

SENATE BILL No. 186

AN ACT concerning the behavioral sciences regulatory board; relating to professions regulated by the board; investigations and procedures conducted by the board; access to evidence; issuance of subpoenas; confidentiality of information; amending K.S.A. 38-1522, 39-1402, 39-1431 and 74-7508 and K.S.A. 2000 Supp. 59-2946, 65-5804a, 65-5807, 65-6404, 65-6405 and 74-5363 and repealing the existing sections; also repealing K.S.A. 2000 Supp. 65-5804 and 65-5811.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 74-7508 is hereby amended to read as follows: 74-7508. (a) *In connection with any investigation, based upon a written complaint or other reasonably reliable written information, by the behavioral sciences regulatory board, the board or its duly authorized agents or employees shall at all reasonable times have access to, for the purpose of examination, and the right to copy any document, report, record or other physical evidence of any person being investigated, or any document, report, record or other evidence maintained by and in possession of any clinic or office of a practitioner of the behavioral sciences, or other public or private agency if such document, report, record or other physical evidence relates to practices which may be grounds for disciplinary action.*

(b) *In all matters pending before the behavioral sciences regulatory board, the board shall have the power—(a) to administer oaths and take testimony. For the purpose of all investigations and proceedings conducted by the behavioral sciences regulatory board:*

(1) *The board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents, reports, records or any other physical evidence if such documents, reports, records or other physical evidence relates to practices which may be grounds for disciplinary action. Within five days after the service of the subpoena on any person requiring the production of any documents, reports, records or other physical evidence in the person's possession or under the person's control, such person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the documents, reports, records or other physical evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the allegation which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the documents, reports, records or other physical evidence which is required to be produced. Any member of the board, or any agent designated by the board, may administer oaths or affirmations, examine witnesses and receive such documents, reports, records or other physical evidence.*

(2) *The district court, upon application by the board or by the person subpoenaed, shall have jurisdiction to issue an order:*

(A) *Requiring such person to appear before the board or the board's duly authorized agent to produce documents, reports, records or other physical evidence relating to the matter under investigation; or*

(B) *revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the allegation which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the documents, reports, records or other physical evidence which is required to be produced.*

(c) *Any complaint or report, record or other information relating to a complaint which is received, obtained or maintained by the behavioral sciences regulatory board shall be confidential and shall not be disclosed by the board or its employees in a manner which identifies or enables identification of the person who is the subject or source of the information except the information may be disclosed:*

(1) *In any proceeding conducted by the board under the law or in an appeal of an order of the board entered in a proceeding, or to any party to a proceeding or appeal or the party's attorney;*

(2) *to the person who is the subject of the information or to any person or entity when requested by the person who is the subject of the information, but the board may require disclosure in such a manner that will prevent identification of any other person who is the subject or source of the information; or*

(3) *to a state or federal licensing, regulatory or enforcement agency with jurisdiction over the subject of the information or to an agency with jurisdiction over acts or conduct similar to acts or conduct which would*

constitute grounds for action under this act. Any confidential complaint or report, record or other information disclosed by the board as authorized by this section shall not be redisclosed by the receiving agency except as otherwise authorized by law.

(d) Nothing in this section or any other provision of law making communications between a practitioner of one of the behavioral sciences and the practitioner's client or patient a privileged or confidential communication shall apply to investigations or proceedings conducted pursuant to this section. The behavioral sciences regulatory board and its employees, agents and representatives shall keep in confidence the content and the names of any clients or patients whose records are reviewed during the course of investigations and proceedings pursuant to this section.

~~(b) To issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts. In case of the failure of any person to comply with any subpoena issued in behalf of the board, or on the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, the district court of any county, on application of a member of the board, may require compliance by proceedings for contempt, as in the case of failure to comply with a subpoena issued from such court or a refusal to testify in such court. Each witness who appears before the board by its order or subpoena, other than a state officer or employee, shall receive for such attendance the fees and mileage provided for witnesses in civil cases in courts of record which shall be audited and paid upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairperson of the board or by a person or persons designated by the chairperson.~~

