

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1416

By: Representative Shepherd

By: Senator Rapert

For An Act To Be Entitled

AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 17 OF
THE ARKANSAS CODE CONCERNING PROFESSIONS,
OCCUPATIONS, AND BUSINESSES; AND FOR OTHER PURPOSES.

Subtitle

TO MAKE TECHNICAL CORRECTIONS TO TITLE 17
OF THE ARKANSAS CODE CONCERNING
PROFESSIONS, OCCUPATIONS, AND BUSINESSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-14-201(a)(1), concerning composition of the Arkansas Appraiser Licensing and Certification Board, is amended to read as follows:

(a) There is ~~hereby~~ created the Arkansas Appraiser Licensing and Certification Board, to be composed of ten (10) members as follows:

(1)~~(A)~~ Seven (7) practicing certified or licensed appraisers, ~~with the exception that at all times at~~ as follows:

(A) At least five (5) of the appraiser members of the board shall be state-certified appraisers;~~;~~

~~(B) Of the seven (7) practicing appraiser members, no~~ No more than two (2) appraiser members shall reside in the same congressional district of the four (4) Arkansas congressional districts ~~as they now exist;~~ and

~~(C) Additionally, the seven~~ The seven (7) practicing appraiser members shall be representative of the various disciplines found in



the appraisal profession, including without limitation residential appraisal, commercial and industrial appraisal, forestry and timberland appraisal, rural appraisal, and any other appraisal discipline that may be affected by the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.;

SECTION 2. The introductory language of Arkansas Code § 17-22-101, concerning the definitions relating to boxing and wrestling, is amended to read as follows:

~~For purposes of this chapter~~ As used in this chapter:

SECTION 3. Arkansas Code § 17-25-401(a) is amended to read as follows:

(a)(1) ~~“Contractor” shall include all original, prime, and general contractors and all subcontractors. It is defined to be any~~ As used in this subchapter, “contractor” means a person, firm, joint venture, partnership, copartnership, association, corporation, or other organization engaged in the business of the construction, alteration, dismantling, demolition, or repairing of roads, bridges, viaducts, sewers, water and gas mains, streets, disposal plants, water filters, tanks, towers, airports, buildings, dams, levees, canals, railways and rail facilities, oil and gas wells, water wells, pipelines, refineries, industrial or processing plants, chemical plants, power plants, electric, telephone, or any other type of energy or message transmission lines or equipment, or any other kind of improvement or structure.

(2) The term “contractor” ~~shall include~~ includes:

(A) All original, prime, and general contractors and all subcontractors; and

(B) any A contractor who is required to obtain a contractor’s license under the state licensing law of this state, § 17-25-101 et seq.

SECTION 4. The introductory language of Arkansas Code § 17-25-502, concerning the definitions relating to the Residential Contractors Committee, is amended to read as follows:

~~For purposes of this subchapter~~ As used in this subchapter:

SECTION 5. Arkansas Code § 17-42-306(a)(1), concerning the application procedure and licensing examination by the Arkansas Real Estate Commission, is amended to read as follows:

(a)(1) Applications for licensure ~~must~~ shall be submitted on forms provided by the Arkansas Real Estate Commission.

SECTION 6. Arkansas Code § 17-42-306(a)(3) and (4), concerning the application procedure and licensing examination by the Arkansas Real Estate Commission, are amended to read as follows:

(3) Each applicant shall pay ~~such~~ an application fee and examination fee as the commission may require ~~pursuant to~~ under § 17-42-304.

(4)(A) Applicants that have provided all required information and documentation to the commission may sit for the licensing examination, ~~provided that~~ if a request has been sent to the Identification Bureau of the Department of Arkansas State Police for a state and federal criminal background check.

(B) ~~Upon the successful completion of the license exam, no~~ A real estate license shall not be issued until the applicant has successfully completed the licensing examination and the commission receives and approves the state and federal criminal background check.

SECTION 7. Arkansas Code § 17-42-306(b), concerning the application procedure and licensing examination by the Arkansas Real Estate Commission, is amended to read as follows:

(b)(1)(A) An applicant who successfully completes the licensing examination shall pay, within ninety (90) days from the date of the licensing examination, such license fee and Real Estate Recovery Fund fee as the commission may require ~~pursuant to~~ under § 17-42-304.

