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Agency # 007.05

ARKANSAS
STATE BOARD OF HEALTH

**RULES ~~AND REGULATIONS~~ FOR
PERFUSIONISTS IN ARKANSAS**



Promulgated under the Authority of Ark. Code Ann. § 17-104-101 et seq.
Revision effective date: January 1, 2020

ARKANSAS DEPARTMENT OF HEALTH
HEALTH FACILITY SERVICES

NATHANIEL SMITH, MD, MPH
~~DIRECTOR AND SECRETARY OF STATE~~ HEALTH
OFFICER

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SECTION 4: Licensure.

A. Requirements.

1. Any person is eligible to make application to the board and receive a license, subject to the provisions of Ark. Code Ann. 17-104-101 et seq. as amended
2. A licensed perfusionist shall conform to the Code of Ethics as adopted by the Perfusionists Advisory Committee and approved by the State Board of Health. See Section 5.
3. A licensed perfusionist shall at all times hold the well-being of the patient to be paramount and shall not act in such a way as to bring the member's interested into conflict with the patient's interests. A licensed perfusionist shall deliver health care services without regard to race, color, creed, national origin, sex, age, religion, sexual preference or physical and/or mental condition.
4. The applicant shall make application upon a form prepared by the Department
5. A perfusionist shall practice perfusion only when duly licensed to do so pursuant to the provisions of the Perfusion Licensure Act, Ark. Code Ann. 17-104-101 et seq., as amended.
6. A licensed perfusionist shall notify the Department and the Committee of the suspension, probation, revocation or any final disciplinary action of any past or currently held permits, licenses, or certificates required to practice perfusion in this or any jurisdiction of the US, US territories, District of Columbia or the province of Canada within 30 days of final adjudication.
7. A licensed perfusionist shall report to the Department and the Committee any alleged violation of status, rules and regulations governing the practice of perfusion in the state of Arkansas within 30 days of the alleged violation.
8. A licensed perfusionist shall not procure or attempt to procure a license or renewal of a license to practice perfusion by fraud or deceit.
9. A licensed perfusionist shall not practice perfusion after a license has expired or has been suspended, revoked or not renewed.
10. A licensed perfusionist shall not practice perfusion under cover of any permit, license or certificate illegally or fraudulently obtained or issued.

11. A licensed perfusionist shall not obtain or attempt to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation or willfully over charge or over treat patients.
12. A licensed perfusionist shall not willfully perform inappropriate or unnecessary treatment, diagnostic tests or perfusion services.
13. A licensed perfusionist shall not delegate professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform such responsibilities.
14. A licensed perfusionist shall not violate or attempt, directly or indirectly, or assist or enable any person to violate, any provisions, document, section, lawful rule, or regulation or any Code of Ethics adopted pursuant to Ark. Code Ann. 17-104-101 et seq.

B. New Applicants

1. All new applicants for a perfusionist license shall submit a signed application to the Department for consideration; and
2. Shall meet the requirements of the American Board of Cardiovascular Perfusion (ABCP) for Certification and be certified by the ABCP.

C. Military

- D. 1. The following individuals are eligible for licensing consideration based on military service or affiliation.
- a. An active duty military service member stationed in the State of Arkansas;

b. A returning military veteran applying for licensure within one (1) year of his or her discharge from active duty; or

c. The spouse of (a) or (b) above.

2. Such applicant shall submit:

a. Payment of the initial licensure fee;

b. Evidence that the individual holds ABCP certification; and

c. Evidence of the military service, qualification or affiliation.

E.D. Renewal. Each renewal period the licensee must be able to provide proof of:

1. current certification by the American Board of Cardiovascular Perfusion (ABCP) or its successor; or
- 2(a). thirty (30) hours of perfusion-related continuing professional education which may include ACLS, PALS, and BLS, of which at least ten (10) hours shall be meetings, programs or activities accredited for continuing education hours by ABCP or its successor; and
- (b). forty (40) clinical activities annually.
 - I. Clinical activities are defined as:
 - aa. Bypass, Primary
 - bb. Instructor
 - cc. Venovenous Bypass
 - dd. Pump Assisted Coronary and /or Organ Perfusion (PADCAB/isolated limb perfusion)
 - ee. CPS

- ff. ECMO
 - gg. VAD
 - hh. Documented intraoperative pump standby
 - ii. Bypass first assistant.
- II. Of the 40 clinical activities above, a maximum of 15 activities may be documented intraoperative pump standbys and/or bypass first assistant. The standbys must be documentable in an audit. For each ECMO or VAD case, one case credit will be awarded for initiating and maintaining on shift (4 hours minimum), or managing one shift (8 hours minimum), or the duration of the case. Cases performed as the Clinical Instructor in an accredited program are considered primary perfusions and may be included in this category.
2. Regular licenses are renewable every two years. Provisional licenses are renewable for 12 months.
 3. The period of completion of the continuing professional education and clinical activities requirements shall be the 24 (twenty-four) month period beginning January 1 and ending December 31 of each renewal period. A licensee who has failed to obtain and report, in a timely fashion their continuing professional education and clinical activities shall not engage in the practice of perfusion unless an extension is obtained pursuant to number six (6) below of this rule.
 4. Each licensee shall certify by signature, under penalty of perjury, that he/she has completed the required units of continuing professional education and clinical activities on the renewal form.
 5. Each licensee shall retain records documenting completion of the continuing professional education and clinical activities requirements for a minimum of three years after the reporting period in which the continuing professional education and clinical activities was completed. The Board may conduct an audit of licensees to verify compliance with the continuing professional education and clinical activities requirements. Licensees shall assist the board in its audit by providing timely and complete responses to the board's inquiries.
 6. A licensee who cannot complete the continuing professional education and clinical activities requirements because of personal illness, military service or other circumstances beyond the licensee's control which the board

deems to be sufficient to impose an insurmountable hardship may apply for an extension of time to complete the continuing professional education and clinical activities requirements. Any extension of time to complete the continuing professional education and clinical activities requirements will be granted solely at the discretion of the board. The licensee must make a written application for extension of time prior to the January 31 deadline or completion of the continuing professional education and clinical activities requirement. A processing fee of \$50.00 shall accompany the application for extension. The licensee shall provide full and complete written documentation of the grounds supporting the reasons for which an extension is sought. A licensee who requests an extension of time to complete the continuing professional education and clinical activities requirements shall not engage in the active practice of perfusion unless the board grants the licensee's request for extension and the licensee received express written authorization to engage in the active practice of perfusion.

- a. The board, solely in its discretion, may grant an extension based on unforeseeable circumstances beyond the licensee's control which impose an insurmountable hardship precluding the licensee from obtaining the required continuing professional education and clinical activities. At a minimum, the licensee must provide written documentation explaining specifically and in detail the nature of the circumstances were unforeseeable and beyond the licensee's control, the period during which the circumstances were in existence, the number of continuing professional education units and clinical activities earned in the reporting period and the licensee's plan for completing the balance of the requirements. The board, in its discretion, shall determine if the situation described in the licensee's application constitutes unforeseeable circumstances beyond the licensee's control which impose an unsurmountable hardship precluding the licensee from obtaining the required continuing professional education and clinical activities.
- b. The licensee who is granted an extension of time shall complete the balance of his/her continuing professional education and clinical activities requirements no later than six months after return to work immediately following the end of the reporting period for which an extension was sought and shall provide the board with written documentation of his/her completion of the continuing education requirements no later than August 10 immediately following the end of the reporting period for which an extension was sought. Failure to complete the continuing professional education and clinical activities requirements by January 31st or to

file the documentation with the board by August 10 shall constitute a violation of Section D.3.

7. A licensee who has failed to complete and report in a timely fashion the required units of continuing professional education and clinical activities and engages in the active practice of perfusion without the express written authority of the board shall be deemed to have engaged in the unauthorized practice of perfusion.

F.E. Provisional License.

1. A license as a provisional licensed perfusionist may be issued by the board to a person who has:
 - a. successfully completed an accredited perfusion education program recognized by ABCP or its successor;
 - b. filed an application;
 - c. paid an application fee; and
 - d. submitted such evidence of successful completion of the education and clinical activities as required by the board.
2. A provisional licensed perfusionist shall be under the supervision and direction of a licensed perfusionist at all times during which the provisional licensed perfusionist performs perfusion. Rules adopted by the board governing such supervision and direction may not require the immediate physical presence of the supervising licensed perfusionist.
3. A person qualified for a provisional license under these rules ~~and regulations~~ is entitled to receive a license as a provisional licensed perfusionist. A provisional licensed perfusionist shall comply with other pertinent sections of these rules ~~and regulations~~.
4. A provisional license is valid for 12 months from the date it is issued and may be renewed annually not more than two years by the same procedure established for renewal under Section 4 of these rules. The application for renewal shall be signed by a supervising licensed perfusionist.

G.F. Reciprocity. License shall be granted to the licensee of another state if the applicant holds a current certification issued by the ABCP in good standing, or its successor and pays the appropriate application fee.

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1. The applicant shall not have had a license revoked, suspend or put on probation for:

a. An act of bad faith; or

b. A violation of law, rule, or ethics;

2. The applicant shall be sufficiently competent in the field of perfusion, and

3. An applicant shall submit an application, the required fee, and required documentation. Required documentation shall include:

a. Copy of ABCP Certification;

b. Evidence of current and active licensure in that state; and

c. A list of the names of all states in which the applicant is currently licensed or has been previously licensed,

d. Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked, suspended or probationary status as described above.

4. The applicant shall receive a temporary license immediately upon submission of the application, the required fee, and the required documentation.

H.

H.G. Displaying of License.

1. Perfusionists shall display their license in an appropriate and public manner; or

2. Maintain on file in the health care facility in which the licensed perfusionist is working, an accurate copy of the perfusionist's license; and
3. Keep the Department informed of any change of address.

J.H. Fees.

1. Initial application for consideration of licensure which requires a complete certification of stated qualifications and credentials in the application shall be \$150.00.
2. For renewal of license occurring every two years which checks the current credentials and clinical activities of the already licensed perfusionist shall be \$100.00.
3. Fee for a provisional license is \$150.00 annually.
4. Fee for reciprocity is \$100.00.
5. Fee for an extension is \$50.00.

K.I. Continuing Education and Clinical Activities. Licensed perfusionists and provisional licensed perfusionists shall meet the continuing education and clinical activities requirements of American Board of Cardiovascular Perfusion or its successor.

L.J. Procedure on Denial, Reprimand, Probation, Civil Penalties, Suspension, or Revocation.

1. Grounds for Discipline. The board shall have sole authority to deny or suspend any license to practice perfusion issued by the board or applied for in accordance with the provisions of this chapter, or to otherwise discipline a licensee upon determination of:
 - a. Any violation of Ark. Code Ann. 17-104-101 et seq.; or
 - b. Any violation of a regulation or code of ethics adopted by the board;
 - c. Any violation of a rule or code of ethics adopted by the board; or
 - d. Unprofessional conduct, which includes, but is not limited to:
 - 1) Incompetence or gross negligence in carrying out

usual perfusion functions;

- 2) A conviction of practicing perfusion without a license or a provisional license;
- 3) The use of advertising relating to perfusion in a manner which violates state law;
- 4) Procuring a license or provisional license by fraud, misrepresentation or mistake;
- 5) Making or giving any false statement or information in connection with the application for the license or provisional license.
- 6) A plea of guilty, nolo contendere, or a finding of guilt of a felony listed under § 17-2-102 or any offense substantially related to the qualifications, functions, or duties of a perfusionist, in which event the record shall be conclusive evidence; or
- 7) Impersonating an applicant or acting as proxy for an applicant in any examination required under Act 888 for the issuance of a license.

e. If a license suspension is probated, the department may require the licensee to:

- 1) Report on a regular basis to the department on matters that are the basis of the probation.
- 2) Limit the practice to the areas prescribed by the department; or
- 3) Continue the person's professional education until the licensee reaches a degree of skill, in those areas that are the basis of the probation, satisfactory to the department.