Sec. 2. K.S.A. 38-1522 is hereby amended to read as follows: 38-1522. (a) When any of the following persons has reason to suspect that a child has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse, the person shall report the matter promptly as provided in subsection (c) or (e): Persons licensed to practice the healing arts or dentistry; persons licensed to practice optometry; persons engaged in postgraduate training programs approved by the state board of healing arts; licensed psychologists; *licensed masters level psychologists; licensed clinical psychotherapists*; licensed professional or practical nurses examining, attending or treating a child under the age of 18; teachers, school administrators or other employees of a school which the child is attending; chief administrative officers of medical care facilities; ~~registered~~ *licensed* marriage and family therapists; *licensed clinical marriage and family therapists; licensed professional counselors; licensed clinical professional counselors; registered alcohol and drug abuse counselors*; persons licensed by the secretary of health and environment to provide child care services or the employees of persons so licensed at the place where the child care services are being provided to the child; licensed social workers; firefighters; emergency medical services personnel; mediators appointed under K.S.A. 23-602 and amendments thereto; juvenile intake and assessment workers; and law enforcement officers. The report may be made orally and shall be followed by a written report if requested. When the suspicion is the result of medical examination or treatment of a child by a member of the staff of a medical care facility or similar institution, that staff member shall immediately notify the superintendent, manager or other person in charge of the institution who shall make a written report forthwith. Every written report shall contain, if known, the names and addresses of the child and the child's parents or other persons responsible for the child's care, the child's age, the nature and extent of the child's injury (including any evidence of previous injuries) and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the persons responsible for the injuries.

(b) Any other person who has reason to suspect that a child has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse may report the matter as provided in subsection (c) or (e).

(c) Except as provided by subsection (e), reports made pursuant to this section shall be made to the state department of social and rehabil-

itation services. When the department is not open for business, the reports shall be made to the appropriate law enforcement agency. On the next day that the state department of social and rehabilitation services is open for business, the law enforcement agency shall report to the department any report received and any investigation initiated pursuant to subsection (a) of K.S.A. 38-1524 and amendments thereto. The reports may be made orally or, on request of the department, in writing.

(d) Any person who is required by this section to report an injury to a child and who knows of the death of a child shall notify immediately the coroner as provided by K.S.A. 22a-242, and amendments thereto.

(e) Reports of child abuse or neglect occurring in an institution operated by the secretary of social and rehabilitation services or the commissioner of juvenile justice shall be made to the attorney general. All other reports of child abuse or neglect by persons employed by or of children of persons employed by the state department of social and rehabilitation services or the juvenile justice authority shall be made to the appropriate law enforcement agency.

(f) Willful and knowing failure to make a report required by this section is a class B misdemeanor.

(g) Preventing or interfering with, with the intent to prevent, the making of a report required by this section is a class B misdemeanor.

Sec. 3. K.S.A. 39-1402 is hereby amended to read as follows: 39-1402. (a) Any person who is licensed to practice any branch of the healing arts, a licensed psychologist, a licensed master level psychologist, a *licensed clinical psychotherapist*, a chief administrative officer of a medical care facility, an adult care home administrator or operator, a licensed social worker, a licensed professional nurse, a licensed practical nurse, a *licensed marriage and family therapist*, a *licensed clinical marriage and family therapist*, *licensed professional counselor*, *licensed clinical professional counselor*, *registered alcohol and drug abuse counselor*, a teacher, a bank trust officer, a guardian or a conservator who has reasonable cause to believe that a resident is being or has been abused, neglected or exploited, or is in a condition which is the result of such abuse, neglect or exploitation or is in need of protective services, shall report immediately such information or cause a report of such information to be made in any reasonable manner to the department of health and environment with respect to residents defined under (a)(1) and (a)(2) of K.S.A. 39-1401 and amendments thereto and to the department of social and rehabilitation services with respect to all other residents. Reports made to one department which are required by this subsection to be made to the other department shall be referred by the department to which the report is made to the appropriate department for that report, and any such report shall constitute compliance with this subsection. Reports shall be made during the normal working week days and hours of operation of such departments. Reports shall be made to law enforcement agencies during the time the departments are not open for business. Law enforcement agencies shall submit the report and appropriate information to the appropriate department on the first working day that such department is open for business. A report made pursuant to K.S.A. 65-4923 or 65-4924 and amendments thereto shall be deemed a report under this section.

(b) The report made pursuant to subsection (a) shall contain the name and address of the person making the report and of the caretaker caring for the resident, the name and address of the involved resident, information regarding the nature and extent of the abuse, neglect or exploitation, the name of the next of kin of the resident, if known, and any other information which the person making the report believes might be helpful in an investigation of the case and the protection of the resident.

(c) Any other person having reasonable cause to suspect or believe that a resident is being or has been abused, neglected or exploited, or is in a condition which is the result of such abuse, neglect or exploitation or is in need of protective services may report such information to the department of health and environment with respect to residents defined under (a)(1) and (a)(2) of K.S.A. 39-1401 and amendments thereto and to the department of social and rehabilitation services with respect to all other residents. Reports made to one department which are to be made to the other department under this section shall be referred by the de-

partment to which the report is made to the appropriate department for that report.

(d) Notice of the requirements of this act and the department to which a report is to be made under this act shall be posted in a conspicuous place in every adult care home and medical care facility in this state.

(e) Any person required to report information or cause a report of information to be made under subsection (a) who knowingly fails to make such report or cause such report to be made shall be guilty of a class B misdemeanor.

