

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1401

By: Anderson

4
5
6 AS INTRODUCED

7 An Act relating to professions and occupations;
8 requiring certain complaints to be made in writing;
9 specifying time period for making certain complaints;
10 establishing certain complaint review committee;
11 providing for membership of certain committee;
12 requiring certain committee to meet at specified
13 times; directing the State Department of Health to
14 send certain letter in specified circumstances;
15 prohibiting certain information from being kept in
16 specified file; permitting certain information to be
17 kept out of specified reports; providing for certain
18 reparative processes; authorizing the request for
19 certain information; providing certain time limit;
20 specifying steps in certain reparative processes;
21 requiring certain contact; requiring certain
22 information to be disclosed to specified persons;
23 permitting certain date extension; requiring report
24 by certain persons; requiring certain review;
specifying possible actions by certain advisory
board; permitting certain recommendation for
licensing sanctions; permitting certain
recommendation for fine; directing certain referral
for final action; providing certain time limit;
applying certain procedures to specified applicants,
candidates, and supervisors; requiring certain
involvement; authorizing certain request for outside
consultation; directing petition for certain
assistance; permitting certain request for
administrative hearing; permitting certain
monitoring; providing for certain monitoring;
providing for emergency license suspension in certain
circumstances; requiring certain notification;
providing for codification; and providing an
effective date.

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

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 1912.1 of Title 59, unless there
4 is created a duplication in numbering, reads as follows:

5 A. Complaints against persons licensed under the Licensed
6 Professional Counselors Act shall be sent to the State Department of
7 Health in writing. Such complaints shall be made within five (5)
8 years of the date of the alleged violation, or, in the case of a
9 criminal act, within the statute of limitations for such act,
10 whichever is later. If the complainant was a minor at the time of
11 the alleged violation, the person may make a complaint up to five
12 (5) years after his or her eighteenth birthday. There shall be no
13 time limit for allegations of sexual misconduct.

14 B. There is hereby established an Oklahoma Licensed
15 Professional Counselors Complaint Review Committee. The Committee
16 shall consist of three (3) members to be appointed by the State
17 Commissioner of Health. One member shall be a former or current
18 member of the Oklahoma Licensed Professional Counselors Advisory
19 Board, one member shall be the director of the Division of
20 Professional Counselor Licensing within the State Department of
21 Health, and one member shall be a licensed attorney employed in the
22 legal division of the State Department of Health. The Committee
23 shall meet at least once monthly, or if no complaints have been
24

1 submitted within the past month, as necessary, to review all
2 complaints received since the last meeting of the Committee.

3 C. If the Oklahoma Licensed Professional Counselors Complaint
4 Review Committee finds that a complaint does not fall within the
5 jurisdiction of the State Department of Health under the Licensed
6 Professional Counselors Act, the Department shall send a letter to
7 the complainant advising the complainant that the complaint does not
8 fall within the jurisdiction of the Department. The Department
9 shall also send a letter to the licensee informing the licensee of
10 the nature of the complaint and its dismissal. Such a complaint
11 shall not be kept in the licensee's file, but may be kept in a
12 separate log that is maintained by the Committee. The complaint
13 shall be titled a "report without merit" by the Committee. The
14 licensee shall not be required to report such a complaint to any
15 entity requesting information regarding complaints.

16 D. A reparative process shall be initiated for violations that
17 do not result in a denial, revocation, or suspension of a license,
18 but that necessitate a review and informal action by the Department.
19 The Oklahoma Licensed Professional Counselors Complaint Review
20 Committee may ask the complainant for additional information to be
21 reviewed at the next meeting of the Committee, which shall occur no
22 later than forty-five (45) days after the receipt of the complaint.
23 The Committee shall then perform the following steps in the order in
24 which they are listed:

1 1. The Committee shall inform the licensee in writing as to the
2 nature of the complaint as well as to the identity of the
3 complainant. The Committee shall ask the licensee to attend the
4 next meeting of the Committee. The licensee shall have the
5 opportunity to informally review the complaint with the Committee at
6 the meeting. The licensee shall also bring a written statement to
7 the meeting for the review of the Committee;

8 2. The Committee shall:

9 a. dismiss the complaint as a "report without merit", in
10 which case the licensee shall not be required to
11 report such a case to any entity requesting
12 information regarding complaints, or