2. Proceedings. Proceedings shall be as follows:

a. Opportunity for licensee or applicant to have a hearing. Except as provided in Subsection 2) below, every licensee or applicant for a license shall be afforded notice and an opportunity to be heard before the board. The board shall have authority to take any action the effect of which would be to:

- 1) ~~Deny a license after examination for any cause other than~~

- failure to pass an examination;
- 2) Withhold the renewal or reinstatement of a license for any cause;
 - 3) Revoke a license;
 - 4) Suspend a license;
 - 5) Probate a license;
 - 6) Reprimand a license;
 - 7) Levy civil penalties.
- b. Suspension of license without prior notice or hearing. If the Department finds that the continued practice by a licensee of the occupation or profession for which he/she is licensed will create an immediate hazard to the public, the board may suspend the license pending a hearing without prior notice of hearing.
- 1) When the Department contemplates taking any action, it shall give a written notice to the licensee at the last address of record, which contains a statement:
 - a) That the Department has sufficient evidence which, if not rebutted or explained, will justify the Department in taking the contemplated action;
 - b) Indicating the general nature of the evidence, and detailed allegations of violation the licensee is charged with; and
 - c) That a hearing will be held on a date certain, no sooner than 20 days after the mailing of the notice to the last address of record and at the hearing the board will receive the evidence.
 - 2) When the Department shall summarily suspend a license pending a hearing, it shall give written notice of the general nature of the evidence and detailed allegations of the violation the licensee is charged with:
 - a) The Department has sufficient evidence which,

if not rebutted or explained, will justify revocation of the license by the board;

- b) Indicating the general nature of the evidence against the licensee;
 - c) That, based on the evidence indicated, the Department has determined the continuation of practice of the occupation or profession of the licensee will create an immediate hazard to the public and has therefore suspended the license of the licensee effective as the date such notice is served;
 - d) The board will then set an immediate hearing for a full evidentiary presentation by the licensee and the Department.
- 3) In any hearing before the board involving the suspension or revocation of the license, the burden shall be on the Department to present competent evidence to justify the action taken or proposed by the board.

M.K. Civil Penalties. The board may, after providing notice and a hearing, levy civil penalties in an amount not to exceed \$500.00 for each violation against those individuals or entities found to be in violation of this Chapter or ~~regulations-rules~~ promulgated thereunder.

- 1. Each day of violation shall be a separate offense.
- 2. These penalties shall be in addition to other penalties which may be imposed by the board pursuant to this Chapter.
- 3. Unless the penalty assessed under this subsection is paid within 30 calendar days following the date for an appeal from the order, the board shall have the power to file suit in the Circuit Court of Pulaski County to obtain a judgment for the amount of penalty not paid.

N.L. Method of Serving Notice of Hearing. Any notice required may be served either personally or by an officer authorized by law to serve process, or by registered mail or certified mail with return receipt requested, directed to the licensee or applicant at his or her last known address. If notice is served personally, it shall be deemed to have been served at the time when the officer delivers the notice to the person addressed. Where notice is served by ~~registered or certified mail, it shall be deemed to have been served on the date~~

borne by the return receipt showing delivery of the notice to the addressee or refusal of the addressee to accept this notice. An attempt to serve notice at the last address of record shall constitute official notice.

O.M. Venue of Hearing. Board hearings held under provisions of this rule shall be conducted at the board office or elsewhere in Pulaski County.

P.N. Hearings Public. Use of Hearing Office all hearings under this section shall be open to the public. At all such hearings at least a quorum of the board shall be present to hear and determine the matter.

Q.O. Rights of Persons Entitled to Hearing. A person entitled to be heard pursuant to this section shall have the right to:

1. Be represented by counsel;
2. Present all relevant evidence by means of witnesses, books, papers and documents;
3. Examine all opposing witnesses on any matter relevant to the issues;
4. Have subpoenas and subpoenas duces tecum issued to compel the attendance of witnesses and the production of relevant books, papers and documents upon making written request therefore to the board; and
5. Have a transcript of the hearing made at his or her own expense

R.P. Powers of the board in Connection with Hearing. In connection with any hearing held pursuant to the provisions of this section, the Board or its hearing officer shall have power to:

1. Have counsel to develop the case;
2. Administer oaths or affirmations to witnesses called to testify;
3. Take testimony;
4. Examine witnesses;
5. Have a transcript of the hearing made at the expense of the board; and
6. Direct a continuance of any case.

S.Q. Rules of Evidence. In proceedings held pursuant to this rule, the Board may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent men in the conduct of serious

affairs. The Board may in their discretion exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

F.R. Manner and Time of Rendering Decision. After a hearing has been completed, the members of the Board shall proceed to consider the case and as soon as practicable shall render their decision. If the hearing was conducted by a hearing officer, the decision shall be rendered by the Board at a meeting where quorums of the members of the Board are present and participating in the decision. In any case the decision must be rendered within 90 days after the hearing.

U.S. Service of Written Decision. Within a reasonable time after the decision is rendered, the Board shall serve upon the person whose license is involved a written copy of the decision, either personally or by registered mail to the last known address. If the decision is sent by registered mail, it shall be deemed to have been served on the date borne on the return receipt.

V.T. Procedure Where Persons Fails to Request or Appear for Hearing. If a person duly notified fails to appear for a disciplinary hearing and no continuance has been granted, the Board, or its hearing officer, shall hear the evidence of such witnesses as may have appeared, and the Board shall proceed to consider the matter and dispose of it on the basis of the evidence before it in the manner required.

W.U. Contents of Decision. The decision of the Board shall contain:

1. Findings of fact made by the Board;
2. Conclusions of law reached by the Board;
3. The order of the Board based upon these findings of fact and conclusions of law; and
4. A statement informing the person whose license is involved of his right to request a judicial review and the time within which such request must be made.

SECTION 3: Definitions.

- A. **Board** means the State Board of Health.
- B. **Committee** means the Perfusionists Advisory Committee.
- C. **Department** means the Department of Health.
- D. **Extracorporeal circulation** means the diversion of a patient's blood through a heart-lung machine or a similar device that assumes the functions of the patient's heart, lungs, kidneys, liver, or other organs.
- E. **Licensed Perfusionist** means a person licensed under Ark. Code Ann. 17-104-101 et seq., as amended.
- F. **Perfusion** means the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, respiratory systems or other organs, or a combination of those activities, and to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under an order and supervision of a licensed physician, including:
 - 1. The use of extracorporeal circulation, long-term cardiopulmonary support techniques including, but not limited to, extracorporeal carbon-dioxide removal and extracorporeal membrane oxygenation, and associated therapeutic and diagnostic technologies;
 - 2. Counterpulsation, ventricular assistance, autotransfusion, blood conservation techniques, myocardial and organ preservation, extracorporeal life support, and isolated limb perfusion;
 - 3. The use of techniques involving blood management, advanced life support, related functions;
 - 4. The administration of pharmacological and therapeutic agents or blood products or anesthetic agents through the extracorporeal circuit or through an intravenous line for perfusion purposes as ordered by a physician;
 - 5. The performance and use of:
 - a. Anticoagulation monitoring and analysis;
 - b. Physiologic monitoring and analysis;
 - c. Blood gas and chemistry monitoring and analysis;
 - d. Hematologic monitoring and analysis;

- e. Hypothermia;
 - f. Hyperthermia;
 - g. Hemoconcentration and hemodilution; and
 - h. Hemodialysis.
6. The observation of signs and symptoms related to perfusion services, the determination of whether the signs and symptoms exhibit abnormal characteristics, and the implementation of appropriate reporting, perfusion protocols, or changes in or the initiation of emergency procedures.
- G. **Perfusion protocols** means perfusion related policies and protocols developed or approved by a licensed health care facility or a physician through collaboration with administrators, licensed perfusionists, and other health care professionals.
- H. **Provisional licensed perfusionist** means a person provisionally licensed under Ark. Code Ann. 17-104-101 et seq., as amended.
- H.I. **Returning military veteran** means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.

SECTION 4: Licensure.

A. Requirements.

1. Any person is eligible to make application to the board and receive a license, subject to the provisions of Ark. Code Ann. 17-104-101 et seq. as amended
2. A licensed perfusionist shall conform to the Code of Ethics as adopted by the Perfusionists Advisory Committee and approved by the State Board of Health. See Section 5.
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1. The applicant shall not have had a license revoked, suspend or put on probation for:

a. An act of bad faith; or

b. A violation of law, rule, or ethics.

2. The applicant shall be sufficiently competent in the field of perfusion; and

3. An applicant shall submit an application, the required fee, and required documentation. Required documentation shall include.

a. Copy of ABCP Certification.

b. Evidence of current and active licensure in that state, and

c. A list of the names of all states in which the applicant is currently licensed or has been previously licensed.

d. Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked, suspended or probationary status as described above.

4. The applicant shall receive a temporary license immediately upon submission of the application, the required fee, and the required documentation.

H.

H.G. Displaying of License.

1. Perfusionists shall display their license in an appropriate and public manner; or

2. Maintain on file in the health care facility in which the licensed perfusionist is working, an accurate copy of the perfusionist's license; and
3. Keep the Department informed of any change of address.

J.H. Fees.

1. Initial application for consideration of licensure which requires a complete certification of stated qualifications and credentials in the application shall be \$150.00.
2. For renewal of license occurring every two years which checks the current credentials and clinical activities of the already licensed perfusionist shall be \$100.00.
3. Fee for a provisional license is \$150.00 annually.
4. Fee for reciprocity is \$100.00.
5. Fee for an extension is \$50.00.

K.I. Continuing Education and Clinical Activities. Licensed perfusionists and provisional licensed perfusionists shall meet the continuing education and clinical activities requirements of American Board of Cardiovascular Perfusion or its successor.

L.J. Procedure on Denial, Reprimand, Probation, Civil Penalties, Suspension, or Revocation.

1. Grounds for Discipline. The board shall have sole authority to deny or suspend any license to practice perfusion issued by the board or applied for in accordance with the provisions of this chapter, or to otherwise discipline a licensee upon determination of:
 - a. Any violation of Ark. Code Ann. 17-104-101 et seq.; or
 - b. Any violation of a regulation or code of ethics adopted by the board;
 - c. Any violation of a rule or code of ethics adopted by the board; or
 - d. Unprofessional conduct, which includes, but is not limited to:
 - 1) Incompetence or gross negligence in carrying out

usual perfusion functions;

- 2) A conviction of practicing perfusion without a license or a provisional license;
 - 3) The use of advertising relating to perfusion in a manner which violates state law;
 - 4) Procuring a license or provisional license by fraud, misrepresentation or mistake;
 - 5) Making or giving any false statement or information in connection with the application for the license or provisional license.
 - 6) A plea of guilty, nolo contendere, or a finding of guilt of a felony listed under § 17-2-102 or any offense substantially related to the qualifications, functions, or duties of a perfusionist, in which event the record shall be conclusive evidence; or
 - 7) Impersonating an applicant or acting as proxy for an applicant in any examination required under Act 888 for the issuance of a license.
- e. If a license suspension is probated, the department may require the licensee to:
- 1) Report on a regular basis to the department on matters that are the basis of the probation.
 - 2) Limit the practice to the areas prescribed by the department; or
 - 3) Continue the person's professional education until the licensee reaches a degree of skill, in those areas that are the basis of the probation, satisfactory to the department.
2. Proceedings. Proceedings shall be as follows:
- a. Opportunity for licensee or applicant to have a hearing. Except as provided in Subsection 2) below, every licensee or applicant for a license shall be afforded notice and an opportunity to be heard before the board. The board shall have authority to take any action the effect of which would be to:
 - 1) Deny a license after examination for any cause other than

- failure to pass an examination;
 - 2) Withhold the renewal or reinstatement of a license for any cause;
 - 3) Revoke a license;
 - 4) Suspend a license;
 - 5) Probate a license;
 - 6) Reprimand a license;
 - 7) Levy civil penalties.
- b. Suspension of license without prior notice or hearing. If the Department finds that the continued practice by a licensee of the occupation or profession for which he/she is licensed will create an immediate hazard to the public, the board may suspend the license pending a hearing without prior notice of hearing.
- 1) When the Department contemplates taking any action, it shall give a written notice to the licensee at the last address of record, which contains a statement:
 - a) That the Department has sufficient evidence which, if not rebutted or explained, will justify the Department in taking the contemplated action;
 - b) Indicating the general nature of the evidence, and detailed allegations of violation the licensee is charged with; and
 - c) That a hearing will be held on a date certain, no sooner than 20 days after the mailing of the notice to the last address of record and at the hearing the board will receive the evidence.
 - 2) When the Department shall summarily suspend a license pending a hearing, it shall give written notice of the general nature of the evidence and detailed allegations of the violation the licensee is charged with:
 - a) The Department has sufficient evidence which,

if not rebutted or explained, will justify revocation of the license by the board;

- b) Indicating the general nature of the evidence against the licensee;
 - c) That, based on the evidence indicated, the Department has determined the continuation of practice of the occupation or profession of the licensee will create an immediate hazard to the public and has therefore suspended the license of the licensee effective as the date such notice is served;
 - d) The board will then set an immediate hearing for a full evidentiary presentation by the licensee and the Department.
- 3) In any hearing before the board involving the suspension or revocation of the license, the burden shall be on the Department to present competent evidence to justify the action taken or proposed by the board.

