

HOUSE BILL No. 2072

By Committee on Health and Human Services

Requested by Representative S. Ruiz on behalf of the Kansas Art Therapy Association

1-23

1 AN ACT concerning the behavioral sciences regulatory board; relating to
2 the powers, duties and functions thereof; enacting the art therapist
3 licensure act; providing for the regulation and licensing of professional
4 art therapists; amending K.S.A. 74-7507 and 74-7508 and repealing the
5 existing sections.
6

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

8 New Section 1. Sections 1 through 13, and amendments thereto, shall
9 be known and may be cited as the art therapist licensure act.

10 New Sec. 2. As used in the art therapist licensure act:

11 (a) "Art therapy" means the integrated use of psychotherapeutic
12 principles, art media and the creative process to assist individuals, families
13 or groups in increasing awareness of self and others, coping with
14 symptoms, stress and traumatic experiences, enhancing cognitive abilities
15 and identifying and implementing therapeutic interventions to meet
16 developmental, behavioral, mental and emotional needs of such
17 individuals, families or groups.

18 (b) "Art therapy certified supervisor" means a board-certified art
19 therapist holding the art therapy certified supervisor credential from the art
20 therapy credentials board, or an equivalent credential as determined by the
21 board.

22 (c) "Art therapy credentials board" means the nationally recognized
23 credentialing organization for art therapists that partners with national art
24 therapy credentialing boards and state licensure boards to facilitate such
25 board certification and state licensure exams.

26 (d) "Board" means the behavioral sciences regulatory board, created
27 under K.S.A. 74-7501, and amendments thereto.

28 (e) "Certified art therapist" means an individual who holds national
29 board certification and is in good standing with the art therapy credentials
30 board, or an equivalent certification as determined by the board.

31 (f) "Clinical art therapy" means the application of art therapy
32 principles and methods in the diagnosis, prevention, treatment and
33 amelioration of psychological problems and emotional or mental
34 conditions.

1 (g) "Licensed clinical art therapist" means an individual who engages
2 in the independent practice of art therapy, including the diagnosis and
3 treatment of mental disorders specified in the edition of the diagnostic and
4 statistical manual of mental disorders of the American psychiatric
5 association designated by the board by rules and regulations, and is
6 licensed under the art therapist licensure act.

7 (h) "Licensed professional art therapist" or "LPAT" means an
8 individual who engages in the practice of art therapy and who is licensed
9 under the art therapist licensure act.

10 (i) "Licensee" means an individual who is authorized to practice as a
11 professional art therapist or a clinical art therapist under the art therapist
12 licensure act.

13 (j) "Supervised experience" means the regular oversight of the
14 functions and activities of a graduate art therapy student either as part of
15 an internship or practicum experience or the practice of art therapy to
16 fulfill the requirements to be licensed under the art therapist licensure act
17 by an art therapy certified supervisor, certified art therapist or other
18 qualified mental health professional as determined by the board by rules
19 and regulations.

20 (k) "Temporary license" means a license to practice art therapy under
21 the direct supervision of a qualified supervisor, as determined by the board
22 by rules and regulations, to fulfill the postgraduate supervised experience
23 requirement to be licensed under the art therapist licensure act.

24 New Sec. 3. (a) It is unlawful to engage in the practice of art therapy
25 or represent that an individual is a licensed professional art therapist
26 without having first obtained a license as a professional art therapist under
27 the art therapist licensure act.

28 (b) It is unlawful to engage in the practice of art therapy as a clinical
29 art therapist or represent that an individual is a licensed clinical art
30 therapist without having first obtained a license as a clinical art therapist
31 under the art therapist licensure act.

32 (c) Violation of this section is a class B nonperson misdemeanor.