13 b. negotiate a consensual agreement between the licensee
14 and the Committee, which shall include remedial
15 action. The Committee shall take the wishes and needs
16 of the licensee into consideration when negotiating a
17 consensual agreement. The Committee may also ask a
18 peer investigator to assist in the investigation of
19 the complaint and in the development of a consensual
20 agreement. A peer investigator shall serve as a
21 volunteer and shall be a former member of the Advisory
22 Board. A remedial action agreed upon by the Committee
23 under a consensual agreement may include a directive

1 for further education or supervision, a warning, or
2 other action;

3 3. The Committee shall present for approval to the Oklahoma
4 Licensed Professional Counselors Advisory Board the dismissal or the
5 consensual agreement as provided for in paragraph 2 of this
6 subsection. The Advisory Board shall approve or deny the dismissal
7 or consensual agreement by a vote of the Advisory Board;

8 4. If the Committee presents a consensual agreement to the
9 Advisory Board, the Committee shall also present a letter that
10 outlines the agreed upon actions and that contains a written
11 statement indicating that the internal investigation of the
12 complaint has been completed. The Advisory Board shall then review
13 the letter before a vote of the Advisory Board to approve or deny
14 the consensual agreement. The letter may be amended during
15 deliberations of the Advisory Board. If the consensual agreement
16 outlined in the final version of the letter is approved by a vote of
17 the Advisory Board, the letter shall be signed by a designee of the
18 Department and by the licensee. A copy of the signed letter shall
19 be given to the licensee. Approval or denial of a consensual
20 agreement by the Advisory Board shall be made within sixty (60) days
21 of initial action by the Committee and, unless additional
22 information is revealed that requires further investigation, within
23 ninety (90) days of the receipt of the complaint. A consensual
24 agreement approved by the Advisory Board shall not be considered to

1 be a disciplinary action, and shall be considered to be a remedial
2 or reparative action. The consensual agreement shall not appear on
3 the Advisory Board's website and shall not be reported to any
4 national data bank. Once the consensual action has been fulfilled
5 by the licensee, the licensee may state that a consensual action was
6 taken and fulfilled; and

7 5. The Department may keep all information relevant to a
8 dismissal or consensual agreement in the licensee's file in the
9 event of an additional complaint, including the reasons for
10 dismissal or consensual agreement, but shall not reveal such
11 information without the permission of the licensee, until an
12 additional complaint warrants the revelation, or when necessary
13 under the Oklahoma Open Records Act.

14 E. When the Oklahoma Licensed Professional Counselors Complaint
15 Review Committee determines that a complaint may result in a denial,
16 revocation, or suspension of a license, the Committee shall contact
17 an investigator to review and address the nature of the complaint
18 and all information related to the complaint. The Committee shall
19 inform the licensee that an investigator has been contacted and
20 shall provide a date by which the investigation is expected to be
21 complete. Such date may be extended by the Oklahoma Licensed
22 Professional Counselors Advisory Board if the Advisory Board deems
23 an extension necessary. The investigator shall report the findings
24 to the Committee and the Advisory Board. The report shall be

1 reviewed at the next meeting of the Advisory Board, at which time
2 the Advisory Board may take the following actions:

3 1. Dismissal based on lack of evidence;
4 2. Referral back to the informal process for consensual
5 agreement because the evidence does not indicate the necessity for
6 denial, revocation, or suspension of a license; or

7 3. Referral to a formal administrative hearing of the Advisory
8 Board pursuant to the Administrative Procedures Act during which the
9 Advisory Board shall determine whether or not the licensee is guilty
10 of any of the actions specified in Section 1912 of Title 59 of the
11 Oklahoma Statutes as actions for which a license may be denied,
12 revoked, suspended, or placed on probation. During such hearing,
13 all parties related to the complaint may be present.

14 F. The Oklahoma Licensed Professional Counselors Advisory Board
15 may recommend appropriate licensing sanctions after due
16 deliberation. The Advisory Board may also recommend a fine which
17 shall be assessed based on the level of severity of the offense as
18 follows:

19 1. Level I: Five Hundred Dollars (\$500.00) to Five Thousand
20 Dollars (\$5,000.00) for violations that have or have had an adverse
21 impact on the health or safety of a client;

22 2. Level II: Two Hundred Fifty Dollars (\$250.00) to Two
23 Thousand Five Hundred Dollars (\$2,500.00) for violations that have
24 or have had the potential to cause an adverse impact on the health

1 or safety of a client, but that have not actually had an adverse
2 impact on a client; and

3 3. Level III: Two Hundred Fifty Dollars (\$250.00) or less for
4 violations that have no health or safety significance or that have
5 only minor health or safety significance.