(B)(i) If the federal criminal background check has not been received by the commission within ninety (90) days of the date of the licensing examination, the date may be extended by the commission until receipt of the federal criminal background check.

(ii) ~~No~~ A real estate license shall not be issued until receipt and approval by the commission of the state and federal criminal background ~~check~~ checks.

(2) The applicant's failure to pay the license fee and Real

Estate Recovery Fund fee within ~~that~~ the ninety-day period under subdivision (b)(1)(B)(i) of this section shall invalidate the licensing examination results, and the applicant shall be required to make new application and retake the licensing examination as an original applicant.

SECTION 8. Arkansas Code § 17-42-315(a), concerning the criminal background checks by the Arkansas Real Estate Commission, is amended to read as follows:

(a)(1) ~~Beginning January 1, 2006, the~~ The Arkansas Real Estate Commission may require each original applicant for a license issued by the commission to apply to the Identification Bureau of the Department of Arkansas State Police for a state and federal criminal background check to be conducted by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation.

(2)(A) An applicant may sit for the licensing examination required by § 17-42-302(a)(4) while awaiting the results of a background check prescribed by this section.

(B) ~~No~~ A license shall not be issued to an applicant until the commission receives and approves the state and federal criminal background ~~check~~ checks.

SECTION 9. Arkansas Code § 17-80-114(b), concerning scope of practice complaints in the healing arts professions, is amended to read as follows:

(b) ~~No~~ A board of the healing arts ~~may~~ shall not take disciplinary action at the board level against a licensee of another board of the healing arts except as provided in subsections (c) and (d) of this section.

SECTION 10. Arkansas Code § 17-80-114(c)(3)(B), concerning scope of practice complaints in the healing arts professions, is amended to read as follows:

(B) Take whatever action that board considers appropriate ~~pursuant to~~ under its practice act and the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to determine whether the licensee was practicing outside the licensee's proper scope of practice; and

SECTION 11. Arkansas Code § 17-80-114(d)(1)(B), concerning scope of

practice complaints in the healing arts professions, is amended to read as follows:

(B) In excess of the ~~board's~~ statutory authority of the board of healing arts that received the complaint;

SECTION 12. The introductory language of Arkansas Code § 17-80-203, concerning the definitions relating to the Impaired Physician and Dentist Treatment Act, is amended to read as follows:

~~For purposes of this subchapter~~ As used in this subchapter:

SECTION 13. Arkansas Code § 17-86-303 is amended to read as follows:
17-86-303. Massage therapist.

(a) In order to be licensed as a massage therapist, the person seeking licensure shall:

(1) Furnish to the Department of Health satisfactory proof that he or she is eighteen (18) years of age or older and of good moral character;

(2) Make oath that he or she has not been convicted of, found guilty of, or entered a plea of guilty or nolo contendere to any offense that would constitute a felony or constitute the offense of prostitution, either in this state or the United States, and submit a signed authorization to investigate and have information released to the Department of Health;

(3) Present the following issued in the same name as the applicant or licensee:

(A) A valid photo identification or driver's license, or both; and

(B) A Social Security card ~~issued in the same name as the applicant or licensee;~~

(4)(A) Present a high school diploma, high school equivalency diploma approved by the Department of Career Education, or college transcript and credentials issued by a ~~department-accepted~~ accepted by the Department of Health or a like institution with no less than five hundred (500) ~~in-classroom hours of~~ hours of in-classroom instruction.

(B) An applicant shall not submit his or her transcript directly to the ~~department office~~ Department of Health.

(C) An applicant shall ~~have~~ request that the massage therapy school submit the transcript directly to the ~~department office~~

Department of Health.

(D)(i) If the applicant’s transcript is not obtainable from the original school, the applicant shall submit a statement to explain why ~~it~~ the transcript may not be obtained.

(ii) Other documentation of credentials may be submitted and accepted for licensure at the discretion of the ~~department~~ Department of Health;

(5) Furnish to the ~~department~~ Department of Health satisfactory proof of passing an examination recognized and approved by the ~~department~~ Department of Health;

(6) Present a negative test for tuberculosis that is current at the time of licensure; and

(7) Pay the specified fees, which shall accompany a completed notarized application to the ~~department~~ Department of Health.

