county jail or by both such fine and imprisonment.

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

A. The State Board of Licensed Alcohol and Drug Counselors may deny, revoke, suspend or place on probation any license issued pursuant to the provisions of the Licensed Alcohol and Drug Counselors Act to a 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 licensed pursuant to these provisions in representing himself or herself as a licensed alcohol and drug counselor in this state;

5. Engaged in unprofessional conduct as defined by the 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 license.

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

C. 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 the Licensed Alcohol and Drug Counselors Act.

D. 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 State Board of Licensed Alcohol and Drug Counselors shall promulgate rules governing any 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 State 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 purpose of the Licensed Alcohol and Drug Counselors 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 licensing fee and the annual renewal fee shall be amounts fixed by the State 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 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).

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

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

3. The fee for an examination required pursuant to the Licensed Alcohol and Drug Counselors Act shall not exceed the Department's actual costs for holding and grading the examination.

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 the policies of health insurers and nonprofit hospital or medical service plans unless the contract specifically calls for reimbursement to licensed alcohol and drug counselors.

SECTION 17. 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.

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