33 New Sec. 4. (a) An applicant for licensure as a professional art
34 therapist shall furnish evidence that the applicant:

35 (1) Is at least 21 years of age;

36 (2) has completed at least a master's degree in art therapy from an
37 accredited college or university approved by the board and has completed:

38 (A) Not less than 60 credit hours of graduate course work in an art
39 therapy program recognized by the council of higher education
40 accreditation or an equivalent entity as determined by the board; or

41 (B) not less than 60 credit hours of graduate course work in a related
42 field that is substantially equivalent to a master's degree program in art
43 therapy as determined by the board;

1 (3) (A) has completed not less than one year of experience in art
2 therapy, including not less than 1,500 hours of supervised experience, of
3 which:

4 (i) Not less than 1,000 hours of direct client contact involving
5 individuals, couples, families or groups shall have been completed
6 following completion of the graduate degree; and

7 (ii) not less than 100 hours of clinical supervision was provided by an
8 approved supervisor, including not less than one hour of direct supervision
9 per every two weeks; and

10 (B) a doctoral internship may be applied toward the supervised
11 experience requirement in subparagraph (A);

12 (4) has passed the art therapy certification examination of the art
13 therapy credentials board, or an equivalent examination as determined by
14 the board;

15 (5) has satisfied the board that the applicant is an individual who
16 merits the public trust; and

17 (6) has paid the application fee.

18 (b) An application for licensure as a professional art therapist shall be
19 made to the board on a form and in the manner prescribed by the board.

20 (c) The board may determine that a master's degree program in art
21 therapy or a related field at an accredited college or university is
22 substantially equivalent to an approved art therapy program if the program
23 includes at least 60 semester credit hours, or the equivalent, of graduate-
24 level courses that include courses and training in the following areas:

25 (1) The art therapy profession;

26 (2) theory and practice of art therapy;

27 (3) human growth and developmental;

28 (4) application of art therapy with people in different treatment
29 settings;

30 (5) art therapy appraisal, diagnosis and assessment;

31 (6) ethical and legal issues of art therapy practice;

32 (7) matters of cultural and social diversity bearing on the practice of
33 art therapy;

34 (8) standards of good art therapy practice;

35 (9) group art therapy; and

36 (10) an art therapy practicum or internship of not less than 700 hours,
37 of which not less than 350 hours are direct contact performed under
38 appropriate supervision and are part of an approved course of study.

39 New Sec. 5. (a) An applicant for licensure as a clinical art therapist
40 shall furnish evidence that the applicant:

41 (1) Is licensed by the board as a licensed professional art therapist or
42 has met all qualifications for licensure as a professional art therapist under
43 the art therapist licensure act;

1 (2) has completed not less than nine semester credit hours, or the
2 equivalent, of graduate-level courses specifically related to diagnosis,
3 treatment, appraisal and assessment of mental, emotional, behavioral and
4 addiction disorders, either as part of an approved course of study for the
5 master's or doctoral degree or following completion of such degree;

6 (3) has completed not less than three years of supervised experience
7 in art therapy or less than 4,000 hours of supervised experience in art
8 therapy, including:

9 (A) Not less than two years or 3,000 hours following completion of
10 the graduate degree;

11 (B) not less than 1,500 hours of postgraduate supervised experience
12 involving direct client contact with individuals, couples, families or groups
13 provided in clinical settings with demonstrated experience in diagnosing or
14 treating mental, emotional, behavioral and addiction disorders;

15 (C) not less than one hour of direct contact between a graduate trainee
16 and an approved supervisor, provided per 15 hours of face-to-face practice
17 with clients, including not less than two hours of supervision per month,
18 through group or individual supervision; and

19 (D) a doctoral internship, which may be applied toward the
20 supervised experience requirement in subparagraph (B); and

21 (4) has paid the application fee.

22 (b) An application for licensure as a clinical art therapist shall be
23 made to the board on a form and in the manner determined by the board.

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

37 New Sec. 6. (a) An individual who intends to pursue the postgraduate
38 supervised experience required to qualify for licensure as a professional art
39 therapist may apply to the board for a temporary art therapy license by:

40 (1) Paying an application fee of not more than \$150;

41 (2) providing evidence of graduating from a master's or doctoral
42 program in art therapy approved by the board;

43 (3) submitting letters from three professionals attesting to the

1 applicant's integrity, competence and worthiness to merit the public's trust,
2 one of whom has provided direct clinical supervision of the applicant's
3 graduate program clinical training; and

4 (4) completing a postgraduate supervised training plan on forms
5 prescribed by the board describing services to be provided, place of
6 employment, individuals responsible for administrative oversight and
7 clinical supervision and a statement acknowledging the board's
8 postgraduate training requirements.

9 (b) A temporary license may be issued by the board after the
10 application has been reviewed and approved by the board.