M.K. Civil Penalties. The board may, after providing notice and a hearing, levy civil penalties in an amount not to exceed \$500.00 for each violation against those individuals or entities found to be in violation of this Chapter or ~~regulations-rules~~ promulgated thereunder.

- 1. Each day of violation shall be a separate offense.
- 2. These penalties shall be in addition to other penalties which may be imposed by the board pursuant to this Chapter.
- 3. Unless the penalty assessed under this subsection is paid within 30 calendar days following the date for an appeal from the order, the board shall have the power to file suit in the Circuit Court of Pulaski County to obtain a judgment for the amount of penalty not paid.

N.L. Method of Serving Notice of Hearing. Any notice required may be served either personally or by an officer authorized by law to serve process, or by registered mail or certified mail with return receipt requested, directed to the licensee or applicant at his or her last known address. If notice is served personally, it shall be deemed to have been served at the time when the officer delivers the notice to the person addressed. Where notice is served by registered or certified mail, it shall be deemed to have been served on the date

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borne by the return receipt showing delivery of the notice to the addressee or refusal of the addressee to accept this notice. An attempt to serve notice at the last address of record shall constitute official notice.

~~Q-M.~~ Venue of Hearing. Board hearings held under provisions of this rule shall be conducted at the board office or elsewhere in Pulaski County.

~~P-N.~~ Hearings Public. Use of Hearing Office all hearings under this section shall be open to the public. At all such hearings at least a quorum of the board shall be

present to hear and determine the matter.

~~Q-O.~~ Rights of Persons Entitled to Hearing. A person entitled to be heard pursuant to this section shall have the right to:

1. Be represented by counsel;
2. Present all relevant evidence by means of witnesses, books, papers and documents;
3. Examine all opposing witnesses on any matter relevant to the issues;
4. Have subpoenas and subpoenas duces tecum issued to compel the attendance of witnesses and the production of relevant books, papers and documents upon making written request therefore to the board; and
5. Have a transcript of the hearing made at his or her own expense

~~R-P.~~ Powers of the board in Connection with Hearing. In connection with any hearing held pursuant to the provisions of this section, the Board or its hearing officer shall have power to:

1. Have counsel to develop the case;
2. Administer oaths or affirmations to witnesses called to testify;
3. Take testimony;
4. Examine witnesses;
5. Have a transcript of the hearing made at the expense of the board; and
6. Direct a continuance of any case.

~~S-Q.~~ Rules of Evidence. In proceedings held pursuant to this rule, the Board may admit any evidence and may give probative effect to evidence that is of a kind

commonly relied on by reasonably prudent men in the conduct of serious affairs. The Board may in their discretion exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

T.R. **Manner and Time of Rendering Decision.** After a hearing has been completed, the members of the Board shall proceed to consider the case and as soon as practicable shall render their decision. If the hearing was conducted by a hearing officer, the decision shall be rendered by the Board at a meeting where quorums of the members of the Board are present and participating in the decision. In any case the decision must be rendered within 90 days after the hearing.

U.S. **Service of Written Decision.** Within a reasonable time after the decision is rendered, the Board shall serve upon the person whose license is involved a written copy of the decision, either personally or by registered mail to the last known address. If the decision is sent by registered mail, it shall be deemed to have been served on the date borne on the return receipt.

V.T. **Procedure Where Persons Fails to Request or Appear for Hearing.** If a person duly notified fails to appear for a disciplinary hearing and no continuance has been granted, the Board, or its hearing officer, shall hear the evidence of such witnesses as may have appeared, and the Board shall proceed to consider the matter and dispose of it on the basis of the evidence before it in the manner required.

W.U. **Contents of Decision.** The decision of the Board shall contain:

1. Findings of fact made by the Board;
2. Conclusions of law reached by the Board;
3. The order of the Board based upon these findings of fact and conclusions of law; and
4. A statement informing the person whose license is involved of his right to request a judicial review and the time within which such request must be made.

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: H2/13/19

A Bill

HOUSE BILL 1301

5 By: Representative Cozart
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE RED TAPE REDUCTION EXPEDITED
9 TEMPORARY AND PROVISIONAL LICENSURE ACT; TO AUTHORIZE
10 OCCUPATIONAL LICENSING ENTITIES TO GRANT EXPEDITED
11 TEMPORARY AND PROVISIONAL LICENSING FOR CERTAIN
12 INDIVIDUALS; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO CREATE THE RED TAPE REDUCTION
16 EXPEDITED TEMPORARY AND PROVISIONAL
17 LICENSURE ACT; TO AUTHORIZE OCCUPATIONAL
18 LICENSING ENTITIES TO GRANT EXPEDITED
19 TEMPORARY AND PROVISIONAL LICENSING FOR
20 CERTAIN INDIVIDUALS.
21
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23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. DO NOT CODIFY. Title.

27 This act shall be known and may be cited as the "Red Tape Reduction
28 Expedited Temporary and Provisional Licensure Act."
29

30 SECTION 2. DO NOT CODIFY. Legislative findings and intent.

31 (a) The General Assembly finds that:

32 (1) Arkansas is taking a leading role in the nationwide pursuit
33 of reforms to the system of occupational licensing;

34 (2) Arkansas became one (1) of eleven (11) states chosen to
35 participate in the Occupational Licensing Policy Learning Consortium, an
36 initiative funded by a grant from the United States Department of Labor and



1 supported in partnership with the National Conference of State Legislatures,
2 the Council of State Governments, and the National Governors Association;

3 (3) Governor Asa Hutchinson appointed seventeen (17) individuals
4 to the Red Tape Reduction Working Group to review and address occupational
5 licensing regulations that create unnecessary barriers to labor market entry;
6 and

7 (4) The Red Tape Reduction Working Group issued a final report
8 to the Governor in the fall of 2018 with five (5) recommendations for
9 substantive legislative reform, which are to:

10 (A) Establish an expedited procedure for occupational
11 licensing entities to collectively submit administrative rules that are
12 responsive to new legislation;

13 (B) Extend Acts 2017, No. 781, to allow repeal of
14 subsections of rules;

15 (C) Establish provisions to allow certain agencies to
16 consider occupational relevance with regard to criminal background issues;

17 (D) Authorize occupational licensing entities to identify
18 types of individuals or entities that may be issued temporary or provisional
19 licenses; and

20 (E) Establish a systematic process for review of:

21 (i) New occupational licensure and occupational
22 licensing entities; and

23 (ii) Existing occupational licensure and
24 occupational licensing entities.

25 (b) It is the intent of the General Assembly to authorize occupational
26 licensing entities to identify types of individuals or entities that may be
27 issued temporary or provisional licenses.

28
29 SECTION 3. Arkansas Code Title 17, Chapter 1, Subchapter 1, is amended
30 to add an additional section to read as follows:

31 17-1-108. Expedited temporary and provisional licensure.

32 (a) As used in this section:

33 (1) "Individual" means a natural person, firm, association,
34 partnership, corporation, or other entity that may hold an occupational
35 licensure;

36 (2) "Occupational licensing entity" means an office, board,

1 commission, department, council, bureau, or other agency of state government
2 having authority to license, certify, register, permit, or otherwise
3 authorize an individual to engage in a particular occupation or profession;
4 and

5 (3) "Occupational licensure" means a license, certificate,
6 registration, permit, or other form of authorization required by law or rule
7 that is required for an individual to engage in a particular occupation or
8 profession.

9 (b) An occupational licensing entity shall by rule adopt the least
10 restrictive requirements for occupational licensure for an individual who:

11 (1) Demonstrates that he or she:

12 (A) Holds an occupational licensure that is substantially
13 similar to practice in the field of his or her occupation or profession in
14 another state, territory, or district of the United States;

15 (B) Holds his or her occupational licensure in good
16 standing;

17 (C) Has not had his or her occupational licensure revoked
18 for:

19 (i) An act of bad faith; or

20 (ii) A violation of law, rule, or ethics;

21 (D) Is not holding a suspended or probationary
22 occupational licensure in any state, territory, or district of the United
23 States; and

24 (E) Is sufficiently competent in his or her field; and

25 (2) Pays any occupational licensure fee required by law or rule.

26 (c)(1)(A) An occupational licensing entity shall comply with the
27 requirements under subsection (b) of this section by adopting the least
28 restrictive rule that allows for reciprocity or licensure by endorsement.

29 (B) The rule adopted under subdivision (c)(1)(A) of this
30 section shall provide the procedure by which an occupational licensing entity
31 shall grant a temporary and provisional occupational licensure for ninety
32 (90) days or longer to an individual under subsection (b) of this section if
33 presented with evidence of a current and active occupational licensure that
34 is substantially similar to practice in the field of his or her occupation or
35 profession in another state, territory, or district of the United States.

36 (2) If a state, territory, or district of the United States does

1 not require occupational licensure for a profession that requires
2 occupational licensure in this state, an occupational licensing entity shall
3 adopt a rule that is least restrictive to permit an individual who is
4 sufficiently competent in his or her field to obtain occupational licensure
5 for that occupation or profession in this state.

6 (3) The occupational licensing entity may require additional
7 state-specific education for an individual with an occupational licensure in
8 another state, territory, or district of the United States that does not
9 offer reciprocity similar to reciprocity under this section to individuals
10 with occupational licensure in this state.

11 (d)(1) Except as provided under subdivision (d)(2) of this section, an
12 occupational licensing entity shall not require an individual who meets the
13 requirements of subsection (b) of this section to participate in the
14 apprenticeship, education, or training required as a prerequisite to
15 occupational licensure of a new professional in the field.

16 (2) The occupational licensing entity may require the individual
17 to participate in continuing education or training if the continuing
18 education or training is required for all professionals in the field to
19 maintain the occupational licensure.

20 (e) If a criminal background check is required of an applicant for an
21 initial occupational licensure or of a person currently holding an
22 occupational licensure, then the occupational licensing entity may require a
23 person seeking his or her occupational licensure under this section to meet
24 the same criminal background check requirements as the applicant for an
25 initial occupational licensure or as the person currently holding an
26 occupational licensure.

27 (f) The occupational licensing entity may require the individual
28 applying for occupational licensure under this section to meet any bonding,
29 financial statement, or insurance requirements that are applicable to all
30 applicants.

31 (g) This section shall not apply to:

32 (1) Reciprocity or license by endorsement provisions under §§
33 17-12-308, 17-26-315, 17-27-308, 17-28-306, 17-31-308, 17-36-304, 17-42-305,
34 17-43-307, 17-83-305, 17-88-305, 17-89-305, 17-90-302, 17-92-114, 17-92-308,
35 17-93-414, 17-97-306, 17-99-304, 17-100-304, and 17-103-302; or

36 (2) The occupational licensing entities that administer the

1 reciprocity provisions under subdivision (g)(1) of this section.

2 (h) An occupational licensing entity may enter into written agreements
3 with similar occupational licensing entities of another state, territory, or
4 district of the United States as necessary to assure for licensees in this
5 state have comparable nonresident licensure opportunities as those
6 opportunities available to nonresidents by occupational licensing entities in
7 this state.