(b) Fees are as follows:

- (1) Application fee \$75.00 Nonrefundable
- (2) Original license fee 80.00
- (3) Biennial renewal 80.00
- (4) Examination fee or reexamination fee 25.00
- (5) Duplicate license fee 10.00
- (6) Pocket card fee not to exceed ten dollars (\$10.00).

(c) A person shall not practice massage therapy until his or her official license has been received from the ~~department~~ Department of Health.

(d) A person who attempts to procure or does procure a license in violation of this section shall be subject to the penalties provided for in § 17-86-103.

SECTION 14. Arkansas Code § 17-92-1003(4), concerning the definition of "electronic mail" in the Arkansas Internet Prescription Consumer Protection Act, is amended to read as follows:

(4) “Electronic mail” means any message transmitted through the international network of interconnected government, educational, and commercial computer networks, including, ~~but not limited to,~~ without limitation messages transmitted from or to any address affiliated with an Internet site;

SECTION 15. Arkansas Code § 17-92-1003(7), concerning the definition of "Internet site" in the Arkansas Internet Prescription Consumer Protection Act, is amended to read as follows:

(7) "Internet site" means a specific location on the international network of interconnected government, educational, and commercial computer networks that is determined by Internet protocol numbers, by a domain name, or by both, including, ~~but not limited to,~~ without limitation domain names that use the designations ".com", ".edu", ".gov", ".org", and ".net";

SECTION 16. Arkansas Code § 17-97-102 is amended to read as follows:
17-97-102. Definitions – Levels of practice of psychology.

(a) As used in this chapter:

(1)(A) "Practice of psychology" means the observation, description, evaluation, interpretation, or modification of human behavior by a person who holds an advanced graduate degree in psychology and is trained in the application of psychological principles, methods, or procedures for one (1) or more of the following purposes:

~~(A)(i)~~ Preventing or eliminating symptomatic, maladaptive, or undesired behavior;

~~(B)(ii)~~ Enhancing interpersonal relationships, work and life adjustment, personal effectiveness, and behavioral and mental health; and

~~(C)(iii)~~ ~~Consultation~~ Consulting, teaching, and research.

~~(2)(B)~~ "Practice of psychology" includes, ~~but is not limited to~~ without limitation:

~~(A)(i)~~ Testing and measuring, that consist of the administration and interpretation of tests measuring personal characteristics, such as intelligence, personality, abilities, interests, aptitudes, achievements, motives, personality dynamics, psychoeducational processes, neuropsychological brain functioning, and other psychological attributes of individuals or groups;

~~(B)(i)(ii)(a)~~ Diagnosis and treatment of mental and emotional disorders, that consist of the appropriate diagnosis of mental disorders, behavior disorders, and brain dysfunctions, according to standards of the profession and the ordering or providing of treatments according to

need.

~~(ii)(b)~~ Treatment includes, ~~but is not limited to,~~ without limitation providing:

- ~~(a)~~(1) Counseling;
- ~~(b)~~(2) Psychotherapy;
- ~~(c)~~(3) Marital and family therapy;
- ~~(d)~~(4) Group therapy;
- ~~(e)~~(5) Behavior therapy;
- ~~(f)~~(6) Psychoanalysis;
- ~~(g)~~(7) Hypnosis;
- ~~(h)~~(8) Biofeedback;
- ~~(i)~~(9) Other psychological interventions that aim to modify and adjust perceptions, habits, or conduct; and
- ~~(j)~~(10) The psychological aspects of physical illness, pain, injury, or disability; and

~~(G)(iii)~~ Psychological consulting, which consists of:

- ~~(i)~~(a) Interpreting or reporting on scientific theory or research in psychology;
- ~~(ii)~~(b) Rendering expert psychological opinion or clinical psychological opinion;
- ~~(iii)~~(c) Evaluating and engaging in applied psychological research;
- ~~(iv)~~(d) Program or organizational development; and
- ~~(v)~~(e) Administration, supervision, and evaluation of psychological services.

~~(3)(A)(C)~~ The practice of psychology may be rendered:

~~(i)~~ ~~to~~ To individuals, families, groups, organizations, institutions, and the public; and

~~(B)(ii)~~ ~~The practice of psychology may be rendered whether~~ Whether or not payment is received for services rendered; ;

(2)(A) "Psychological examiner" means a person who holds himself or herself out to be a psychological examiner or renders to individuals or to the public for remuneration of any service involving the practice of psychology either:

(i) Independently interviewing or administering and interpreting tests of mental abilities, aptitudes, interests, and personality

characteristics for the purposes of psychological evaluation to assist in the determination of educational or vocational selection, guidance, or placement; or

(ii) Only under the supervision of a qualified psychologist if the service is not listed in subdivision (a)(2)(A)(i) of this section.