11 (c) If there is no extenuating circumstance approved by the board, a
12 temporary art therapy license issued by the board shall expire upon the
13 date that the board issues or denies a professional art therapist license or
14 24 months after the date of issuance of the temporary license. No
15 temporary license will be renewed or issued again on any subsequent
16 application for the same license level. The preceding provisions shall not
17 limit the number of times an applicant may take the examination.

18 (d) An individual practicing art therapy with a temporary license may
19 not use the title "licensed professional art therapist" or the initials "LPAT"
20 independently. The word "licensed" may be used only when followed by
21 the words "by temporary permit," such as licensed professional art
22 therapist by temporary license or professional art therapist licensed by
23 temporary license.

24 New Sec. 7. (a) The board may waive the statutory requirements of
25 an application for licensure as a licensed professional art therapist if,
26 within one year after the effective date of the art therapist licensure act, an
27 applicant furnishes evidence satisfactory to the board that the applicant:

28 (1) Has completed a master's or doctoral degree in art therapy or a
29 related field acceptable to the board;

30 (2) holds certification as an art therapist in good standing with the art
31 therapy credentials board or an equivalent certification as determined by
32 the board; and

33 (3) has engaged in the practice of art therapy for not less than five
34 years prior to the effective date of the art therapist licensure act.

35 (b) The board shall issue a license to an individual who is currently
36 registered, certified or licensed to practice professional art therapy in
37 another state or jurisdiction if the board determines that:

38 (1) The standards for licensure, registration or certification to practice
39 art therapy in the other state or jurisdiction are substantially equivalent to
40 the requirements of the art therapist licensure act and rules and regulations
41 of the board; or

42 (2) the applicant demonstrates on forms provided by the board
43 compliance with the following standards as adopted by the board:

1 (A) Registration, certification or licensure to practice art therapy with
2 a similar scope of practice for at least 12 months immediately preceding
3 the application;

4 (B) the absence of disciplinary actions of a serious nature by a
5 registration, certification or licensing board or agency; and

6 (C) completion of at least a master's degree in art therapy or a related
7 field as approved by the board from an institution of higher education
8 accredited by a regional or national accrediting agency.

9 (c) Applications for licensure under this section shall be made to the
10 board on a form and in the manner determined by the board and shall be
11 accompanied by payment of the application fee.

12 New Sec. 8. (a) An applicant who meets the requirements for
13 licensure pursuant to the art therapist licensure act, has paid the required
14 fee provided for by section 10, and amendments thereto, and has otherwise
15 complied with the provisions of the art therapist licensure act shall be
16 licensed by the board.

17 (b) (1) Licenses issued pursuant to the art therapist licensure act shall
18 expire 24 months from the date of issuance unless revoked prior to that
19 time.

20 (2) A license may be renewed upon application and payment of the
21 fee provided for by section 10, and amendments thereto. The application
22 for renewal shall be accompanied by evidence satisfactory to the board
23 that the applicant has completed during the previous 24 months the
24 continuing education required by rules and regulations of the board,
25 including not less than three continuing education hours of professional
26 ethics. As part of such continuing education, a licensee shall complete not
27 less than three continuing education hours of professional ethics.

28 (c) (1) A licensee who is unable to complete the required continuing
29 education hours for renewal may request additional time to complete any
30 remaining continuing education hours. Such request shall be made to the
31 board not later than 30 calendar days prior to the expiration of the license
32 and shall include:

33 (A) The licensee's reason for requesting additional time, showing
34 extenuating circumstances for why the hours could not be completed
35 during the license period; and

36 (B) a plan outlining the manner by which the licensee intends to
37 complete the remaining continuing education hours.

38 (2) The board may grant a licensee up to three additional months
39 beyond the license expiration date to complete the required continuing
40 education hours.

41 (3) A licensee who receives additional time to complete continuing
42 education hours under this subsection shall:

43 (A) Renew the license prior to the license expiration date and report

1 to the board the number of continuing education hours completed on such
2 date;

3 (B) notify the board upon completing the remaining continuing
4 education hours; and

5 (C) be subject to an audit by the board of the total number of
6 continuing education hours completed for the applicable license period.

7 (4) Continuing education hours completed during additional time
8 granted under this subsection shall be credited only toward the
9 requirements for the license period for which additional time is granted.

10 (5) A licensee shall not be approved for additional time to complete
11 continuing education requirements in consecutive license periods.