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/s/Cozart

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APPROVED: 3/12/19

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1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: S3/28/19

A Bill

SENATE BILL 564

5 By: Senators Irvin, T. Garner, J. Hendren, D. Wallace
6 By: Representative Bentley
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING THE OCCUPATIONAL
10 LICENSURE OF ACTIVE DUTY SERVICE MEMBERS, RETURNING
11 MILITARY VETERANS, AND THEIR SPOUSES; TO PROVIDE
12 AUTOMATIC LICENSURE; TO REQUIRE REVIEW AND APPROVAL
13 OF RULES SUBMITTED BY OCCUPATIONAL LICENSING
14 ENTITIES; AND FOR OTHER PURPOSES.
15

Subtitle

16
17 TO AMEND THE LAW CONCERNING THE
18 OCCUPATIONAL LICENSURE OF ACTIVE DUTY
19 SERVICE MEMBERS, RETURNING MILITARY
20 VETERANS, AND THEIR SPOUSES; TO PROVIDE
21 AUTOMATIC LICENSURE; TO REQUIRE REVIEW
22 AND APPROVAL OF RULES SUBMITTED.
23
24

25
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. DO NOT CODIFY. Legislative Intent.

29 The General Assembly finds that:

30 (1) The current law regarding the issuance of licenses,
31 certificates, and permits required to enable the holder to lawfully engage in
32 a profession, trade, or employment in this state continues to constitute a
33 hardship on active duty service members, returning military veterans, and
34 their spouses;

35 (2) Acts 2017, No. 248, amended the law to require that all
36 state boards and commissions promulgate rules to expedite the process and



1 procedures for full licensure, certification, or permitting for active duty
2 service members, returning military veterans, and their spouses;

3 (3) State boards and commissions required to promulgate rules by
4 Acts 2017, No. 248, have failed to do so in accordance with the law; and

5 (4) Automatic licensure is necessary to remedy these hardships
6 and allow active duty service members, returning military veterans, and their
7 spouses to engage in their chosen professions.

8
9 Section 2. Arkansas Code § 17-1-106 is amended to read as follows:

10 17-1-106. ~~Licensure, certification, or permitting of Automatic~~
11 licensure for active duty service members, returning military veterans, and
12 spouses – Definition Definitions.

13 (a) As used in this section,:

14 (1) "Automatic licensure" means the granting of occupational
15 licensure without an individual's having met occupational licensure
16 requirements provided under this title or by the rules of the occupational
17 licensing entity;

18 (2) "Occupational licensing entity" means an office, board,
19 commission, department, council, bureau, or other agency of state government
20 having authority to license, certify, register, permit, or otherwise
21 authorize an individual to engage in a particular occupation or profession;

22 (3) "Occupational licensure" means a license, certificate,
23 registration, permit, or other form of authorization required by law or rule
24 that is required for an individual to engage in a particular occupation or
25 profession; and

26 (4) "returning Returning military veteran" means a former member
27 of the United States Armed Forces who was discharged from active duty under
28 circumstances other than dishonorable.

29 ~~(b)(1) A state board or commission that issues licenses, certificates,~~
30 ~~or permits required to enable the holder to lawfully engage in a profession,~~
31 ~~trade, or employment in this state An occupational licensing entity shall~~
32 ~~allow grant the following individuals to secure employment with a temporary~~
33 ~~license, certificate, or permit while completing the application process for~~
34 ~~full licensure or certification or permitting automatic licensure to engage~~
35 ~~in an occupation or profession if the to an individual who is the holder in~~
36 ~~good standing of a substantially equivalent license, certificate, or permit~~

1 occupational license issued by another state, territory, or district of the
2 United States and is:

3 ~~(1)(A)~~ An active duty military service member stationed in the
4 State of Arkansas;

5 ~~(2)(B)~~ A returning military veteran applying for licensure
6 within one (1) year of his or her discharge from active duty; or

7 ~~(3)(C)~~ The spouse of a person under subdivisions ~~(b)(1)~~
8 (b)(1)(A) and ~~(2)~~ (b)(1)(B) of this section.

9 (2) However, an occupational licensing entity shall be required
10 to provide automatic licensure if the proposed rules are not approved as
11 required under subsection (d)(2) of this section.

12 ~~(c) A state board or commission shall expedite the process and~~
13 ~~procedures for full licensure, certification, or permitting for the following~~
14 ~~individuals:~~

15 ~~(1) An active duty military service member stationed in the~~
16 ~~State of Arkansas;~~

17 ~~(2) A returning military veteran applying within one (1) year of~~
18 ~~his or her discharge from active duty; or~~

19 ~~(3) The spouse of a person under subdivisions (c)(1) and (2) of~~
20 ~~this section.~~

21 ~~(d) When considering an application for full licensure,~~
22 ~~certification, or permitting for an active duty military service member~~
23 ~~stationed in the State of Arkansas or a returning military veteran applying~~
24 ~~within one (1) year of his or her discharge from active duty, a state board~~
25 ~~or commission:~~

26 ~~(1) Shall consider whether or not the applicant's military~~
27 ~~training and experience in the area of licensure, certification, or~~
28 ~~permitting is substantially similar to experience or education required for~~
29 ~~licensure, certification, or permitting; and~~

30 ~~(2) Shall accept the applicant's military training and~~
31 ~~experience in the area of licensure, certification, or permitting in lieu of~~
32 ~~experience or education required for licensure, certification, or permitting~~
33 ~~if the state board or commission determines the military training and~~
34 ~~experience is a satisfactory substitute for the experience or education~~
35 ~~required for licensure, certification, or permitting.~~

36 ~~(e) A license, certificate, or permit required to enable the holder to~~

1 ~~lawfully engage in a profession, trade, or employment in this state held by~~
2 ~~an active duty military service member deployed outside the State of Arkansas~~
3 ~~or his or her spouse shall not expire until one hundred eighty (180) days~~
4 ~~following the active duty military service member's or spouse's return from~~
5 ~~active deployment.~~

6 ~~(f)(1) A state board or commission shall allow a full or partial~~
7 ~~exemption from continuing education required as part of licensure,~~
8 ~~certification, or permitting for a profession, trade, or employment in this~~
9 ~~state for the following individuals:~~

10 ~~(A) An active duty military service member deployed~~
11 ~~outside of the State of Arkansas;~~

12 ~~(B) A returning military veteran within one (1) year of~~
13 ~~his or her discharge from active duty; or~~

14 ~~(C) The spouse of a person under subdivisions (f)(1) and~~
15 ~~(2) of this section.~~

16 ~~(2) A state board or commission allowing a full or partial~~
17 ~~exemption from continuing education required under subdivision (f)(1) of this~~
18 ~~section may require evidence of completion of continuing education before~~
19 ~~issuing the individual a subsequent license, certificate, or permit or~~
20 ~~authorizing the renewal of a license, certificate, or permit.~~

21 ~~(g) All state boards and commissions shall promulgate rules necessary~~
22 ~~to carry out the provisions of this section.~~

23 An occupational licensing entity may submit proposed rules recommending
24 an expedited process and procedure for occupational licensure instead of
25 automatic licensure as provided under subsection (b) of this section to the
26 Administrative Rules and Regulations Subcommittee of the Legislative Council.

27 (d) The Administrative Rules and Regulations Subcommittee of the
28 Legislative Council shall:

29 (1) Review the proposed rules of an occupational licensing
30 entity as submitted for public comment and at least thirty (30) days before
31 the public comment period ends under the Arkansas Administrative Procedure
32 Act, § 25-15-201 et seq.; and

33 (2) Approve the proposed rules submitted under subsection (c)
34 based on:

35 (A) A determination of whether the expedited process and
36 procedure provide the least restrictive means of accomplishing occupational

1 licensure; and

2 (B) Any other criteria the Administrative Rules and
3 Regulations Subcommittee of the Legislative Council determines necessary to
4 achieve the objectives of this section.

5 (e) The Administrative Rules and Regulations Subcommittee of the
6 Legislative Council may:

7 (1) Establish a subcommittee to assist in the duties assigned
8 under this section;

9 (2) Assign information filed with the Administrative Rules and
10 Regulations Subcommittee of the Legislative Council under this section to one

11 (1) or more subcommittee of the Legislative Council, including without
12 limitation a subcommittee created under subdivision (e)(1) of this section;
13 or

14 (3) Delegate its duties under this section to one (1) or more
15 subcommittees of the Legislative Council, subject to final review and
16 approval of the Administrative Rules and Regulations Subcommittee of the
17 Legislative Council.

18 (f) An occupational licensing entity shall:

19 (1) Submit proposed rules authorized under subsection (c) of
20 this section to the Administrative Rules and Regulations Subcommittee of the
21 Legislative Council for review and approval before the proposed rules are
22 promulgated under the Arkansas Administrative Procedure Act, § 25-15-201 et
23 seq.; and

24 (2) Provide to the House Committee on Aging, Children and Youth,
25 Legislative and Military Affairs an annual report stating the number of
26 automatic licenses and expedited occupational licenses granted under this
27 section to:

28 (A) Active duty military service members stationed in the
29 State of Arkansas;

30 (B) Returning military veterans applying within one (1)
31 year of his or her discharge from active duty; or

32 (C) The spouse of a person under subdivisions (f)(2)(A)
33 and (f)(2)(B) of this section.

34
35 SECTION 3. TEMPORARY LANGUAGE. DO NOT CODIFY. An occupational
36 licensing entity proposing rules recommending an expedited process and

1 procedure for occupational licensure instead of automatic licensure as
2 provided under § 17-1-106(b) to the Administrative Rules and Regulations
3 Subcommittee of the Legislative Council shall complete the review and
4 approval process of the proposed rules required by § 17-1-106 within one (1)
5 year of the effective date of this act.

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/s/Irvin

APPROVED: 4/9/19

1 State of Arkansas *As Engrossed: S3/18/19 H4/3/19*
2 92nd General Assembly **A Bill**
3 Regular Session, 2019

SENATE BILL 451

4
5 By: Senator J. Cooper
6 *By: Representative Dalby*

7
8 **For An Act To Be Entitled**

9 AN ACT TO AMEND THE LAWS REGARDING CRIMINAL
10 BACKGROUND CHECKS FOR PROFESSIONS AND OCCUPATIONS TO
11 OBTAIN CONSISTENCY REGARDING CRIMINAL BACKGROUND
12 CHECKS AND DISQUALIFYING OFFENSES FOR LICENSURE; AND
13 FOR OTHER PURPOSES.

14
15 **Subtitle**

16 TO AMEND THE LAWS REGARDING CRIMINAL
17 BACKGROUND CHECKS FOR PROFESSIONS AND
18 OCCUPATIONS TO OBTAIN CONSISTENCY
19 REGARDING CRIMINAL BACKGROUND CHECKS AND
20 DISQUALIFYING OFFENSES FOR LICENSURE.

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23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25
26 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

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28 (1) Arkansas is taking a leading role in the nationwide pursuit
29 of reforms to the system of occupational licensing;

30 (2) Arkansas became one (1) of eleven (11) states chosen to
31 participate in the Occupational Licensing Policy Learning Consortium, an
32 initiative funded by a grant from the United States Department of Labor and
33 supported in partnership with the National Conference of State Legislatures,
34 the Council of State Governments, and the National Governors Association;

35 (3) Governor Asa Hutchinson appointed seventeen (17) individuals
36 to the Red Tape Reduction Working Group to review and address occupational



1 licensing regulations that create unnecessary barriers to labor market entry;
2 and

3 (4) The Red Tape Reduction Working Group issued a final report
4 to the Governor in the fall of 2018 with five (5) recommendations for
5 substantive legislative reform, which are to:

6 (A) Establish an expedited procedure for occupational
7 licensing entities to collectively submit administrative rules that are
8 responsive to new legislation;

9 (B) Extend Acts 2017, No. 781, to allow repeal of
10 subsections of rules;

11 (C) Establish provisions to allow certain agencies to
12 consider occupational relevance with regard to criminal background issues;

13 (D) Authorize occupational licensing entities to identify
14 types of individuals or entities that may be issued temporary or provisional
15 licenses; and

16 (E) Establish a systematic process for review of:

17 (i) New occupational licenses and occupational
18 licensing entities; and

19 (ii) Existing occupational licenses and occupational
20 licensing entities.