Sec. 4. K.S.A. 39-1431 is hereby amended to read as follows: 39-1431. (a) Any person who is licensed to practice any branch of the healing arts, a licensed psychologist, a licensed master level psychologist, *a licensed clinical psychotherapist*, the chief administrative officer of a medical care facility, a teacher, a licensed social worker, a licensed professional nurse, a licensed practical nurse, a licensed dentist, *a licensed marriage and family therapist, a licensed clinical marriage and family therapist, licensed professional counselor, licensed clinical professional counselor, registered alcohol and drug abuse counselor*, a law enforcement officer, a case manager, a guardian or conservator, a bank trust officer, a rehabilitation counselor, a holder of a power of attorney, an owner or operator of a residential care facility, an independent living counselor and the chief administrative officer of a licensed home health agency, the chief administrative officer of an adult family home and the chief administrative officer of a provider of community services and affiliates thereof operated or funded by the department of social and rehabilitation services or licensed under K.S.A. 75-3307b and amendments thereto who has reasonable cause to believe that an adult is being or has been abused, neglected or exploited or is in need of protective services shall report, immediately from receipt of the information, such information or cause a report of such information to be made in any reasonable manner. An employee of a domestic violence center shall not be required to report information or cause a report of information to be made under this subsection. Other state agencies receiving reports that are to be referred to the department of social and rehabilitation services, shall submit the report to the department within six hours, during normal work days, of receiving the information. Reports shall be made to the department of social and rehabilitation services during the normal working week days and hours of operation. Reports shall be made to law enforcement agencies during the time social and rehabilitation services are not in operation. Law enforcement shall submit the report and appropriate information to the department of social and rehabilitation services on the first working day that social and rehabilitation services is in operation.

(b) The report made pursuant to subsection (a) shall contain the name and address of the person making the report and of the caretaker caring for the involved adult, the name and address of the involved adult, information regarding the nature and extent of the abuse, neglect or exploitation, the name of the next of kin of the involved adult, if known, and any other information which the person making the report believes might be helpful in the investigation of the case and the protection of the involved adult.

(c) Any other person having reasonable cause to suspect or believe that an adult is being or has been abused, neglected or exploited or is in need of protective services may report such information to the department of social and rehabilitation services. Reports shall be made to law enforcement agencies during the time social and rehabilitation services are not in operation.

(d) A person making a report under subsection (a) shall not be required to make a report under K.S.A. 39-1401 to 39-1410, inclusive, and amendments thereto.

(e) Any person required to report information or cause a report of information to be made under subsection (a) who knowingly fails to make such report or cause such report not to be made shall be guilty of a class B misdemeanor.

(f) Notice of the requirements of this act and the department to which a report is to be made under this act shall be posted in a conspicuous place in every adult family home as defined in K.S.A. 39-1501 and amendments thereto and every provider of community services and af-

filiates thereof operated or funded by the department of social and rehabilitation services or other facility licensed under K.S.A. 75-3307b and amendments thereto.

Sec. 5. K.S.A. 2000 Supp. 59-2946 is hereby amended to read as follows: 59-2946. When used in the care and treatment act for mentally ill persons:

(a) “Discharge” means the final and complete release from treatment, by either the head of a treatment facility acting pursuant to K.S.A. 2000 Supp. 59-2950 and amendments thereto or by an order of a court issued pursuant to K.S.A. 2000 Supp. 59-2973 and amendments thereto.

(b) “Head of a treatment facility” means the administrative director of a treatment facility or such person’s designee.

(c) “Law enforcement officer” shall have the meaning ascribed to it in K.S.A. 22-2202, and amendments thereto.

(d) (1) “Mental health center” means any community mental health center organized pursuant to the provisions of K.S.A. 19-4001 through 19-4015 and amendments thereto, or mental health clinic organized pursuant to the provisions of K.S.A. 65-211 through 65-215 and amendments thereto, or a mental health clinic organized as a not-for-profit or a for-profit corporation pursuant to K.S.A. 17-1701 through 17-1775 and amendments thereto or K.S.A. 17-6001 through 17-6010 and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto.

(2) “Participating mental health center” means a mental health center which has entered into a contract with the secretary of social and rehabilitation services pursuant to the provisions of K.S.A. 39-1601 through 39-1612 and amendments thereto.

(e) “Mentally ill person” means any person who is suffering from a mental disorder which is manifested by a clinically significant behavioral or psychological syndrome or pattern and associated with either a painful symptom or an impairment in one or more important areas of functioning, and involving substantial behavioral, psychological or biological dysfunction, to the extent that the person is in need of treatment.

(f) (1) “Mentally ill person subject to involuntary commitment for care and treatment” means a mentally ill person, as defined in subsection (e), who also lacks capacity to make an informed decision concerning treatment, is likely to cause harm to self or others, and whose diagnosis is not solely one of the following mental disorders: Alcohol or chemical substance abuse; antisocial personality disorder; mental retardation; organic personality syndrome; or an organic mental disorder.