12 (d) An individual whose license has been suspended or revoked may
13 make written application to the board requesting reinstatement of the
14 license upon termination of the period of suspension or revocation in a
15 manner prescribed by the board, and such application shall be
16 accompanied by the fee provided for by section 10, and amendments
17 thereto.

18 (e) (1) An individual whose license has expired may make written
19 application to the board requesting reinstatement of the license in a manner
20 prescribed by the board, and such application shall be accompanied by:

21 (A) The renewal fee established under section 10, and amendments
22 thereto, and, for an individual whose license has been expired for one year
23 or less, an additional fee equal to the renewal fee; and

24 (B) evidence satisfactory to the board that the individual has
25 completed during the previous 24 months the continuing education
26 requirements for one license period.

27 (2) An individual requesting to reinstate a license that has been
28 expired for longer than one year and who has not completed the necessary
29 continuing education hours for reinstatement may submit an application
30 for a six-month reinstatement temporary license in a manner prescribed by
31 the board, and such application shall be accompanied by the fee
32 established under section 10, and amendments thereto. A licensee
33 practicing under a six-month reinstatement temporary license shall
34 complete the continuing education requirements for a permanent license
35 prior to the expiration of the temporary license and notify the board upon
36 such completion. A six-month reinstatement temporary license shall not be
37 extended or renewed.

38 (f) Within 30 days after any change of permanent address, a licensee
39 shall notify the board of such change.

40 New Sec. 9. (a) The board may refuse to issue, renew or reinstate a
41 license, condition, limit, revoke or suspend a license, publicly or privately
42 censure a licensee or impose a fine not to exceed \$1,000 per violation
43 upon a finding that a licensee or an applicant for licensure has:

- 1 (1) Used any controlled substance or alcoholic beverage to an extent
2 that such use impairs such individual's ability to perform the work of any
3 profession licensed or regulated by this act;
- 4 (2) been finally adjudicated and found guilty, or entered a plea of
5 guilty or nolo contendere, in a criminal prosecution under the laws of any
6 state or of the United States, for any offense reasonably related to the
7 qualifications, functions or duties of any professional licensed or regulated
8 under this act, any offense an essential element of which is fraud,
9 dishonesty or an act of violence or any offense involving moral turpitude,
10 whether or not a sentence is imposed;
- 11 (3) used any fraud, deception or misrepresentation in securing any
12 license issued under the art therapist licensure act;
- 13 (4) obtained or attempted to obtain any fee, charge, tuition or other
14 compensation by fraud, deception or misrepresentation;
- 15 (5) committed any act of incompetency, misconduct, gross
16 negligence, fraud, misrepresentation or dishonesty in the performance of
17 the functions or duties of any profession licensed by the board;
- 18 (6) committed any violation of or assisted or enabled any individual
19 to violate any provision of the art therapist licensure act or any rule and
20 regulation adopted thereunder;
- 21 (7) impersonated any individual holding a certificate of registration or
22 authority, permit or license or allowed any other individual to use such
23 individual's certificate of registration or authority, permit, license or
24 diploma from any school;
- 25 (8) been disciplined in any action by another state, territory, federal
26 agency or country that would constitute grounds for the suspension or
27 revocation of a license issued under this act;
- 28 (9) been finally adjudged insane or incapacitated by a court of
29 competent jurisdiction;
- 30 (10) assisted or enabled any individual to practice or offer to practice
31 any profession licensed or regulated by the board when such individual is
32 not eligible to practice such profession as required by law;
- 33 (11) been issued any certificate of registration or authority, permit or
34 license based upon a material mistake of fact;
- 35 (12) failed to display a valid certificate or license if so required by
36 this act or any rules and regulations promulgated thereunder;
- 37 (13) violated any professional trust or confidence;
- 38 (14) used any advertisement or solicitation that is false, misleading or
39 deceptive to the general public or individuals to whom the advertisement
40 or solicitation is primarily directed;
- 41 (15) been found to have engaged in unprofessional conduct as
42 defined by applicable rules and regulations adopted by the board; or
- 43 (16) violated any lawful order or directive of the board previously

1 entered by the board.

2 (b) Administrative proceedings and disciplinary actions regarding
3 licensure under the art therapist licensure act shall be conducted in
4 accordance with the Kansas administrative procedure act. Judicial review
5 and civil enforcement of agency actions under the art therapist licensure
6 act shall be in accordance with the Kansas judicial review act.