6 G. The recommendations of the Oklahoma Licensed Professional
7 Counselors Advisory Board shall be referred to the Department for
8 final action. The complaint shall be resolved within one hundred
9 twenty (120) days after the complaint was received unless the
10 complaint process is delayed by the request for and provision of
11 further information.

12 H. The procedures outlined in this section for complaints shall
13 also apply to applicants, candidates, and supervisors. In the event
14 that a complaint is against a candidate, the supervisor of the
15 candidate shall be involved in all steps of the complaint process.
16 The Oklahoma Licensed Professional Counselors Complaint Review
17 Committee, upon review of the complaint, may ask the supervisor to
18 obtain outside consultation in order to resolve conflicting
19 influences that may put the supervisor in a position in which the
20 supervisor is unable to fully comply with the wishes of the
21 Committee for reparation of the candidate. The Committee shall
22 petition to the Oklahoma Licensed Professional Counselors Advisory
23 Board for assistance in resolving any such conflicting influences of
24 the supervisor. If the candidate is denied a license during the

1 review process, the candidate may request an administrative hearing
2 within fifteen (15) days of the denial.

3 I. As an alternative to the denial of a license to a candidate,
4 the Oklahoma Licensed Professional Counselors Advisory Board may
5 require the monitoring of a licensee whether or not a complaint has
6 been received on the person. The Advisory Board may recommend and
7 put forth specific conditions for such monitoring. The monitoring
8 shall not be considered to be a disciplinary action unless the
9 candidate fails to comply with the directions of the Advisory Board
10 and the Advisory Board chooses to take formal action. Allegations
11 of actions for which the Advisory Board may require monitoring of
12 the licensee may include, but are not limited to, allegations of
13 substance abuse, mental or physical illness, and criminal activity,
14 whether pending or in initial disposition by a court of law.

15 J. If the director of the Division of Professional Counselor
16 Licensing within the State Department of Health receives credible
17 evidence that a licensee is engaging in acts that pose an immediate
18 and significant physical or emotional threat to the public, the
19 executive director shall refer the matter to the legal division of
20 the Department for investigation and subsequent authorization of an
21 emergency license suspension. In consultation with the legal
22 division, the director shall notify the appropriate authorities.

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1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1925.15a of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Complaints against persons licensed under the Marital and
5 Family Therapist Licensure Act shall be sent to the State Department
6 of Health in writing. Such complaints shall be made within five (5)
7 years of the date of the alleged violation, or, in the case of a
8 criminal act, within the statute of limitations for such act,
9 whichever is later. If the complainant was a minor at the time of
10 the alleged violation, the person may make a complaint up to five
11 (5) years after his or her eighteenth birthday. There shall be no
12 time limit for allegations of sexual misconduct.

13 B. There is hereby established an Oklahoma Licensed Marital and
14 Family Therapist Complaint Review Committee. The Committee shall
15 consist of three (3) members to be appointed by the State
16 Commissioner of Health. One member shall be a former or current
17 member of the Oklahoma Licensed Marital and Family Therapist
18 Advisory Board, one member shall be the director of the Division of
19 Professional Counselor Licensing within the State Department of
20 Health, and one member shall be a licensed attorney employed in the
21 legal division of the State Department of Health. The Committee
22 shall meet at least once monthly, or if no complaints have been
23 submitted within the past month, as necessary, to review all
24 complaints received since the last meeting of the Committee.

1 C. If the Oklahoma Licensed Marital and Family Therapist
2 Complaint Review Committee finds that a complaint does not fall
3 within the jurisdiction of the State Department of Health under the
4 Marital and Family Therapist Licensure Act, the Department shall
5 send a letter to the complainant advising the complainant that the
6 complaint does not fall within the jurisdiction of the Department.
7 The Department shall also send a letter to the licensee informing
8 the licensee of the nature of the complaint and its dismissal. Such
9 a complaint shall not be kept in the licensee's file, but may be
10 kept in a separate log that is maintained by the Committee. The
11 complaint shall be titled a "report without merit" by the Committee.
12 The licensee shall not be required to report such a complaint to any
13 entity requesting information regarding complaints.