(2) “Lacks capacity to make an informed decision concerning treatment” means that the person, by reason of the person’s mental disorder, is unable, despite conscientious efforts at explanation, to understand basically the nature and effects of hospitalization or treatment or is unable to engage in a rational decision-making process regarding hospitalization or treatment, as evidenced by an inability to weigh the possible risks and benefits.

(3) “Likely to cause harm to self or others” means that the person, by reason of the person’s mental disorder: (a) Is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another’s property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state’s interest in protecting the property from such harm outweighs the person’s interest in personal liberty; or (b) is substantially unable, except for reason of indigency, to provide for any of the person’s basic needs, such as food, clothing, shelter, health or safety, causing a substantial deterioration of the person’s ability to function on the person’s own.

No person who is being treated by prayer in the practice of the religion of any church which teaches reliance on spiritual means alone through prayer for healing shall be determined to be a mentally ill person subject to involuntary commitment for care and treatment under this act unless substantial evidence is produced upon which the district court finds that the proposed patient is likely in the reasonably foreseeable future to cause substantial physical injury or physical abuse to self or others or substantial

damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty.

(g) "Patient" means a person who is a voluntary patient, a proposed patient or an involuntary patient.

(1) "Voluntary patient" means a person who is receiving treatment at a treatment facility pursuant to K.S.A. 2000 Supp. 59-2949 and amendments thereto.

(2) "Proposed patient" means a person for whom a petition pursuant to K.S.A. 2000 Supp. 59-2952 or K.S.A. 2000 Supp. 59-2957 and amendments thereto has been filed.

(3) "Involuntary patient" means a person who is receiving treatment under order of a court or a person admitted and detained by a treatment facility pursuant to an application filed pursuant to subsection (b) or (c) of K.S.A. 2000 Supp. 59-2954 and amendments thereto.

(h) "Physician" means a person licensed to practice medicine and surgery as provided for in the Kansas healing arts act or a person who is employed by a state psychiatric hospital or by an agency of the United States and who is authorized by law to practice medicine and surgery within that hospital or agency.

(i) "Psychologist" means a licensed psychologist, as defined by K.S.A. 74-5302 and amendments thereto.

(j) "Qualified mental health professional" means a physician or psychologist who is employed by a participating mental health center or who is providing services as a physician or psychologist under a contract with a participating mental health center, a licensed masters level psychologist, a *licensed clinical psychotherapist*, a licensed marriage and family therapist, a *licensed clinical marriage and family therapist*, a licensed professional counselor, a *licensed clinical professional counselor*, a licensed specialist social worker or a licensed master social worker or a registered nurse who has a specialty in psychiatric nursing, who is employed by a participating mental health center and who is acting under the direction of a physician or psychologist who is employed by, or under contract with, a participating mental health center.

(1) "Direction" means monitoring and oversight including regular, periodic evaluation of services.

(2) "Licensed master social worker" means a person licensed as a master social worker by the behavioral sciences regulatory board under K.S.A. 65-6301 through 65-6318 and amendments thereto.

(3) "Licensed specialist social worker" means a person licensed in a social work practice specialty by the behavioral sciences regulatory board under K.S.A. 65-6301 through 65-6318 and amendments thereto.

(4) "Licensed masters level psychologist" means a person licensed as a licensed masters level psychologist by the behavioral sciences regulatory board under K.S.A. 74-5361 through 74-5373 and amendments thereto.

(5) "Registered nurse" means a person licensed as a registered professional nurse by the board of nursing under K.S.A. 65-1113 through 65-1164 and amendments thereto.

(k) "Secretary" means the secretary of social and rehabilitation services.

(l) "State psychiatric hospital" means Larned state hospital, Osawatimie state hospital, Rainbow mental health facility or Topeka state hospital.

(m) "Treatment" means any service intended to promote the mental health of the patient and rendered by a qualified professional, licensed or certified by the state to provide such service as an independent practitioner or under the supervision of such practitioner.

(n) "Treatment facility" means any mental health center or clinic, psychiatric unit of a medical care facility, state psychiatric hospital, psychologist, physician or other institution or person authorized or licensed by law to provide either inpatient or outpatient treatment to any patient.

(o) The terms defined in K.S.A. 59-3002 and amendments thereto shall have the meanings provided by that section.

Sec. 6. K.S.A. 2000 Supp. 65-5804a is hereby amended to read as

follows: 65-5804a. (a) Applications for licensure as a professional counselor shall be made to the board on a form and in the manner prescribed by the board. Each application shall be accompanied by the fee fixed under K.S.A. 65-5808 and amendments thereto.