21 (b) It is the intent of the General Assembly to establish provisions
22 to allow certain agencies to consider occupational relevance with regard to
23 criminal background issues.

24
25 SECTION 2. Arkansas Code Title 17 is amended to add an additional
26 chapter to read as follows:

27 CHAPTER 2

28 OCCUPATIONAL CRIMINAL BACKGROUND CHECKS

29
30 17-2-101. Definitions.

31 As used in this subchapter:

32 (1) "Criminal record" means any type of felony or misdemeanor
33 conviction;

34 (2) "Licensing entity" means an office, board, commission,
35 department, council, bureau, or other agency of state government having
36 authority to license, certify, register, permit, or otherwise authorize an

1 individual to engage in a particular occupation or profession; and

2 (3) "License" means a license, certificate, registration,
3 permit, or other form of authorization required by law or rule that is
4 required for an individual to engage in a particular occupation or
5 profession.

6
7 17-2-102. Licensing restrictions based on criminal records.

8 (a) An individual is not eligible to receive or hold a license issued
9 by a licensing entity if that individual has pleaded guilty or nolo
10 contendere to or been found guilty of any of the following offenses by any
11 court in the State of Arkansas or of any similar offense by a court in
12 another state or of any similar offense by a federal court, unless the
13 conviction was lawfully sealed under the Comprehensive Criminal Record
14 Sealing Act of 2013, § 16-90-1401 et seq., or otherwise previously sealed,
15 pardoned or expunged under prior law:

16 (1) Capital murder as prohibited in § 5-10-101;

17 (2) Murder in the first degree and second degree as prohibited
18 in §§ 5-10-102 and 5-10-103;

19 (3) Manslaughter as prohibited in § 5-10-104;

20 (4) Negligent homicide as prohibited in § 5-10-105;

21 (5) Kidnapping as prohibited in § 5-11-102;

22 (6) False imprisonment in the first degree as prohibited in § 5-
23 11-103;

24 (7) Permanent detention or restraint as prohibited in § 5-11-
25 106;

26 (8) Robbery as prohibited in § 5-12-102;

27 (9) Aggravated robbery as prohibited in § 5-12-103;

28 (10) Battery in the first degree as prohibited in § 5-13-201;

29 (11) Aggravated assault as prohibited in § 5-13-204;

30 (12) Introduction of a controlled substance into the body of
31 another person as prohibited in § 5-13-210;

32 (13) Aggravated assault upon a law enforcement officer or an
33 employee of a correctional facility as prohibited in § 5-13-211, if a Class Y
34 felony;

35 (14) Terroristic threatening in the first degree as prohibited
36 in § 5-13-301;

- 1 (15) Rape as prohibited in § 5-14-103;
2 (16) Sexual indecency with a child as prohibited in § 5-14-110;
3 (17) Sexual extortion as prohibited in § 5-14-113;
4 (18) Sexual assault in the first degree, second degree, third
5 degree, and fourth degree as prohibited in §§ 5-14-124 – 5-14-127;
6 (19) Incest as prohibited in § 5-26-202;
7 (20) Offenses against the family as prohibited in §§ 5-26-303 –
8 5-26-306;
9 (21) Endangering the welfare of an incompetent person in the
10 first degree, as prohibited in § 5-27-201;
11 (22) Endangering the welfare of a minor in the first degree as
12 prohibited in § 5-27-205;
13 (23) Permitting the abuse of a minor as prohibited in § 5-27-
14 221;
15 (24) Engaging children in sexually explicit conduct for use in
16 visual or print media, transportation of minors for prohibited sexual
17 conduct, pandering or possessing visual or print medium depicting sexually
18 explicit conduct involving a child, or use of a child or consent to use of a
19 child in a sexual performance by producing, directing, or promoting a sexual
20 performance by a child, as prohibited in §§ 5-27-303 – 5-27-305, 5-27-402,
21 and 5-27-403;
22 (25) Computer child pornography as prohibited in § 5-27-603;
23 (26) Computer exploitation of a child in the first degree as
24 prohibited in § 5-27-605;
25 (27) Felony adult abuse as prohibited in § 5-28-103;
26 (28) Theft of property as prohibited in § 5-36-103;
27 (29) Theft by receiving as prohibited in § 5-36-106;
28 (30) Arson as prohibited in § 5-38-301;
29 (31) Burglary as prohibited in § 5-39-201;
30 (32) Felony violation of the Uniform Controlled Substances Act,
31 §§ 5-64-101 – 5-64-510, as prohibited in the former § 5-64-401, and §§ 5-64-
32 419 – 5-64-442;
33 (33) Promotion of prostitution in the first degree as prohibited
34 in § 5-70-104;
35 (34) Stalking as prohibited in § 5-71-229;
36 (35) Criminal attempt, criminal complicity, criminal

1 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,
2 5-3-301, and 5-3-401, to commit any of the offenses listed in this
3 subsection; and

4 (36) All other crimes referenced in this title.

5 (b)(1) If an individual has been convicted of a crime listed in
6 subsection (a) of this section, a licensing entity may waive disqualification
7 or revocation of a license based on the conviction if a request for a waiver
8 is made by:

9 (A) An affected applicant for a license; or

10 (B) The individual holding a license subject to
11 revocation.

12 (2) A basis upon which a waiver may be granted includes without
13 limitation:

14 (A) The age at which the offense was committed;

15 (B) The circumstances surrounding the offense;

16 (C) The length of time since the offense was committed;

17 (D) Subsequent work history since the offense was
18 committed;

19 (E) Employment references since the offense was committed;

20 (F) Character references since the offense was committed;

21 (G) Relevance of the offense to the occupational license;

22 and

23 (H) Other evidence demonstrating that licensure of the
24 applicant does not pose a threat to the health or safety of the public.

25 (c) If an individual has a valid criminal conviction for an offense
26 that could disqualify the individual from receiving a license, the
27 disqualification shall not be considered for more than five (5) years from
28 the date of conviction or incarceration or on which probation ends, whichever
29 date is the latest, if the individual:

30 (A) Was not convicted for committing a violent or sexual
31 offense; and

32 (B) Has not been convicted of any other offense during the five-
33 year disqualification period.

34 (d) A licensing entity shall not, as a basis upon which a license may
35 be granted or denied:

36 (1) Use vague or generic terms, including without limitation the

1 phrase "moral turpitude" and "good character"; or

2 (2) Consider arrests without a subsequent conviction.

3 (e) Due to the serious nature of the offenses, the following shall
4 result in permanent disqualification for licensure:

5 (1) Capital murder as prohibited in § 5-10-101;

6 (2) Murder in the first degree as prohibited in § 5-10-102 and
7 murder in the second degree as prohibited in § 5-10-103;

8 (3) Kidnapping as prohibited in § 5-11-102;

9 (4) Aggravated assault upon a law enforcement officer or an
10 employee of a correctional facility as prohibited in § 5-13-211, if a Class Y
11 felony;

12 (5) Rape as prohibited in § 5-14-103;

13 (6) Sexual extortion as prohibited in § 5-14-113;

14 (7) Sexual assault in the first degree as prohibited in § 5-14-
15 124 and sexual assault in the second degree as prohibited in § 5-14-125;

16 (8) Incest as prohibited in § 5-26-202;

17 (9) Endangering the welfare of an incompetent person in the
18 first degree as prohibited in § 5-27-201;

19 (10) Endangering the welfare of a minor in the first degree as
20 prohibited in § 5-27-205;

21 (11) Adult abuse that constitutes a felony as prohibited in § 5-
22 28-103; and

23 (12) Arson as prohibited in § 5-38-301.

24 (f) This chapter does not preclude a licensing entity from taking
25 emergency action against a licensee as authorized under § 25-15-211 for the
26 sake of public health, safety, or welfare.

27 (g) The permanent disqualification for an offense listed in subsection
28 (e) of this section does not apply to an individual who holds a valid license
29 on the effective date of this chapter.

30 (h) This section does not apply to licensure or certification:

31 (1) Of professions not governed by this title;

32 (2) Of polygraph examiners and voice stress analysis examiners
33 under § 17-39-101 et seq.; or

34 (3) Of private investigators and private security agencies under
35 the Private Security Agency, Private Investigator, and School Security
36 Licensing and Credentialing Act, § 17-40-101 et seq.

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17-2-103. Prelicensure criminal background checks.

(a)(1) An individual with a criminal record may petition a licensing entity at any time for a determination of whether the criminal record of the individual will disqualify the individual from licensure and whether or not he or she could obtain a waiver under § 17-2-102(b).

(2) The petition shall include details on the criminal record of the individual.

(b)(1) A licensing entity may require that the applicant undergo a state and federal criminal background check as required by the licensing entity for all applicants for a license.

(2) The petitioner under subsection (a) of this section shall be responsible for payment for the state and federal criminal background check.

17-2-104. Rules.

(a) A licensing entity shall adopt or amend rules necessary for the implementation of this chapter.

(b)(1) When adopting or amending rules to implement this chapter, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(A) On or before January 1, 2020; or

(B) If approval under § 10-3-309 has not occurred by January 1, 2020, as soon as practicable after approval under § 10-3-309.

(2) A licensing entity shall file the proposed rule with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2020, so that the Legislative Council may consider the rule for approval before January 1, 2020.

SECTION 3. Arkansas Code § 17-11-302(b), concerning application and certificate of registration to become a registered abstractor, is amended to read as follows:

(b) The application shall be in a form prepared by the board and shall contain such information as may be necessary to assist the board in registration ~~and to determine if the applicant is of good moral character.~~

SECTION 4. Arkansas Code § 17-11-304(a), concerning issuance or

1 reapplication for a certificate of registration by the Arkansas Abstracters'
2 Board, is amended to read as follows:

3 (a) If the applicant satisfactorily passes the examinations ~~and is of~~
4 ~~good moral character~~, the applicant shall be certified as a registered
5 abstracter, and the certificate provided for shall be issued to him or her.
6 The privileges granted by the certificate shall continue unless revoked, as
7 provided in this chapter, or unless the certificate is otherwise surrendered
8 to the Arkansas Abstracters' Board.

9

10 SECTION 5. Arkansas Code § 17-11-340(a), concerning the revocation of
11 certificates authorized by the Arkansas Abstracters' Board, is amended to
12 read as follows:

13 (a) The Arkansas Abstracters' Board is authorized, after a hearing as
14 provided in § 17-11-341, to cancel and revoke any certificate of registration
15 issued to any person under the provisions of this chapter:

16 (1) For a violation of any of the provisions of this chapter;

17 (2) Upon a conviction of the holder of such a certificate of a
18 ~~crime involving moral turpitude~~ under § 17-1-102; or

19 (3) If the board finds the holder to be guilty of habitual
20 carelessness or of fraudulent practices in the conduct of the business of
21 abstracting.

22

23 SECTION 6. Arkansas Code § 17-11-341(a)(1), concerning the procedure
24 of appeal for revocation of certificates authorized by the Arkansas
25 Abstracters' Board, is amended to read as follows:

26 (a)(1) Upon a verified complaint being filed with the Arkansas
27 Abstracters' Board or upon the board's own motion filing a complaint charging
28 the holder of a certificate of registration with a violation of any of the
29 provisions of this chapter, or conviction of a crime involving ~~moral~~
30 ~~turpitude, or with~~ under § 17-2-102 or habitual carelessness or fraudulent
31 practices in the conduct of the business of abstracting, or charging the
32 holder of a certificate of authority with failure to furnish the bond or
33 bonds, or other securities, required by § 17-11-324, or with failing to have
34 employed a registered abstracter as provided in § 17-11-301, or with a
35 violation of any of the provisions of this chapter, the board shall
36 immediately notify in writing by registered mail, with return receipt, the

1 holder of the certificate of the filing of the complaint and furnish the
2 holder with a copy of the complaint.