7 New Sec. 10. (a) The board may collect the following fees, and any
8 such fees shall be established by rules and regulations adopted by the
9 board, for:

10 (1) Application for licensure as a professional art therapist, not more
11 than \$100;

12 (2) an original license as a professional art therapist, not more than
13 \$175;

14 (3) a temporary license as a professional art therapist, not more than
15 \$175;

16 (4) a six-month reinstatement temporary license as a professional art
17 therapist, not more than \$50;

18 (5) renewal for licensure as a professional art therapist, not more than
19 \$150;

20 (6) application for licensure as a clinical professional art therapist, not
21 more than \$175;

22 (7) licensure as a clinical professional art therapist, not more than
23 \$175;

24 (8) renewal for licensure as a clinical professional art therapist, not
25 more than \$175;

26 (9) a six-month reinstatement temporary license as a clinical
27 professional art therapist, not more than \$50;

28 (10) late renewal penalty, an amount equal to the fee for renewal of a
29 license;

30 (11) reinstatement of a license, not more than \$175;

31 (12) replacement of a license, not more than \$20; and

32 (13) a wallet card license, not more than \$5.

33 (b) Fees paid to the board shall be nonrefundable.

34 New Sec. 11. Nothing in the professional art therapist licensure act
35 shall be construed to:

36 (a) Prevent practice of art therapy by students or interns or
37 individuals preparing for the practice of art therapy under qualified
38 supervision of a professional, recognized and approved by the board, in an
39 educational institution or agency as part of an approved course of
40 professional education in art therapy, provided such students, interns or
41 individuals are designated by titles such as student, trainee, intern or other
42 titles clearly indicating their training status;

43 (b) authorize the practice of psychology, medicine and surgery,

1 professional counseling, marriage and family therapy, masters level
2 psychology or social work or any other profession licensed by the
3 behavioral sciences regulatory board;

4 (c) apply to the activities and services of a rabbi, priest, minister,
5 clergy member or organized ministry of any religious denomination or
6 sect, including a Christian-Science practitioner, unless such individual who
7 is part of the organized ministry is a licensed art therapist;

8 (d) apply to the activities and services of qualified members of other
9 professional groups, including, but not limited to, attorneys, physicians,
10 psychologists, master's level psychologists, professional counselors,
11 marriage and family therapists, individuals who are registered nurses or
12 social workers performing services consistent with the laws of this state,
13 such individuals' training and code of ethics of such individuals'
14 professions, so long as such individuals do not represent themselves as
15 being licensed as a professional art therapist or a clinical art therapist; or

16 (e) prevent qualified individuals from doing work within the
17 standards and ethics of such individuals' respective professions and
18 callings provided such individuals do not hold themselves out to the public
19 by any title, initials or description of services as being a licensed
20 professional art therapist or a licensed clinical art therapist.

21 New Sec. 12. (a) An individual licensed under the art therapist
22 licensure act and employees and professional associates of such individual
23 shall not be required to disclose any information that such individual,
24 employee or associate may have acquired in rendering services, unless:

25 (1) Disclosure is required by other state laws;

26 (2) failure to disclose information presents a clear and present danger
27 to the health or safety of an individual;

28 (3) the individual, employee or associate is a party defendant to a
29 civil, criminal or disciplinary action arising from the therapy, and in such
30 event, a waiver of the privilege accorded by this section is limited to that
31 action;

32 (4) the client is a defendant in a criminal proceeding and the use of
33 the privilege would violate the defendant's right to a compulsory process
34 or the right to present testimony and witnesses on such individual's behalf;
35 or

36 (5) a client agrees to a waiver of the privilege accorded by this
37 section, and in circumstances where more than one individual in a family
38 is receiving therapy, each such family member agrees to the waiver. If
39 there is no waiver from each family member, an art therapist shall not
40 disclose information received from a family member.

41 (b) Nothing in the art therapist licensure act shall be construed to
42 prohibit any individual licensed under the art therapist licensure act from
43 testifying in court hearings concerning matters of adult abuse, adoption,

1 child abuse, child neglect or other matters pertaining to the welfare of
2 children or from seeking collaboration or consultation with professional
3 colleagues or administrative superiors, or both, on behalf of a client. There
4 is no privilege under this section for information that is required to be
5 reported to a public official.