(b) Each applicant for licensure as a professional counselor shall furnish evidence satisfactory to the board that the applicant:

- (1) Is at least 21 years of age;
- (2) has completed 60 graduate semester hours including a graduate degree in counseling from a college or university approved by the board and which includes 45 graduate semester hours distributed among each of the following areas:
 - (A) Counseling theory and practice;
 - (B) the helping relationship;
 - (C) group dynamics, processing and counseling;
 - (D) human growth and development;
 - (E) life-style and career development;
 - (F) appraisal of individuals;
 - (G) social and cultural foundations;
 - (H) research and evaluation;
 - (I) professional orientation;
 - (J) supervised practicum and internship;
- (3) has passed an examination required by the board; and
- (4) has satisfied the board that the applicant is a person who merits the public trust.

(c) (1) Applications for licensure as a clinical professional counselor shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

(A) Is licensed by the board as a licensed professional counselor or meets all requirements for licensure as a licensed professional counselor;

(B) has completed 15 credit hours as part of or in addition to the requirements under subsection (b) supporting diagnosis or treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, through identifiable study of the following content areas: Psychopathology, diagnostic assessment, interdisciplinary referral and collaboration, treatment approaches and professional ethics;

(C) has completed a graduate level supervised clinical practicum of supervised professional experience including psychotherapy and assessment with individuals, couples, families or groups, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, with not less than 350 hours of direct client contact or additional postgraduate supervised experience as determined by the board;

(D) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting psychotherapy and assessments with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, except that one-half of the requirement of this part (D) may be waived for persons with a doctor's degree in professional counseling or a related field acceptable to the board;

(E) for persons earning a degree under subsection (b) prior to July 1, 2003, in lieu of the education requirements under parts (B) and (C) of this subsection, has completed the education requirements for licensure as a professional counselor in effect on the day immediately preceding the effective date of this act;

(F) for persons who apply for and are eligible for a temporary permit to practice as a licensed professional counselor on the day immediately preceding the effective date of this act, in lieu of the education and training requirements under parts (B), (C) and (D) of this subsection, has completed the education and training requirements for licensure as a professional counselor in effect on the day immediately preceding the effective date of this act;

(G) has passed an examination approved by the board; and

(H) has paid the application fee fixed under K.S.A. 65-5808 and amendments thereto.

(2) A person who was licensed or registered as a professional counselor in Kansas at any time prior to the effective date of this act, who has been actively engaged in the practice of professional counseling as a registered or licensed professional counselor within five years prior to the effective date of this act and whose last license or registration in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed clinical professional counselor by providing demonstration of competence to diagnose and treat mental disorders through at least two of the following areas acceptable to the board:

(a) Either (i) graduate coursework or (ii) passing a national, clinical examination;

(b) either (i) three years of clinical practice in a community mental health center, its contracted affiliate or a state mental hospital or (ii) three years of clinical practice in other settings with demonstrated experience in diagnosing or treating mental disorders; or

(c) attestation from one professional licensed to diagnose and treat mental disorders in independent practice or licensed to practice medicine and surgery that the applicant is competent to diagnose and treat mental disorders.

(3) A licensed clinical professional counselor may engage in the independent practice of professional counseling and is authorized to diagnose and treat mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations. When a client has symptoms of a mental disorder, a licensed clinical professional counselor shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed clinical professional counselor may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(4) On and after January 1, 2002, a licensed professional counselor may diagnose and treat mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations only under the direction of a licensed clinical professional counselor, licensed psychologist, person licensed to practice medicine and surgery or person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of mental disorders. When a client has symptoms of a mental disorder, a licensed professional counselor shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed professional counselor may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(d) The board shall adopt rules and regulations establishing the criteria which a college or university shall satisfy in order to be approved by the board. The board may send a questionnaire developed by the board to any college or university for which the board does not have sufficient information to determine whether the school meets the requirements for approval and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the college or university to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about colleges and universities. In entering such contracts the authority to approve college and universities shall remain solely with the board.

(e) A person who ~~intends to pursue the postgraduate supervised training experience~~ *is waiting to take the examination required by the board* shall apply to the board for a temporary ~~permit~~ *license* to practice

as a licensed professional counselor by (1) paying an application fee of no more than \$150; ~~and (2) providing evidence of graduating from a masters or doctoral program in professional counseling acceptable to the board;~~ (3) submitting letters from three professionals attesting to the applicant's integrity, competence, and worthiness to merit the public's trust, one of whom has provided direct clinical supervision of the applicant's graduate program clinical training and (4) completing a postgraduate supervised training plan on forms supplied by the board describing services to be provided, place of employment, persons responsible for administrative oversight and clinical supervision, and statement acknowledging behavioral sciences regulatory board postgraduate training requirements ~~meeting the application requirements as stated in subsections (b)(1), (2) and (4) of K.S.A. 65-5804a and amendments thereto.~~

(f) (1) A temporary ~~permit~~ *license* may be issued by the board after the application has been reviewed and approved by the board and the applicant has paid the appropriate fee set by the board for issuance of new licenses.