14 D. A reparative process shall be initiated for violations that
15 do not result in a denial, revocation, or suspension of a license,
16 but that necessitate a review and informal action by the Department.
17 The Oklahoma Licensed Marital and Family Therapist Complaint Review
18 Committee may ask the complainant for additional information to be
19 reviewed at the next meeting of the Committee, which shall occur no
20 later than forty-five (45) days after the receipt of the complaint.
21 The Committee shall then perform the following steps in the order in
22 which they are listed:

23 1. The Committee shall inform the licensee in writing as to the
24 nature of the complaint as well as to the identity of the

1 complainant. The Committee shall ask the licensee to attend the
2 next meeting of the Committee. The licensee shall have the
3 opportunity to informally review the complaint with the Committee at
4 the meeting. The licensee shall also bring a written statement to
5 the meeting for the review of the Committee;

6 2. The Committee shall:

7 a. dismiss the complaint as a "report without merit", in
8 which case the licensee shall not be required to
9 report such a case to any entity requesting
10 information regarding complaints, or

11 b. negotiate a consensual agreement between the licensee
12 and the Committee, which shall include remedial
13 action. The Committee shall take the wishes and needs
14 of the licensee into consideration when negotiating a
15 consensual agreement. The Committee may also ask a
16 peer investigator to assist in the investigation of
17 the complaint and in the development of a consensual
18 agreement. A peer investigator shall serve as a
19 volunteer and shall be a former member of the Advisory
20 Board. A remedial action agreed upon by the Committee
21 under a consensual agreement may include a directive
22 for further education or supervision, a warning, or
23 other action;

24

1 3. The Committee shall present for approval to the Oklahoma
2 Licensed Marital and Family Therapist Advisory Board the dismissal
3 or the consensual agreement as provided for in paragraph 2 of this
4 subsection. The Advisory Board shall approve or deny the dismissal
5 or consensual agreement by a vote of the Advisory Board;

6 4. If the Committee presents a consensual agreement to the
7 Advisory Board, the Committee shall also present a letter that
8 outlines the agreed upon actions and that contains a written
9 statement indicating that the internal investigation of the
10 complaint has been completed. The Advisory Board shall then review
11 the letter before a vote of the Advisory Board to approve or deny of
12 the consensual agreement. The letter may be amended during
13 deliberations of the Advisory Board. If the consensual agreement
14 outlined in the final version of the letter is approved by a vote of
15 the Advisory Board, the letter shall be signed by a designee of the
16 Department and by the licensee. A copy of the signed letter shall
17 be given to the licensee. Approval or denial of a consensual
18 agreement by the Advisory Board shall be made within sixty (60) days
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21 ninety (90) days of the receipt of the complaint. A consensual
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24 or reparative action. The consensual agreement shall not appear on

1 the Advisory Board's website and shall not be reported to any
2 national data bank. Once the consensual action has been fulfilled
3 by the licensee, the licensee may state that a consensual action was
4 taken and fulfilled; and

5 5. The Department may keep all information relevant to a
6 dismissal or consensual agreement in the licensee's file in the
7 event of an additional complaint, including the reasons for
8 dismissal or consensual agreement, but shall not reveal such
9 information without the permission of the licensee, until an
10 additional complaint warrants the revelation, or when necessary
11 under the Oklahoma Open Records Act.

12 E. When the Oklahoma Licensed Marital and Family Therapist
13 Complaint Review Committee determines that a complaint may result in
14 a denial, revocation, or suspension of a license, the Committee
15 shall contact an investigator to review and address the nature of
16 the complaint and all information related to the complaint. The
17 Committee shall inform the licensee that an investigator has been
18 contacted and shall provide a date by which the investigation is
19 expected to be complete. Such date may be extended by the Oklahoma
20 Licensed Marital and Family Therapist Advisory Board if the Advisory
21 Board deems an extension necessary. The investigator shall report
22 the findings to the Committee and the Advisory Board. The report
23 shall be reviewed at the next meeting of the Advisory Board, at
24 which time the Advisory Board may take the following actions:

1 1. Dismissal based on lack of evidence;

2 2. Referral back to the informal process for consensual
3 agreement because the evidence does not indicate the necessity for
4 denial, revocation, or suspension of a license; or

5 3. Referral to a formal administrative hearing of the Advisory
6 Board pursuant to the Administrative Procedures Act during which the
7 Advisory Board shall determine whether or not the licensee is guilty
8 of any of the actions specified in Section 1925.15 of Title 59 of
9 the Oklahoma Statutes as actions for which a license may be denied,
10 revoked, suspended, or placed on probation. During such hearing,
11 all parties related to the complaint may be present.