(B)(i) A psychological examiner licensed before December 31, 1997, shall be granted independent practice except in neuropsychological assessment and projective personality assessment upon the Arkansas Psychology Board's receiving a letter requesting independent practice and a revised statement of intent.

(ii) Additional hours of clinical supervision are not required for a license granted under subdivision (a)(2)(B)(i) of this section.

(C) A psychological examiner licensed after December 31, 1997, is privileged to practice independently except in neuropsychological assessment and projective personality assessment, if the person:

(i) Has completed a master's degree program in psychology;

(ii) Has completed three thousand (3,000) hours of approved clinical supervised training after making application for independent practice; and

(iii) Has filed a revised statement of intent with the board and has provided documentation of having received appropriate training and experience in those areas requested for independent practice.

(D) After December 31, 2013, a new psychological examiner license shall not be issued; and

(3) "Psychologist" means a person who holds himself or herself out to be a psychologist or renders to individuals or to the public for remuneration of any service involving the practice of psychology.

~~(b)(1) Unless the context otherwise requires, two (2) levels of psychological practice, psychological examiner and psychologist, are defined for the purpose of this chapter. The levels are to be known and are referred to as "psychological examiner" and "psychologist".~~

~~(2)(A) A person practices as a "psychological examiner" within the meaning of this chapter when he or she holds himself or herself out to be~~

~~a psychological examiner or renders to individuals or to the public for remuneration any service involving the practice of psychology.~~

~~(B) Psychological examiners independently provide services such as interviewing or administering and interpreting tests of mental abilities, aptitudes, interests, and personality characteristics for the purposes of psychological evaluation to assist in the determination of educational or vocational selection, guidance, or placement.~~

~~(C) Other than those psychological services listed in subdivision (b)(2)(B) of this section, the psychological examiner provides psychological services only under the supervision of a qualified psychologist.~~

~~(D)(i) A psychological examiner licensed before December 31, 1997, shall be granted independent practice except in neuropsychological assessment and projective personality assessment upon the Arkansas Psychology Board receiving a letter requesting independent practice and a revised statement of intent.~~

~~(ii) No additional hours of clinical supervision shall be required for a license granted under subdivision (b)(2)(D)(i) of this section.~~

~~(E) A psychological examiner licensed after December 31, 1997, shall be privileged to practice independently except in neuropsychological assessment and projective personality assessment, if the person:~~

~~(i) Has completed a master's degree program in psychology;~~

~~(ii) Has completed three thousand (3,000) hours of approved clinical supervised training after making application for independent practice; and~~

~~(iii) Has filed a revised statement of intent with the board and has provided documentation of having received appropriate training and experience in those areas requested for independent practice.~~

~~(F) After December 31, 2013, no new psychological examiner license shall be issued.~~

~~(3) A person practices as a "psychologist" within the meaning of this chapter when he or she holds himself or herself out to be a psychologist or renders to individuals or to the public for remuneration any service~~

~~involving the practice of psychology.~~

(c) ~~Nothing in this section shall be construed as permitting~~ This section does not permit the practice of psychology to infringe on the practice of medicine as defined by the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

SECTION 17. DO NOT CODIFY. CONSTRUCTION AND LEGISLATIVE INTENT.

It is the intent of the General Assembly that:

(1) The enactment and adoption of this act shall not expressly or impliedly repeal an act passed during the regular session of the Ninety-First General Assembly;

(2) To the extent that a conflict exists between an act of the regular session of the Ninety-First General Assembly and this act:

(A) The act of the regular session of the Ninety-First General Assembly shall be treated as a subsequent act passed by the General Assembly for the purpose of:

(i) Giving the act of the regular session of the Ninety-First General Assembly its full force and effect; and

(ii) Amending or repealing the appropriate parts of the Arkansas Code of 1987; and

(B) Section 1-2-107 shall not apply; and

(3) This act shall make only technical, not substantive, changes to the Arkansas Code of 1987.

APPROVED: 02/21/2017