(2) A temporary ~~permit~~ *license* issued by the board shall expire at such time as final action on the application is completed or two years after the date of issuance of the ~~permit~~. ~~A temporary permit may be renewed for one additional two-year period if the board finds that satisfactory progress toward the supervised experience requirement is being met~~ *license*.

(g) A person practicing professional counseling with a temporary permit or *license* may not use the title "licensed professional counselor" or the initials "LPC" independently. The word "licensed" may be used only when followed by the words "by temporary ~~permit~~ *license*" such as licensed professional counselor by temporary ~~permit~~ *license*, or professional counselor licensed by temporary ~~permit~~ *license*.

(h) *Nothing in this section shall affect any temporary permit or license to practice issued under this section prior to the effective date of this act and in effect on the effective date of this act. Such temporary permit or license shall be subject to the provisions of this section in effect at the time of its issuance and shall continue to be effective until the date of expiration of the temporary permit or license provided under this section at the time of issuance of such temporary permit or license.*

Sec. 7. K.S.A. 2000 Supp. 65-5807 is hereby amended to read as follows: 65-5807. The board may at its discretion waive the statutory requirements of an applicant for licensure as a licensed professional counselor or *clinical professional counselor* if such applicant is licensed, registered, certified or otherwise authorized to practice professional counseling or *clinical professional counseling* by a similar board in another state and if the standards and qualifications required for the practice of professional counseling or *clinical professional counseling* in the state in which the applicant is so authorized are substantially the same as those required under the professional counselors licensure act.

Sec. 8. K.S.A. 2000 Supp. 65-6404 is hereby amended to read as follows: 65-6404. (a) An applicant for licensure as a marriage and family therapist shall furnish evidence that the applicant:

- (1) Has attained the age of 21;
- (2) (A) has completed a master's or doctoral degree from a marriage and family therapy program, in an educational institution with standards consistent with those of the state universities of Kansas, approved by the board; or (B) has completed a master's or doctoral degree from an educational institution in a related field for which the course work is considered by the board to be equivalent to that provided in clause (2)(A) of this paragraph and consists of a minimum of nine semester hours in human development, nine semester hours in theories of marriage and family functioning, nine semester hours of marital and family assessment and therapy, three semester hours in professional studies and three semester hours in research; or (C) completed a master's or doctoral degree from an educational institution in a related field with additional work from an educational program in marriage and family therapy approved by the board and such degree program and additional work includes the course work requirements provided in clause (2)(B) of this paragraph;
- (3) has passed an examination approved by the board;
- (4) has satisfied the board that the applicant is a person who merits the public trust; and

(5) Each applicant has paid the application fee ~~and examination fee~~ established by the board under K.S.A. 65-6411 and amendments thereto.

(b) (1) Applications for licensure as a clinical marriage and family therapist shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

(A) Is licensed by the board as a licensed marriage and family therapist or meets all requirements for licensure as a marriage and family therapist;

(B) has completed 15 credit hours as part of or in addition to the requirements under subsection (a) supporting diagnosis or treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, through identifiable study of the following content areas: Psychopathology, diagnostic assessment, interdisciplinary referral and collaboration, treatment approaches and professional ethics;

(C) has completed a graduate level supervised clinical practicum of supervised professional experience including psychotherapy and assessment with individuals, couples, families or groups, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, with not less than 350 hours of direct client contact or additional postgraduate supervised experience as determined by the board;

(D) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client ~~contract~~ *contact* conducting psychotherapy and assessments with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, except that one-half of the requirement of this part (D) may be waived for persons with a doctor's degree in marriage and family therapy or a related field acceptable to the board;

(E) for persons earning a degree under subsection (a) prior to July 1, 2003, in lieu of the education and training requirements under parts (B) and (C) of this subsection, has completed the education requirements for licensure as a marriage and family therapist in effect on the day immediately preceding the effective date of this act;

(F) for persons who apply for and are eligible for a temporary permit to practice as a licensed marriage and family therapist on the day immediately preceding the effective date of this act, in lieu of the education and training requirements under parts (B), (C) and (D) of this subsection, has completed the education and training requirements for licensure as a marriage and family therapist in effect on the day immediately preceding the effective date of this act;

(G) has passed an examination approved by the board; and

(H) has paid the application fee fixed under K.S.A. 65-6411 and amendments thereto.