12 F. The Oklahoma Licensed Marital and Family Therapist Advisory
13 Board may recommend appropriate licensing sanctions after due
14 deliberation. The Advisory Board may also recommend a fine which
15 shall be assessed based on the level of severity of the offense as
16 follows:

17 1. Level I: Five Hundred Dollars (\$500.00) to Five Thousand
18 Dollars (\$5,000.00) for violations that have or have had an adverse
19 impact on the health or safety of a client;

20 2. Level II: Two Hundred Fifty Dollars (\$250.00) to Two
21 Thousand Five Hundred Dollars (\$2,500.00) for violations that have
22 or have had the potential to cause an adverse impact on the health
23 or safety of a client, but that have not actually had an adverse
24 impact on a client; and

1 3. Level III: Two Hundred Fifty Dollars (\$250.00) or less for
2 violations that have no health or safety significance or that have
3 only minor health or safety significance.

4 G. The recommendations of the Oklahoma Licensed Marital and
5 Family Therapist Advisory Board shall be referred to the Department
6 for final action. The complaint shall be resolved within one
7 hundred twenty (120) days after the complaint was received unless
8 the complaint process is delayed by the request for and provision of
9 further information.

10 H. The procedures outlined in this section for complaints shall
11 also apply to applicants, candidates, and supervisors. In the event
12 that a complaint is against a candidate, the supervisor of the
13 candidate shall be involved in all steps of the complaint process.
14 The Oklahoma Licensed Marital and Family Therapist Complaint Review
15 Committee, upon review of the complaint, may ask the supervisor to
16 obtain outside consultation in order to resolve conflicting
17 influences that may put the supervisor in a position in which the
18 supervisor is unable to fully comply with the wishes of the
19 Committee for reparation of the candidate. The Committee shall
20 petition to the Oklahoma Licensed Marital and Family Therapist
21 Advisory Board for assistance in resolving any such conflicting
22 influences of the supervisor. If the candidate is denied a license
23 during the review process, the candidate may request an
24 administrative hearing within fifteen (15) days of the denial.

1 I. As an alternative to the denial of a license to a candidate,
2 the Oklahoma Licensed Marital and Family Therapist Advisory Board
3 may require the monitoring of a licensee whether or not a complaint
4 has been received on the person. The Advisory Board may recommend
5 and put forth specific conditions for such monitoring. The
6 monitoring shall not be considered to be a disciplinary action
7 unless the candidate fails to comply with the directions of the
8 Advisory Board and the Advisory Board chooses to take formal action.
9 Allegations of actions for which the Advisory Board may require
10 monitoring of the licensee may include, but are not limited to,
11 allegations of substance abuse, mental or physical illness, and
12 criminal activity, whether pending or in initial disposition by a
13 court of law.

14 J. If the director of the Division of Professional Counselor
15 Licensing within the State Department of Health receives credible
16 evidence that a licensee is engaging in acts that pose an immediate
17 and significant physical or emotional threat to the public, the
18 executive director shall refer the matter to the legal division of
19 the Department for investigation and subsequent authorization of an
20 emergency license suspension. In consultation with the legal
21 division, the director shall notify the appropriate authorities.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1941.1 of Title 59, unless there
24 is created a duplication in numbering, reads as follows:

1 A. Complaints against persons licensed under the Licensed
2 Behavioral Practitioner Act shall be sent to the State Department of
3 Health in writing. Such complaints shall be made within five (5)
4 years of the date of the alleged violation, or, in the case of a
5 criminal act, within the statute of limitations for such act,
6 whichever is later. If the complainant was a minor at the time of
7 the alleged violation, the person may make a complaint up to five
8 (5) years after his or her eighteenth birthday. There shall be no
9 time limit for allegations of sexual misconduct.

10 B. There is hereby established an Oklahoma Licensed Behavioral
11 Practitioners Complaint Review Committee. The Committee shall
12 consist of three (3) members to be appointed by the State
13 Commissioner of Health. One member shall be a former or current
14 member of the Oklahoma Licensed Behavioral Practitioners Advisory
15 Board, one member shall be the director of the Division of
16 Professional Counselor Licensing within the State Department of
17 Health, and one member shall be a licensed attorney employed in the
18 legal division of the State Department of Health. The Committee
19 shall meet at least once monthly, or if no complaints have been
20 submitted within the past month, as necessary, to review all
21 complaints received since the last meeting of the Committee.