6 New Sec. 13. A licensee under the professional art therapist licensure
7 act, at the beginning of a client-therapist relationship, shall inform the
8 client of the level of such licensees' training and the title or titles and
9 license or licenses of such licensee. As part of such obligation, such
10 licensee shall disclose whether such licensee has a master's degree or a
11 doctoral degree. If such licensee has a doctoral degree, such licensee shall
12 disclose whether or not such doctoral degree is a doctor of medicine or has
13 another doctoral degree. If such licensee is not licensed by the state board
14 of healing arts to practice medicine and surgery, such licensee shall
15 disclose that the licensee is not authorized to practice medicine and
16 surgery and is not authorized to prescribe drugs. As a part of such
17 disclosure, such licensee shall advise the client that certain mental
18 disorders can have medical or biological origins and that the client should
19 consult with a physician. Documentation of such disclosures to a client
20 shall be made in the client's record.

21 Sec. 14. K.S.A. 74-7507 is hereby amended to read as follows: 74-
22 7507. (a) The behavioral sciences regulatory board shall have the
23 following powers, duties and functions:

24 (1) Recommend to the appropriate district or county attorneys
25 prosecution for violations of this act, the licensure of psychologists act of
26 the state of Kansas, the professional counselors licensure act, the social
27 workers licensure act, the licensure of master's level psychologists act, the
28 applied behavior analysis licensure act, the marriage and family therapists
29 licensure act ~~or~~, the addiction counselor licensure act *or the art therapist*
30 *licensure act*;

31 (2) compile and publish annually a list of the names and addresses of
32 all persons who are licensed under this act, ~~are licensed under~~ the licensure
33 of psychologists act of the state of Kansas, the professional counselors
34 licensure act, the social workers licensure act, the licensure of master's
35 level psychologists act, the applied behavior analysis licensure act, the
36 marriage and family therapists licensure act ~~or~~, the addiction counselor
37 licensure act *or the art therapist licensure act*;

38 (3) prescribe the form and contents of examinations required under
39 this act, the licensure of psychologists act of the state of Kansas, the
40 professional counselors licensure act, the social workers licensure act, the
41 licensure of master's level psychologists act, the applied behavior analysis
42 licensure act, the marriage and family therapists licensure act ~~or~~, the
43 addiction counselor licensure act *or the art therapist licensure act*;

- 1 (4) enter into contracts necessary to administer this act, the licensure
2 of psychologists act of the state of Kansas, the professional counselors
3 licensure act, the social workers licensure act, the licensure of master's
4 level psychologists act, the applied behavior analysis licensure act, the
5 marriage and family therapists licensure act ~~or~~, the addiction counselor
6 licensure act *or the art therapist licensure act*;
- 7 (5) adopt an official seal;
- 8 (6) adopt and enforce rules and regulations for professional conduct
9 of persons licensed under the licensure of psychologists act of the state of
10 Kansas, the professional counselors licensure act, the social workers
11 licensure act, the licensure of master's level psychologists act, the applied
12 behavior analysis licensure act, the marriage and family therapists
13 licensure act ~~or~~, the addiction counselor licensure act *or the art therapist*
14 *licensure act*;
- 15 (7) adopt and enforce rules and regulations establishing requirements
16 for the continuing education of persons licensed under the licensure of
17 psychologists act of the state of Kansas, the professional counselors
18 licensure act, the social workers licensure act, the licensure of master's
19 level psychologists act, the applied behavior analysis licensure act, the
20 marriage and family therapists licensure act ~~or~~, the addiction counselor
21 licensure act *or the art therapist licensure act*;
- 22 (8) adopt rules and regulations establishing classes of social work
23 specialties ~~which that~~ will be recognized for licensure under ~~K.S.A. 65-~~
24 ~~6301 to 65-6318, inclusive, and amendments thereto~~ *the social workers*
25 *licensure act*;
- 26 (9) adopt rules and regulations establishing procedures for
27 examination of candidates for licensure under the licensure of
28 psychologists act of the state of Kansas, the professional counselors
29 licensure act, the social workers licensure act, the licensure of master's
30 level psychologists act, the applied behavior analysis licensure act, the
31 marriage and family therapists licensure act, the addiction counselor
32 licensure act *or the art therapist licensure act* and for issuance of such
33 certificates and such licenses;
- 34 (10) adopt rules and regulations as may be necessary for the
35 administration of this act, the licensure of psychologists act of the state of
36 Kansas, the professional counselors licensure act, the social workers
37 licensure act, the licensure of master's level psychologists act, the applied
38 behavior analysis licensure act, the marriage and family therapists
39 licensure act ~~and~~, the addiction counselor licensure act *or the art therapist*
40 *licensure act* and to carry out the purposes thereof;
- 41 (11) appoint an executive director and other employees as provided in
42 K.S.A. 74-7501, and amendments thereto; and
- 43 (12) exercise such other powers and perform such other functions and

1 duties as may be prescribed by law.