(2) A person who was licensed or registered as a marriage and family therapist in Kansas at any time prior to the effective date of this act, who has been actively engaged in the practice of marriage and family therapy as a registered or licensed marriage and family therapist within five years prior to the effective date of this act and whose last license or registration in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed clinical marriage and family therapist by providing demonstration of competence to diagnose and treat mental disorders through at least two of the following areas acceptable to the board:

~~(a)~~ (A) Either (i) graduate coursework or (ii) passing a national, clinical examination;

~~(b)~~ (B) either (i) three years of clinical practice in a community mental health center, its contracted affiliate or a state mental hospital or (ii) three years of clinical practice in other settings with demonstrated experience in diagnosing or treating mental disorders; or

~~(c)~~ (C) attestation from one professional licensed to diagnose and treat mental disorders in independent practice or licensed to practice

medicine and surgery that the applicant is competent to diagnose and treat mental disorders.

(3) A licensed clinical marriage and family therapist may engage in the independent practice of marriage and family therapy and is authorized to diagnose and treat mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations. When a client has symptoms of a mental disorder, a licensed clinical marriage and family therapist shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed clinical marriage and family therapist may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(4) On and after January 1, 2002, a licensed marriage and family therapist may diagnose and treat mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations only under the direction of a licensed clinical marriage and family therapist, licensed psychologist, person licensed to practice medicine and surgery or person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of mental disorders. When a client has symptoms of a mental disorder, a licensed marriage and family therapist shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed marriage and family therapist may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

Sec. 9. K.S.A. 2000 Supp. 65-6405 is hereby amended to read as follows: 65-6405. (a) ~~Prior to July 1, 1998, the board, upon receipt of a proper application and payment of fees, shall issue a license or a temporary license to an applicant without examination if the board is satisfied that the applicant meets the requirements of paragraphs (1) to (3), inclusive, of subsection (a) of K.S.A. 65-6404 and amendments thereto or if the board is satisfied that the applicant has completed a master's or doctoral degree in a related field. In addition, the applicant has practiced marriage and family therapy continuously for five years immediately prior to application for licensure under the marriage and family therapists licensure act and is otherwise qualified to be licensed as a marriage and family therapist. A person registered as a marriage and family therapist on December 30, 1996, shall be deemed to be a licensed marriage and family therapist under such act. Such person shall not be required to file an original application for licensure under such act, but shall apply to the board for a license in lieu of registration upon payment of the fee required by the board for renewal of license. Any application for registration filed but which has not been granted prior to January 1, 1997, shall be processed as an application for licensure under requirements defined for credentialing at the time of application pursuant to such act.~~ (b) A person who is waiting to take the examination required by the board ~~or who intends to pursue the postgraduate supervised training experience shall apply to the board for a temporary license to practice as a licensed marriage and family therapist by (1) paying an application fee of no more than \$150, and (2) providing evidence of graduating from a master's or doctoral program in marriage and family therapy acceptable to the board, (3) submitting letters from three professionals attesting to the applicant's integrity, competence, and worthiness to merit the public's trust, one of whom has provided direct clinical supervision of the applicant's graduate program clinical training, and (4) completing a postgraduate supervised training plan on forms supplied by the board describing services to be provided, place of employment, persons responsible for administrative oversight and clinical supervision, and statement acknowledging behavior~~

~~ioral sciences regulatory board postgraduate training requirements meeting the application requirements as stated in subsections (a)(1), (2) and (4) of K.S.A. 65-6404 and amendments thereto.~~

~~(e)~~ (b) (1) A temporary license may be issued by the board after the application has been reviewed and approved by the board and the applicant has paid the appropriate fee set by the board for issuance of new licenses.

(2) A temporary license issued by the board shall expire at such time as final action on the application is completed or two years after the date of issuance of the temporary license. ~~A temporary license may be renewed for one additional two-year period if the board finds that satisfactory progress toward the supervised experience requirement is being met.~~

~~(d)~~ (c) A person practicing marriage and family therapy with a temporary license may not use the title “licensed marriage and family therapist” or the initials “LMFT” independently. The word “licensed” may be used only when followed by the words “by temporary license” such as licensed marriage and family therapist by temporary license, or marriage and family therapist, temporarily licensed.

~~(e)~~ (d) Nothing in this section shall affect any temporary permit *or license* to practice issued under this section prior to the effective date of this act and in effect on the effective date of this act. Such temporary permit *or license* shall be subject to the provisions of this section in effect at the time of its issuance and shall continue to be effective until the date of expiration of the permit *or license* as provided under this section at the time of issuance of such temporary permit *or license*.

Sec. 10. K.S.A. 2000 Supp. 74-5363 is hereby amended to read as follows: 74-5363. (a) Any person who desires to be licensed under this act shall apply to the board in writing, on forms prepared and furnished by the board. Each application shall contain appropriate documentation of the particular qualifications required by the board and shall be accompanied by the required fee.