3

4 SECTION 7. Arkansas Code § 17-12-301 is amended to read as follows:
5 17-12-301. Requirements generally – Definition.

6 (a) A certificate as a certified public accountant shall be granted by
7 the Arkansas State Board of Public Accountancy to any person ~~of good moral~~
8 ~~character:~~

9 (1) Who has met the education and experience requirements set
10 forth in this chapter and by the board; and

11 (2) Who has passed an examination in accounting and auditing and
12 such related subjects as the board shall determine to be appropriate.

13 ~~(b)(1)(A) “Good moral character” as used in this section means lack of~~
14 ~~a history of:~~

15 ~~(i) Dishonest or felonious acts; or~~

16 ~~(ii) Conduct involving fraud or moral turpitude.~~

17 ~~(B) The board may refuse to grant a certificate on the~~
18 ~~ground of failure to satisfy this requirement only if there is a substantial~~
19 ~~connection between the lack of good moral character of the applicant and the~~
20 ~~professional responsibilities of a licensee and if the finding by the board~~
21 ~~of lack of good moral character is supported by clear and convincing~~
22 ~~evidence.~~

23 ~~(2) When an applicant is found to be unqualified for a~~
24 ~~certificate because of a lack of good moral character, the board shall~~
25 ~~furnish the applicant a:~~

26 ~~(A) Statement containing the findings of the board;~~

27 ~~(B) Complete record of the evidence upon which the~~
28 ~~determination was based; and~~

29 ~~(C) Notice of the applicant’s right of appeal.~~

30 ~~(e)(1)(b)(1)~~ Any person who has received from the board a certificate
31 as a certified public accountant which is currently in full force and effect
32 shall be styled and known as a “certified public accountant” and may also use
33 the abbreviation “CPA”.

34 (2) The board shall maintain a list of certified public
35 accountants.

36 (c) Any certified public accountant may also be known as a public

1 accountant.

2

3 SECTION 8. Arkansas Code § 17-12-303(d), concerning the criminal
4 background check for initial licensure of accountants, is amended to read as
5 follows:

6 (d) Upon completion of the criminal background checks, the
7 Identification Bureau of the Department of Arkansas State Police shall
8 forward to the board all releasable information obtained concerning the
9 ~~commission by the applicant of any offense listed in subsection (e) of this~~
10 ~~section.~~

11

12 SECTION 9. Arkansas Code § 17-12-303(e), concerning the criminal
13 background check for initial licensure of accountants, is repealed.

14 ~~(e) Notwithstanding the provisions of § 17-12-301, a person convicted~~
15 ~~of a felony or crime involving moral turpitude or dishonesty in any state or~~
16 ~~federal court may not receive or hold a license as a certified public~~
17 ~~accountant or public accountant.~~

18

19 SECTION 10. Arkansas Code § 17-12-601(a)(5) and (6), concerning the
20 grounds for revocation or suspension of licensure of accountants, are amended
21 to read as follows:

22 (5) Conviction of a felony under ~~the law of any state or of the~~
23 ~~United States~~ § 17-2-102;

24 (6) Conviction of any crime an element of which is dishonesty,
25 ~~or fraud, or moral turpitude~~ under the law of any state or of the United
26 States;

27

28 SECTION 11. Arkansas Code § 17-12-601, concerning the grounds for
29 revocation or suspension of licensure of an accountant, is amended to add an
30 additional subsection to read as follows:

31 (c) In addition to the offenses listed in § 17-2-102, the Arkansas
32 State Board of Public Accountancy may refuse to issue a license to or
33 reinstate a license of a person who has been convicted of a felony involving
34 theft or fraud, regardless of the amount of time that has elapsed since the
35 conviction.

36

1 SECTION 12. Arkansas Code § 17-14-203(12)(C)(i), concerning the powers
2 and duties regarding criminal background checks of the Arkansas Appraiser
3 Licensing and Certification Board, is amended to read as follows:

4 (i) During the five (5) years immediately preceding
5 the date of the application was convicted of, or pled guilty or nolo
6 contendere to, a crime that would call into question the applicant's fitness
7 for registration, licensure, or certification, including without limitation a
8 crime involving:

9 ~~(a) Moral turpitude;~~

10 ~~(b)(1)(a)(1)~~ (1) An act substantially related to
11 the qualifications, functions, or duties of an appraiser.

12 (2) A crime or act may be deemed
13 substantially related to the qualifications, functions, or duties of an
14 appraiser if, to a substantial degree, the crime or act evidences present or
15 potential unfitness of a person applying for or holding a real property
16 appraiser credential to perform the functions authorized by the credential;

17 ~~(e)~~(b) Taking, appropriating, or retaining the
18 funds or property of another;

19 ~~(d)~~(c) Forging, counterfeiting, or altering an
20 instrument affecting the rights or obligations of another;

21 ~~(e)~~(d) Evasion of a lawful debt or obligation,
22 including without limitation a tax obligation;

23 ~~(f)~~(e) Trafficking in narcotics or controlled
24 substances;

25 ~~(g)~~(f) Violation of a relation of trust or
26 confidence;

27 ~~(h)~~(g) Theft of personal property or funds;

28 ~~(i)~~(h) An act of violence or threatened
29 violence against persons or property; or

30 ~~(j)~~(i) A sexually related crime or act under §
31 5-14-101 et seq.;

32
33 SECTION 13. Arkansas Code § 17-14-206(a)(3), concerning complaints and
34 disciplinary procedures of the Arkansas Appraiser Licensing and Certification
35 Board for licensees, is repealed.

36 ~~(3)(A) Conviction in any jurisdiction of any misdemeanor~~

1 ~~involving moral turpitude or of any felony.~~

2 ~~(B) A plea of nolo contendere or no contest shall be~~
3 ~~considered a conviction for the purposes of this section;~~

4

5 SECTION 14. Arkansas Code § 17-14-405(b)(3), concerning requirements
6 for registration under the Appraisal Management Company Registration Act, is
7 amended to read as follows:

8 (3)(A) The name, address, and contact information of any person
9 that owns ten percent (10%) or more of the appraisal management company.

10 (B) Any person owning more than ten percent (10%) of an
11 appraisal management company in this state shall+

12 ~~(i) Be of good moral character, as determined by the~~
13 ~~board; and~~

14 ~~(ii) Submit~~ submit to a state criminal background
15 check and a national fingerprint-based criminal background check performed by
16 the Federal Bureau of Investigation in compliance with federal law and
17 regulations;

18

19 SECTION 15. Arkansas Code § 17-14-410(a)(3), concerning the
20 disciplinary authority, enforcement, and hearings under the Appraisal
21 Management Company Registration Act, is amended to read as follows:

22 (3) The person has pleaded guilty or nolo contendere to or been
23 found guilty of:

24 (A) A felony listed under § 17-2-102; or

25 (B) Within the past ten (10) years:

26 (i) A misdemeanor involving mortgage lending or real
27 estate appraising; or

28 (ii) An offense involving breach of trust, ~~moral~~
29 ~~turpitude~~, or fraudulent or dishonest dealing;

30

31 SECTION 16. Arkansas Code § 17-15-102(3), concerning the definition of
32 "good moral character" related to architects, is repealed.

33 ~~(3)(A) "Good moral character" means character that will enable a~~
34 ~~person to discharge the fiduciary duties of an architect to his or her client~~
35 ~~and to the public for the protection of health, safety, and welfare.~~

36 ~~(B) Evidence of inability to discharge such duties~~

1 ~~includes the commission of an offense justifying discipline under § 17-15-~~
2 ~~308;~~

3
4 SECTION 17. Arkansas Code § 17-15-304(b)(1), concerning examinations
5 to be a registered and licensed architect, is amended to read as follows:

6 (b)(1) To be qualified for admission to an examination to practice
7 architecture in the State of Arkansas, an applicant ~~must~~ shall be at least
8 twenty-one (21) years of age ~~and of good moral character.~~

9
10 SECTION 18. Arkansas Code § 17-15-308(5), concerning grounds for
11 revocation of a license for an architect, is amended to read as follows:

12 (5) The holder of the license or certificate of registration has
13 been guilty of a felony listed under § 17-2-102;

14
15 SECTION 19. Arkansas Code § 17-16-105(a)(8), concerning the
16 registration requirements for an athlete agent under the Uniform Athlete
17 Agents Act, is amended to read as follows:

18 (8) whether the applicant or any person named pursuant to
19 paragraph (7) has been convicted of a crime that, if committed in this State,
20 would be a crime involving ~~moral turpitude~~ or a felony listed under § 17-2-
21 102, and identify the crime;

22
23 SECTION 20. Arkansas Code § 17-17-308(6), concerning the suspension or
24 revocation of a license of an auctioneer, is amended to read as follows:

25 (6) Being convicted of a criminal offense involving ~~moral~~
26 ~~turpitude~~ or a felony listed under § 17-2-102 in a court of competent
27 jurisdiction of this or any other jurisdiction;

28
29 SECTION 21. Arkansas Code § 17-19-203(3), concerning character
30 references for a professional bail bondsman license, is amended to read as
31 follows:

32 (3) ~~Such other~~ Provide other proof as the board may require that
33 he or she is competent, trustworthy, financially responsible, and of good
34 personal and business reputation and has not been convicted of a felony or
35 ~~any offense involving moral turpitude~~ listed under § 17-2-102.

36

1 SECTION 22. Arkansas Code § 17-19-210(b)(1), concerning the suspension
2 and penalties for a professional bail bondsman licensee, is amended to read
3 as follows:

4 (1) Violated any provision of or any obligation imposed by this
5 chapter or any lawful rule, ~~regulation~~, or order of the board or has been
6 convicted of a felony ~~or any offense involving moral turpitude~~ listed under §
7 17-2-102;

8
9 SECTION 23. Arkansas Code § 17-20-302 is amended to read as follows:
10 17-20-302. Qualifications of applicants.

11 Any person shall be qualified to receive a certificate of registration
12 to practice as a registered barber who:

13 (1) Is qualified under this chapter;
14 ~~(2) Is of good moral character and temperate habits;~~
15 ~~(3)~~(2) Has passed a satisfactory examination conducted by the
16 State Board of Barber Examiners to determine his or her fitness to practice
17 barbering;
18 ~~(4)~~(3) Is at least sixteen and one-half (16 ½) years of age; and
19 ~~(5)~~(4) Has received training approved by the appropriate
20 licensing authorities.

21
22 SECTION 24. Arkansas Code § 17-20-308(1)(A), concerning grounds for
23 disciplinary action of barbers, is amended to read as follows:

24 (1)(A) Conviction of a felony listed under § 17-2-102 shown by a
25 certified copy of the record of the court of conviction.

26
27 SECTION 25. Arkansas Code § 17-24-307(3), concerning the grounds for
28 revocation, suspension, or refusal of license issued by the State Board of
29 Collection Agencies, is repealed.

30 ~~(3) Conviction of any crime involving moral turpitude;~~

31
32 SECTION 26. Arkansas Code § 17-25-305(a), concerning the
33 qualifications for a contractors license, is amended to read as follows:

34 (a) The Contractors Licensing Board, in determining the qualifications
35 of any applicant for an original license or any renewal license, shall, among
36 other things, consider the following:

- 1 (1) Experience;
- 2 (2) Ability;
- 3 ~~(3) Character;~~
- 4 ~~(4)~~(3) The manner of performance of previous contracts;
- 5 ~~(5)~~(4) Financial condition;
- 6 ~~(6)~~(5) Equipment;
- 7 ~~(7)~~(6) Any other fact tending to show ability and willingness to
- 8 conserve the public health and safety; and
- 9 ~~(8)~~(7) Default in complying with the provisions of this chapter
- 10 or ~~any other~~ another law of the state.

11

12 SECTION 27. Arkansas Code § 17-25-305, concerning the qualifications

13 for a contractors license, is amended to add an additional subsection to read

14 as follows:

15 (c) In addition to the offenses listed in § 17-2-102, the board may

16 consider the following offenses when determining fitness for licensure or

17 registration of a contractor under this chapter:

18 (1) Conviction of a crime with an element of dishonesty or fraud

19 under the laws of this state, another state, or the United States;

20 (2) Conviction of voyeurism as prohibited in § 5-16-101 and § 5-

21 16-102;

22 (3) Conviction under the Arkansas Hot Check Law, § 5-37-301 et

23 seq.; and

24 (4)(A) A crime or act that is substantially related to the

25 qualifications, functions, or duties of a contractor.