2 (b) If an order of the behavioral sciences regulatory board is adverse
3 to a licensee or registrant of the board, the actual costs shall be charged to
4 such person as in ordinary civil actions in the district court. The board
5 shall pay any additional costs and, if the board is the unsuccessful party,
6 the costs shall be paid by the board. Witness fees and costs may be taxed
7 in accordance with statutes governing taxation of witness fees and costs in
8 the district court.

9 Sec. 15. K.S.A. 74-7508 is hereby amended to read as follows: 74-
10 7508. (a) In connection with any investigation, based upon a written
11 complaint or other reasonably reliable written information, by the
12 behavioral sciences regulatory board, the board or its duly authorized
13 agents or employees shall at all reasonable times have access to, for the
14 purpose of examination, and the right to copy any document, report, record
15 or other physical evidence of any person being investigated, or any
16 document, report, record or other evidence maintained by and in
17 possession of any clinic or office of a practitioner of the behavioral
18 sciences, or other public or private agency if such document, report, record
19 or other physical evidence relates to practices ~~which~~ *that* may be grounds
20 for disciplinary action.

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

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

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

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

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

12 (3) (A) If the board determines that an individual has practiced
13 without a valid license a profession regulated by the board ~~for which the~~
14 ~~practitioners of the profession are~~ *that are* required by law to be licensed in
15 order to practice the profession, in addition to any other penalties imposed
16 by law, the board, in accordance with the Kansas administrative procedure
17 act, may issue a cease and desist order against such individual.

18 (B) Whenever in the judgment of the behavioral sciences regulatory
19 board any person has engaged, or is about to engage, in any acts or
20 practices ~~which~~ *that* constitute, or will constitute, a violation of ~~K.S.A. 65-~~
21 ~~6301 to 65-6320, inclusive, and amendments thereto, 74-5361 to 74-5374,~~
22 ~~inclusive, and K.S.A. 74-5375, and amendments thereto,~~ the licensure of
23 *psychologists act of the state of Kansas, the professional counselors*
24 *licensure act, the social workers licensure act, the licensure of master's*
25 *level psychologists act, the applied behavioral analysis licensure act, the*
26 *marriage and family therapists licensure act* ~~or the alcohol and other drug~~
27 ~~abuse counselor registration act, the addiction counselor licensure act or~~
28 *the art therapist licensure act*, or any valid rule or regulation of the board,
29 the board may make application to any court of competent jurisdiction for
30 an order enjoining such acts or practices, and upon a showing by the board
31 that such person has engaged; or is about to engage in any such acts or
32 practices, an injunction, restraining order; or such other order as may be
33 appropriate shall be granted by such court without bond.

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

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

43 (2) to the person who is the subject of the information or to any

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

5 (3) to a state or federal licensing, regulatory or enforcement agency
6 with jurisdiction over the subject of the information or to an agency with
7 jurisdiction over acts or conduct similar to acts or conduct ~~which~~ *that*
8 would constitute grounds for action under this act. Any confidential
9 complaint or report, record or other information disclosed by the board as
10 authorized by this section shall not be redisclosed by the receiving agency
11 except as otherwise authorized by law.

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

20 (e) In all matters pending before the behavioral sciences regulatory
21 board, the board shall have the power to revoke the license or registration
22 of any licensee or registrant who voluntarily surrenders such person's
23 license or registration pending investigation of misconduct or while
24 charges of misconduct against the licensee are pending or anticipated.

25 (f) In all matters pending before the behavioral sciences regulatory
26 board, the board shall have the option to censure the licensee or registrant
27 in lieu of other disciplinary action.

28 Sec. 16. K.S.A. 74-7507 and 74-7508 are hereby repealed.

29 Sec. 17. This act shall take effect and be in force from and after its
30 publication in the statute book.