(b) The board shall license as a licensed masters level psychologist any applicant for licensure who pays the fee prescribed by the board under K.S.A. 74-5365 and amendments thereto, which shall not be refunded, who has satisfied the board as to such applicant’s training and who complies with the provisions of this subsection (b). An applicant for licensure also shall submit evidence verified under oath and satisfactory to the board that such applicant:

- (1) Is at least 21 years of age;
- (2) has satisfied the board that the applicant is a person who merits public trust;
- (3) has received at least 60 graduate hours including a master’s degree in psychology based on a program of studies in psychology from an educational institution having a graduate program in psychology consistent with state universities of Kansas; or until July 1, 2003, has received at least a master’s degree in psychology and during such master’s or post-master’s coursework completed a minimum of 12 semester hours or its equivalent in psychological foundation courses such as, but not limited to, philosophy of psychology, psychology of perception, learning theory, history of psychology, motivation, and statistics and 24 semester hours or its equivalent in professional core courses such as, but not limited to, two courses in psychological testing, psychopathology, two courses in psychotherapy, personality theories, developmental psychology, research methods, social psychology; or has passed comprehensive examinations or equivalent final examinations in a doctoral program in psychology and during such graduate program completed a minimum of 12 semester hours or its equivalent in psychological foundation courses such as, but not limited to, philosophy of psychology, psychology of perception, learning theory, history of psychology, motivation, and statistics and 24 semester hours or its equivalent in professional core courses such as, but not limited to, two courses in psychological testing, psychopathology, two courses in psychotherapy, personality theories, developmental psychology, research methods, social psychology;
- (4) has completed 750 clock hours of academically supervised practicum in the master’s degree program *or 1,500 clock hours of postgraduate supervised work experience*;

(5) has passed an examination approved by the board with a minimum score set by the board by rules and regulations at 10 percentage points below the score set by the board for licensed psychologists.

(c) (1) Applications for licensure as a clinical psychotherapist shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

(A) Is licensed by the board as a licensed masters level psychologist or meets all requirements for licensure as a masters level psychologist;

(B) has completed 15 credit hours as part of or in addition to the requirements under subsection (b) supporting diagnosis or treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, through identifiable study of the following content areas: Psychopathology, diagnostic assessment, interdisciplinary referral and collaboration, treatment approaches and professional ethics;

(C) has completed a graduate level supervised clinical practicum of supervised professional experience including psychotherapy and assessment with individuals, couples, families or groups, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, with not less than 350 hours of direct client contact or additional postgraduate supervised experience as determined by the board;

(D) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting psychotherapy and assessments with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual;

(E) for persons earning a degree under subsection (b) prior to July 1, 2003, in lieu of the education requirements under parts (B) and (C) of this subsection, has completed the education requirements for licensure as a licensed masters level psychologist in effect on the day immediately preceding the effective date of this act;

(F) for persons who apply for and are eligible for a temporary permit to practice as a licensed masters level psychologist on the day immediately preceding the effective date of this act, in lieu of the education and training requirements under parts (B), (C) and (D) of this subsection, has completed the education and training requirements for licensure as a masters level psychologist in effect on the day immediately preceding the effective date of this act;

(G) has passed an examination approved by the board with the same minimum passing score as that set by the board for licensed psychologists; and

(H) has paid the application fee.

(2) A person who was licensed or registered as a masters level psychologist in Kansas at any time prior to the effective date of this act, who has been actively engaged in the practice of masters level psychology as a registered or licensed masters level psychologist within five years prior to the effective date of this act and whose last license or registration in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed clinical psychotherapist by providing demonstration of competence to diagnose and treat mental disorders through at least two of the following areas acceptable to the board:

~~(a)~~ (A) Either (i) graduate coursework or (ii) passing a national, clinical examination;

~~(b)~~ (B) either (i) three years of clinical practice in a community mental health center, its contracted affiliate or a state mental hospital or (ii) three years of clinical practice in other settings with demonstrated experience in diagnosing or treating mental disorders; or

~~(c)~~ (C) attestation from one professional licensed to diagnose and treat mental disorders in independent practice or licensed to practice medicine and surgery that the applicant is competent to diagnose and treat mental disorders.

(3) A licensed clinical psychotherapist may engage in the independent practice of masters level psychology and is authorized to diagnose and treat mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations. When a client has symptoms of a mental disorder, a licensed clinical psychotherapist shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed clinical psychotherapist may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(d) The board shall adopt rules and regulations establishing the criteria which an educational institution shall satisfy in meeting the requirements established under item (3) of subsection (b). The board may send a questionnaire developed by the board to any educational institution for which the board does not have sufficient information to determine whether the educational institution meets the requirements of item (3) of subsection (b) and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the educational institution to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about educational institutions. In entering such contracts the authority to approve educational institutions shall remain solely with the board.

Sec. 11. K.S.A. 38-1522, 39-1402, 39-1431 and 74-7508 and K.S.A. 2000 Supp. 59-2946, 65-5804, 65-5804a, 65-5807, 65-5811, 65-6404, 65-6405 and 74-5363 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.