26 (B) A crime or act may be deemed substantially related to

27 the qualifications, functions, or duties of a contractor if, to a substantial

28 degree, the crime or act evidences present or potential unfitness of a person

29 applying for or holding a contractors license or registration to perform the

30 functions authorized by the license or registration.

31

32 SECTION 28. Arkansas Code § 17-25-507, concerning the qualifications

33 for a contractors license through the Residential Contractors Committee, is

34 amended to add an additional subsection to read as follows:

35 (c) In addition to the offenses listed in § 17-2-102, the committee

36 may consider the following offenses when determining fitness for licensure or

1 registration of a contractor under this subchapter:

2 (1) Conviction of a crime with an element of dishonesty or fraud
3 under the laws of this state, another state, or the United States;

4 (2) Conviction of voyeurism as prohibited in § 5-16-101 and § 5-
5 16-102;

6 (3) Conviction under the Arkansas Hot Check Law, § 5-37-301 et
7 seq.; and

8 (4)(A) A crime or act that is substantially related to the
9 qualifications, functions, or duties of a contractor.

10 (B) A crime or act may be deemed substantially related to
11 the qualifications, functions, or duties of a contractor if, to a substantial
12 degree, the crime or act evidences present or potential unfitness of a person
13 applying for or holding a contractors license or registration to perform the
14 functions authorized by the license or registration.

15
16 SECTION 29. Arkansas Code § 17-26-105(10), concerning grounds for
17 disciplinary action for cosmetology and other related occupations, is amended
18 to read as follows:

19 (10) Conviction under the laws of the United States or any state
20 or territory of the United States of a crime that is:

21 (A) ~~Is a~~ A felony or misdemeanor listed under § 17-2-102,
22 as evidenced by a certified copy of a court record or by license application;
23 and

24 (B) ~~Involves~~ A misdemeanor involving dishonesty or is in
25 any way related to the practice or teaching of the cosmetology industry,
26 unless the applicant or licensee can demonstrate to the board's satisfaction
27 that the applicant or licensee has been sufficiently rehabilitated to warrant
28 the public trust;

29
30 SECTION 30. Arkansas Code § 17-26-201(c), concerning the membership of
31 the Cosmetology Technical Advisory Committee, is amended to read as follows:

32 (c) The committee shall be composed of the following representatives
33 from within the cosmetology industry who are ~~of good moral character and who~~
34 ~~are~~ at least twenty-five (25) years of age:

35 (1) One (1) member shall be a licensed cosmetologist actively
36 engaged in practicing the art of cosmetology for at least five (5) years at

1 the time of appointment;

2 (2) One (1) member shall be a licensed nail technician;

3 (3) One (1) member shall be an owner of a licensed school of
4 cosmetology or shall be a director of cosmetology at a state-supported
5 school;

6 (4) One (1) member shall be a licensed aesthetician; and

7 (5) Three (3) members shall represent the cosmetology industry
8 at large or a related field.

9

10 SECTION 31. Arkansas Code § 17-27-301(2), concerning qualifications
11 for a licensed professional counselor, is amended to read as follows:

12 (2) The applicant is highly regarded in ~~personal character and~~
13 professional ethics;

14

15 SECTION 32. Arkansas Code § 17-27-303(2), concerning qualifications
16 for a licensed marriage and family therapist before January 1, 1998, is
17 amended to read as follows:

18 (2) The applicant is highly regarded in ~~personal character and~~
19 professional ethics;

20

21 SECTION 33. Arkansas Code § 17-27-313 is amended to read as follows:
22 17-27-313. Criminal background checks.

23 (a) The Arkansas Board of Examiners in Counseling may require each
24 applicant for license renewal and each first-time applicant for a license
25 issued by the board to apply to the Identification Bureau of the Department
26 of Arkansas State Police for a state and national criminal background check,
27 to be conducted by the Identification Bureau of the Department of Arkansas
28 State Police and the Federal Bureau of Investigation.

29 (b) The check shall conform to the applicable federal standards and
30 shall include the taking of fingerprints.

31 (c) The applicant shall sign a release of information to the board and
32 shall be responsible for the payment of any fee associated with the criminal
33 background check.

34 (d) Upon completion of the criminal background check, the
35 Identification Bureau of the Department of Arkansas State Police shall
36 forward to the board all releasable information obtained concerning the

1 applicant.

2 ~~(e) No person shall be eligible to receive or hold a license issued by~~
3 ~~the board if that person has pleaded guilty or nolo contendere to or been~~
4 ~~found guilty of any of the following offenses by any court in the State of~~
5 ~~Arkansas or of any similar offense by a court in another state or of any~~
6 ~~similar offense by a federal court:~~

7 ~~(1) Capital murder as prohibited in § 5-10-101;~~

8 ~~(2) Murder in the first degree and second degree as prohibited~~
9 ~~in §§ 5-10-102 and 5-10-103;~~

10 ~~(3) Manslaughter as prohibited in § 5-10-104;~~

11 ~~(4) Negligent homicide as prohibited in § 5-10-105;~~

12 ~~(5) Kidnapping as prohibited in § 5-11-102;~~

13 ~~(6) False imprisonment in the first degree as prohibited in § 5-~~
14 ~~11-103;~~

15 ~~(7) Permanent detention or restraint as prohibited in § 5-11-~~
16 ~~106;~~

17 ~~(8) Robbery as prohibited in § 5-12-102;~~

18 ~~(9) Aggravated robbery as prohibited in § 5-12-103;~~

19 ~~(10) Battery in the first degree as prohibited in § 5-13-201;~~

20 ~~(11) Aggravated assault as prohibited in § 5-13-204;~~

21 ~~(12) Introduction of controlled substance into body of another~~
22 ~~person as prohibited in § 5-13-210;~~

23 ~~(13) Aggravated assault upon a law enforcement officer or an~~
24 ~~employee of a correctional facility, § 5-13-211, if a Class Y felony;~~

25 ~~(14) Terroristic threatening in the first degree as prohibited~~
26 ~~in § 5-13-301;~~

27 ~~(15) Rape as prohibited in § 5-14-103;~~

28 ~~(16) Sexual indecency with a child as prohibited in § 5-14-110;~~

29 ~~(17) Sexual extortion, § 5-14-113;~~

30 ~~(18) Sexual assault in the first degree, second degree, third~~
31 ~~degree, and fourth degree as prohibited in §§ 5-14-124—5-14-127;~~

32 ~~(19) Incest as prohibited in § 5-26-202;~~

33 ~~(20) Offenses against the family as prohibited in §§ 5-26-303—~~
34 ~~5-26-306;~~

35 ~~(21) Endangering the welfare of an incompetent person in the~~
36 ~~first degree as prohibited in § 5-27-201;~~

1 ~~(22) Endangering the welfare of a minor in the first degree as~~
2 ~~prohibited in § 5-27-205;~~

3 ~~(23) Permitting abuse of a minor as prohibited in § 5-27-221;~~

4 ~~(24) Engaging children in sexually explicit conduct for use in~~
5 ~~visual or print media, transportation of minors for prohibited sexual~~
6 ~~conduct, pandering or possessing visual or print medium depicting sexually~~
7 ~~explicit conduct involving a child, or use of a child or consent to use of a~~
8 ~~child in a sexual performance by producing, directing, or promoting a sexual~~
9 ~~performance by a child as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and~~
10 ~~5-27-403;~~

11 ~~(25) Computer child pornography as prohibited in § 5-27-603;~~

12 ~~(26) Computer exploitation of a child in the first degree as~~
13 ~~prohibited in § 5-27-605;~~

14 ~~(27) Felony adult abuse as prohibited in § 5-28-103;~~

15 ~~(28) Theft of property as prohibited in § 5-36-103;~~

16 ~~(29) Theft by receiving as prohibited in § 5-36-106;~~

17 ~~(30) Arson as prohibited in § 5-38-301;~~

18 ~~(31) Burglary as prohibited in § 5-39-201;~~

19 ~~(32) Felony violation of the Uniform Controlled Substances Act,~~
20 ~~§ 5-64-101 et seq., as prohibited in the former § 5-64-401 and §§ 5-64-419 —~~
21 ~~5-64-442;~~

22 ~~(33) Promotion of prostitution in the first degree as prohibited~~
23 ~~in § 5-70-104;~~

24 ~~(34) Stalking as prohibited in § 5-71-229; and~~

25 ~~(35) Criminal attempt, criminal complicity, criminal~~
26 ~~solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-~~
27 ~~3-301, and 5-3-401, to commit any of the offenses listed in this subsection.~~

28 ~~(f)(1)(e)~~ The board may issue a six-month nonrenewable letter of
29 provisional eligibility for licensure to a first-time applicant pending the
30 results of the criminal background check.

31 ~~(2) Upon receipt of information from the Identification Bureau~~
32 ~~of the Department of Arkansas State Police that the person holding such a~~
33 ~~letter of provisional licensure has pleaded guilty or nolo contendere to or~~
34 ~~been found guilty of any offense listed in subsection (e) of this section,~~
35 ~~the board shall immediately revoke the provisional license.~~

36 ~~(g)(1) The provisions of subsections (e) and (f) of this section may~~

1 ~~be waived by the board upon the request of:~~

2 ~~(A) An affected applicant for licensure; or~~

3 ~~(B) The person holding a license subject to revocation.~~

4 ~~(2) Circumstances for which a waiver may be granted shall~~
5 ~~include, but not be limited to, the following:~~

6 ~~(A) The age at which the crime was committed;~~

7 ~~(B) The circumstances surrounding the crime;~~

8 ~~(C) The length of time since the crime;~~

9 ~~(D) Subsequent work history;~~

10 ~~(E) Employment references;~~

11 ~~(F) Character references; and~~

12 ~~(G) Other evidence demonstrating that the applicant does~~
13 ~~not pose a threat to the health or safety of children.~~

14 (f) For the purposes of this section, the board shall follow the
15 licensing restrictions based on criminal records under § 17-2-102.

16 (h)(1)(g)(1) Any information received by the board from the
17 Identification Bureau of the Department of Arkansas State Police ~~pursuant to~~
18 under this section shall not be available for examination except by:

19 (A) The affected applicant for licensure, or his or her
20 authorized representative; or

21 (B) The person whose license is subject to revocation, or
22 his or her authorized representative.

23 (2) No record, file, or document shall be removed from the
24 custody of the Department of Arkansas State Police.

25 (i)(h) Any information made available to the affected applicant for
26 licensure or the person whose license is subject to revocation shall be
27 information pertaining to that person only.

28 (j)(i) Rights of privilege and confidentiality established under this
29 section shall not extend to any document created for purposes other than this
30 background check.

31 (k)(j) The board shall adopt the necessary rules ~~and regulations~~ to
32 fully implement the provisions of this section.

33
34 SECTION 34. Arkansas Code § 17-29-311(a)(1), concerning the sanctions
35 and prohibited conduct of embalmers and funeral directors, is amended to read
36 as follows:

1 (1) Conviction of a felony listed under § 17-2-102;

2
3 SECTION 35. Arkansas Code § 17-30-305(a)(2)(A), concerning the
4 administrative violations and penalties for an engineer, is amended to read
5 as follows:

6 (A) A felony listed under § 17-2-102;

7
8 SECTION 36. Arkansas Code § 17-31-303(c), concerning application for
9 registration with the Arkansas State Board of Registration for Foresters, is
10 repealed.

11 ~~(c) A person shall not be eligible for registration as a forester who~~
12 ~~is not of good character and reputation.~~

13
14 SECTION 37. Arkansas Code § 17-31-309(b), concerning revocation of a
15 certificate for a registered forester, is amended to read as follows:

16 (b)(1) The board may revoke the certificate of any registered forester
17 who has been convicted of a felony listed under § 17-2-102 or who is found
18 guilty by the board of any fraud, deceit, gross negligence,
19 misrepresentation, willful violation of contract, misconduct, or gross
20 incompetence.

21 (2) The board shall investigate such charges.