22 C. If the Oklahoma Licensed Behavioral Practitioners Complaint
23 Review Committee finds that a complaint does not fall within the
24 jurisdiction of the State Department of Health under the Licensed

1 Behavioral Practitioner Act, the Department shall send a letter to
2 the complainant advising the complainant that the complaint does not
3 fall within the jurisdiction of the Department. The Department
4 shall also send a letter to the licensee informing the licensee of
5 the nature of the complaint and its dismissal. Such a complaint
6 shall not be kept in the licensee's file, but may be kept in a
7 separate log that is maintained by the Committee. The complaint
8 shall be titled a "report without merit" by the Committee. The
9 licensee shall not be required to report such a complaint to any
10 entity requesting information regarding complaints.

11 D. A reparative process shall be initiated for violations that
12 do not result in a denial, revocation, or suspension of a license,
13 but that necessitate a review and informal action by the Department.
14 The Oklahoma Licensed Behavioral Practitioners Complaint Review
15 Committee may ask the complainant for additional information to be
16 reviewed at the next meeting of the Committee, which shall occur no
17 later than forty-five (45) days after the receipt of the complaint.
18 The Committee shall then perform the following steps in the order in
19 which they are listed:

20 1. The Committee shall inform the licensee in writing as to the
21 nature of the complaint as well as to the identity of the
22 complainant. The Committee shall ask the licensee to attend the
23 next meeting of the Committee. The licensee shall have the
24 opportunity to informally review the complaint with the Committee at

1 the meeting. The licensee shall also bring a written statement to
2 the meeting for the review of the Committee;

3 2. The Committee shall:

4 a. dismiss the complaint as a "report without merit", in
5 which case the licensee shall not be required to
6 report such a case to any entity requesting
7 information regarding complaints, or

8 b. negotiate a consensual agreement between the licensee
9 and the Committee, which shall include remedial
10 action. The Committee shall take the wishes and needs
11 of the licensee into consideration when negotiating a
12 consensual agreement. The Committee may also ask a
13 peer investigator to assist in the investigation of
14 the complaint and in the development of a consensual
15 agreement. A peer investigator shall serve as a
16 volunteer and shall be a former member of the Advisory
17 Board. A remedial action agreed upon by the Committee
18 under a consensual agreement may include a directive
19 for further education or supervision, a warning, or
20 other action;

21 3. The Committee shall present for approval to the Oklahoma
22 Licensed Behavioral Practitioners Advisory Board the dismissal or
23 the consensual agreement as provided for in paragraph 2 of this
24

1 subsection. The Advisory Board shall approve or deny the dismissal
2 or consensual agreement by a vote of the Advisory Board;

3 4. If the Committee presents a consensual agreement to the
4 Advisory Board, the Committee shall also present a letter that
5 outlines the agreed upon actions and that contains a written
6 statement indicating that the internal investigation of the
7 complaint has been completed. The Advisory Board shall then review
8 the letter before a vote of the Advisory Board to approve or deny of
9 the consensual agreement. The letter may be amended during
10 deliberations of the Advisory Board. If the consensual agreement
11 outlined in the final version of the letter is approved by a vote of
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13 Department and by the licensee. A copy of the signed letter shall
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16 of initial action by the Committee and, unless additional
17 information is revealed that requires further investigation, within
18 ninety (90) days of the receipt of the complaint. A consensual
19 agreement approved by the Advisory Board shall not be considered to
20 be a disciplinary action, and shall be considered to be a remedial
21 or reparative action. The consensual agreement shall not appear on
22 the Advisory Board's website and shall not be reported to any
23 national data bank. Once the consensual action has been fulfilled

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1 by the licensee, the licensee may state that a consensual action was
2 taken and fulfilled; and

3 5. The Department may keep all information relevant to a
4 dismissal or consensual agreement in the licensee's file in the
5 event of an additional complaint, including the reasons for
6 dismissal or consensual agreement, but shall not reveal such
7 information without the permission of the licensee, until an
8 additional complaint warrants the revelation, or when necessary
9 under the Oklahoma Open Records Act.

10 E. When the Oklahoma Licensed Behavioral Practitioners
11 Complaint Review Committee determines that a complaint may result in
12 a denial, revocation, or suspension of a license, the Committee
13 shall contact an investigator to review and address the nature of
14 the complaint and all information related to the complaint. The
15 Committee shall inform the licensee that an investigator has been
16 contacted and shall provide a date by which the investigation is
17 expected to be complete. Such date may be extended by the Oklahoma
18 Licensed Behavioral Practitioners Advisory Board if the Advisory
19 Board deems an extension necessary. The investigator shall report
20 the findings to the Committee and the Advisory Board. The report
21 shall be reviewed at the next meeting of the Advisory Board, at
22 which time the Advisory Board may take the following actions:

23 1. Dismissal based on lack of evidence;
24

1 2. Referral back to the informal process for consensual
2 agreement because the evidence does not indicate the necessity for
3 denial, revocation, or suspension of a license; or

4 3. Referral to a formal administrative hearing of the Advisory
5 Board pursuant to the Administrative Procedures Act during which the
6 Advisory Board shall determine whether or not the licensee is guilty
7 of any of the actions specified in Section 1941 of Title 59 of the
8 Oklahoma Statutes as actions for which a license may be denied,
9 revoked, suspended, or placed on probation. During such hearing,
10 all parties related to the complaint may be present.

11 F. The Oklahoma Licensed Behavioral Practitioners Advisory
12 Board may recommend appropriate licensing sanctions after due
13 deliberation. The Advisory Board may also recommend a fine which
14 shall be assessed based on the level of severity of the offense as
15 follows:

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17 Dollars (\$5,000.00) for violations that have or have had an adverse
18 impact on the health or safety of a client;

19 2. Level II: Two Hundred Fifty Dollars (\$250.00) to Two
20 Thousand Five Hundred Dollars (\$2,500.00) for violations that have
21 or have had the potential to cause an adverse impact on the health
22 or safety of a client, but that have not actually had an adverse
23 impact on a client; and
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1 3. Level III: Two Hundred Fifty Dollars (\$250.00) or less for
2 violations that have no health or safety significance or that have
3 only minor health or safety significance.

4 G. The recommendations of the Oklahoma Licensed Behavioral
5 Practitioners Advisory Board shall be referred to the Department for
6 final action. The complaint shall be resolved within one hundred
7 twenty (120) days after the complaint was received unless the
8 complaint process is delayed by the request for and provision of
9 further information.

10 H. The procedures outlined in this section for complaints shall
11 also apply to applicants, candidates, and supervisors. In the event
12 that a complaint is against a candidate, the supervisor of the
13 candidate shall be involved in all steps of the complaint process.
14 The Oklahoma Licensed Behavioral Practitioners Complaint Review
15 Committee, upon review of the complaint, may ask the supervisor to
16 obtain outside consultation in order to resolve conflicting
17 influences that may put the supervisor in a position in which the
18 supervisor is unable to fully comply with the wishes of the
19 Committee for reparation of the candidate. The Committee shall
20 petition to the Oklahoma Licensed Behavioral Practitioners Advisory
21 Board for assistance in resolving any such conflicting influences of
22 the supervisor. If the candidate is denied a license during the
23 review process, the candidate may request an administrative hearing
24 within fifteen (15) days of the denial.

1 I. As an alternative to the denial of a license to a candidate,
2 the Oklahoma Licensed Behavioral Practitioners Advisory Board may
3 require the monitoring of a licensee whether or not a complaint has
4 been received on the person. The Advisory Board may recommend and
5 put forth specific conditions for such monitoring. The monitoring
6 shall not be considered to be a disciplinary action unless the
7 candidate fails to comply with the directions of the Advisory Board
8 and the Advisory Board chooses to take formal action. Allegations
9 of actions for which the Advisory Board may require monitoring of
10 the licensee may include, but are not limited to, allegations of
11 substance abuse, mental or physical illness, and criminal activity,
12 whether pending or in initial disposition by a court of law.

13 J. If the director of the Division of Professional Counselor
14 Licensing within the State Department of Health receives credible
15 evidence that a licensee is engaging in acts that pose an immediate
16 and significant physical or emotional threat to the public, the
17 executive director shall refer the matter to the legal division of
18 the Department for investigation and subsequent authorization of an
19 emergency license suspension. In consultation with the legal
20 division, the director shall notify the appropriate authorities.

21 SECTION 4. This act shall become effective November 1, 2010.

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