22
23 SECTION 38. Arkansas Code § 17-32-304(a)(1), concerning the
24 qualifications for a geologist-in-training certificate, is repealed.

25 ~~(1) Be of good ethical character;~~

26
27 SECTION 39. Arkansas Code § 17-32-311(a)(3), concerning the denial,
28 suspension, or revocation of a registration certificate of a geologist, is
29 amended to read as follows:

30 (3) Any felony listed under § 17-2-102;

31
32 SECTION 40. Arkansas Code § 17-35-301(c)(2), concerning the
33 registration of interior designers, is amended to read as follows:

34 (2) Has not been convicted of an offense listed under § 17-2-102
35 that bears directly on the fitness of the applicant to be registered;

36

1 SECTION 41. Arkansas Code § 17-35-305(5), concerning grounds of
2 revocation for a license of an interior designer, is amended to read as
3 follows:

4 (5) The holder of the registration has been guilty of a felony
5 listed under § 17-2-102;

6
7 SECTION 42. Arkansas Code § 17-36-303(a), concerning examination for
8 licensure as a landscape architect, is amended to read as follows:

9 (a) An applicant for licensure shall:

10 (1) Be at least twenty-one (21) years of age; and

11 ~~(2) Be of good moral character; and~~

12 ~~(3)~~(2) Pass an examination covering the matters confronting
13 landscape architects that is prepared by:

14 (A) The Arkansas State Board of Architects, Landscape
15 Architects, and Interior Designers; or

16 (B) Another entity as selected by the Arkansas State Board
17 of Architects, Landscape Architects, and Interior Designers.

18
19 SECTION 43. Arkansas Code § 17-36-306(5), concerning the grounds of
20 revocation for a landscape architect, is amended to read as follows:

21 (5) The holder of the license or certificate has been guilty of
22 a felony listed under § 17-2-102;

23
24 SECTION 44. Arkansas Code § 17-42-311(a), concerning violations of the
25 real estate license law, is amended to read as follows:

26 (a) The following acts, conduct, or practices are prohibited, and any
27 licensee found guilty shall be subject to disciplinary action as provided in
28 § 17-42-312:

29 (1) Obtaining a license by means of fraud, misrepresentation, or
30 concealment;

31 (2) Violating any of the provisions of this chapter or any rules
32 ~~or regulations adopted pursuant to~~ under this chapter or any order issued
33 under this chapter;

34 (3) Being convicted of or pleading guilty or nolo contendere to
35 a felony listed under § 17-2-102 or crime involving ~~moral turpitude~~ violence,
36 *fraud*, dishonesty, untruthfulness, or untrustworthiness regardless of whether

1 the imposition of sentence has been deferred or suspended;

2 (4) Making any substantial misrepresentation;

3 (5) Making, printing, publishing, distributing, or causing,
4 authorizing, or knowingly permitting the making, printing, publication, or
5 distribution of false statements, descriptions, or promises of such character
6 as to reasonably induce, persuade, or influence any person to act thereon;

7 (6) Failing within a reasonable time to account for or to remit
8 any moneys coming into his or her possession which belong to others;

9 (7) Committing any act involving ~~moral turpitude~~ violence,
10 *fraud*, dishonesty, untruthfulness, or untrustworthiness;

11 (8) Acting for more than one (1) party in a transaction without
12 the knowledge of all parties for whom he or she acts or accepting a
13 commission or valuable consideration for the performance of any of the acts
14 specified in this chapter from any person except the licensed principal
15 broker under whom he or she is licensed;

16 (9) Acting as a broker or salesperson while not licensed with a
17 principal broker, representing or attempting to represent a broker other than
18 the principal broker with whom he or she is affiliated without the express
19 knowledge and consent of the principal broker, or representing himself or
20 herself as a salesperson or having a contractual relationship similar to that
21 of a salesperson with anyone other than a licensed principal broker;

22 (10) Advertising in a false, misleading, or deceptive manner;

23 (11) Being unworthy or incompetent to act as a real estate
24 broker or salesperson in such a manner as to safeguard the interests of the
25 public;

26 (12) Paying a commission or valuable consideration to any person
27 for acts or services performed in violation of this chapter, including paying
28 a commission or other valuable consideration to an unlicensed person for
29 participation in a real estate auction; and

30 (13) Any other conduct, whether of the same or a different
31 character from that specified in this section, which constitutes improper,
32 fraudulent, or dishonest dealing.

33
34 SECTION 45. Arkansas Code § 17-42-315(f), concerning the criminal
35 background check for real estate licensees, is amended to read as follows:

36 (f) Except as provided in subsection (g) of this section, a person

1 shall not receive or hold a license issued by the commission if the person
2 has been convicted of or pleaded guilty or nolo contendere to a felony listed
3 under § 17-2-102 or a crime involving ~~moral turpitude~~ violence, fraud,
4 dishonesty, untruthfulness, or untrustworthiness.

5
6 SECTION 46. Arkansas Code § 17-42-509(c)(3), concerning the issuance
7 or denial of a license for an instructor of real estate education license, is
8 amended to read as follows:

9 (3) The person or entity has pleaded guilty or nolo contendere
10 to or been found guilty of a felony listed under § 17-2-102 or a misdemeanor
11 involving violence, fraud, misrepresentation, or dishonest or dishonorable
12 dealing in a court of competent jurisdiction; or

13
14 SECTION 47. Arkansas Code § 17-42-515(3), concerning the violations
15 that disqualify for a real estate educator license or licensee, is amended to
16 read as follows:

17 (3) Committing an act, a felony listed under § 17-2-102, or a
18 crime involving ~~moral turpitude~~ violence, fraud, dishonesty, untruthfulness,
19 or untrustworthiness regardless of whether the imposition of the sentence has
20 been deferred or suspended;

21
22 SECTION 48. Arkansas Code § 17-43-303(a), concerning the application
23 for examination for a sanitarian certificate of registration, is amended to
24 read as follows:

25 (a) The Arkansas State Board of Sanitarians shall admit to examination
26 any person who makes application to the Secretary of the Arkansas State Board
27 of Sanitarians on forms prescribed and furnished by the board, and pays an
28 application fee of twenty dollars (\$20.00) to defray the expense of
29 examination, ~~and submits evidence satisfactory to the board that he or she is~~
30 ~~of good moral character.~~

31
32 SECTION 49. Arkansas Code § 17-43-307 is amended to read as follows:
33 17-43-307. Reciprocity.

34 The Arkansas State Board of Sanitarians shall issue a certificate of
35 registration without examination to any person who makes application on forms
36 prescribed and furnished by the board, pays a registration fee of ten dollars

1 (\$10.00), and submits satisfactory proof that he or she:

2 ~~(1) Is of good moral character;~~

3 ~~(2)(1)~~ Has had at least two (2) years' experience in the field
4 of environmental sanitation; and

5 ~~(3)(2)~~ Is registered as a sanitarian in a state in which the
6 qualifications for registration are not lower than the qualifications for
7 registration in this state at the time he or she applies for registration.
8

9 SECTION 50. Arkansas Code § 17-43-309(a), concerning the grounds for
10 suspension, revocation, or refusal to renew a sanitarian certificate of
11 registration, is amended to read as follows:

12 (a) The Arkansas State Board of Sanitarians may suspend, revoke, or
13 refuse to renew a certificate of registration upon proof that the applicant+

14 ~~(1) Is not of good character; or~~

15 ~~(2) Is is~~ guilty of fraud, deceit, gross negligence,
16 incompetency, or misconduct in relation to his or her duties as a sanitarian.
17

18 SECTION 51. Arkansas Code § 17-47-302(a), concerning the eligibility
19 and application for registration as a professional soil classifier or soil
20 classifier-in-training, is amended to read as follows:

21 (a) To be eligible for registration as a professional soil classifier
22 or certification as a soil classifier-in-training, an applicant must+

23 ~~(1) Be of good character and reputation; and~~

24 ~~(2) Submit shall submit~~ a written application to the Arkansas
25 State Board of Registration for Professional Soil Classifiers containing such
26 information as the board may require, together with five (5) references,
27 three (3) of which shall be professional soil classifiers having personal
28 knowledge of his or her soil classifying experience or, in the case of an
29 application for certification as a soil classifier-in-training, three (3)
30 character references.
31

32 SECTION 52. Arkansas Code § 17-47-311 is amended to read as follows:
33 17-47-311. Disciplinary actions - Grounds.

34 The Arkansas State Board of Registration for Professional Soil
35 Classifiers shall have the power to suspend, refuse to renew, or revoke the
36 certificate of registration of, or reprimand, any registrant who is guilty

1 of:

2 (1) Fraud or deceit in obtaining a certificate of registration;

3 (2) Gross negligence, incompetence, or misconduct in the
4 practice of soil classifying;

5 (3) A felony listed under § 17-2-102 ~~or crime involving moral~~
6 ~~turpitude~~; or

7 (4) A violation of the code of ethics adopted and promulgated by
8 the board.

9

10 SECTION 53. Arkansas Code § 17-48-203(a), concerning the
11 qualifications for certification as a surveyor, is amended to read as
12 follows:

13 (a) A person who shows to the satisfaction of the State Board of
14 Licensure for Professional Engineers and Professional Surveyors that he or
15 she is a person ~~of good character and reputation and~~ over twenty-one (21)
16 years of age ~~shall be~~ is eligible for licensure as a professional surveyor if
17 he or she qualifies under one (1) of the following provisions:

18 (1) A person holding a certificate of licensure to engage in the
19 practice of land surveying issued to him or her on the basis of a written
20 examination by proper authority of a state, territory, possession of the
21 United States, the District of Columbia, or any foreign country, based on
22 requirements and qualifications as shown on his or her application that in
23 the opinion of the board are equal to or higher than the requirements of this
24 chapter may be licensed at the discretion of the board;

25 (2)(A) A graduate from an approved engineering curriculum with
26 sufficient surveying courses or a surveying technology curriculum of two (2)
27 years or more approved by the board, followed by at least two (2) years of
28 land surveying that must be surveying experience of a character satisfactory
29 to the board, who has passed a written examination designed to show that he
30 or she is qualified to practice land surveying in this state, may be licensed
31 if he or she is otherwise qualified.

32 (B) Each year of teaching land surveying in an approved
33 engineering or surveying curriculum may be considered as equivalent to one
34 (1) year of land surveying experience; or

35 (3)(A) An applicant who cannot qualify under subdivision (a)(2)
36 of this section and who has six (6) years or more of active experience in

1 land surveying of a character satisfactory to the board and who has passed a
2 written examination designed to show that he or she is qualified to practice
3 land surveying may be granted a certificate of licensure to practice land
4 surveying in this state if he or she is otherwise qualified.

5 (B) Each year of satisfactory work in an approved
6 engineering or engineering technology curriculum majoring in surveying may be
7 considered as one (1) year of experience in land surveying, but not exceeding
8 two (2) years.

9

10 SECTION 54. Arkansas Code § 17-48-203(c), concerning the
11 qualifications for licensure as a surveyor intern, is amended to read as
12 follows:

13 (c) A person ~~who shows to the satisfaction of the board that he or she~~
14 ~~is a person of good character~~ shall be eligible for licensure as a surveyor
15 intern if he or she qualifies under one (1) of the following provisions:

16 (1) A person holding a certificate of licensure as a surveyor
17 intern issued to him or her on the basis of a written examination by proper
18 authority of a state, territory, possession of the United States, the
19 District of Columbia, or any foreign country, based on requirements and
20 qualifications as shown on his or her application, which requirements and
21 qualifications, in the opinion of the board, are equal to or higher than the
22 requirements of this chapter, may be licensed as a surveyor intern at the
23 discretion of the board;

24 (2) A graduate from an approved engineering curriculum with
25 sufficient surveying courses, or a surveying technology curriculum of two (2)
26 years or more, approved by the board, who has passed a written examination
27 designed to show that he or she is proficient in surveying fundamentals, may
28 be licensed if he or she is otherwise qualified; or

29 (3)(A) An applicant who cannot qualify under subdivision (c)(2)
30 of this section and who has four (4) years or more of active experience in
31 land surveying of a character satisfactory to the board and who has passed a
32 written examination designed to show that he or she is proficient in
33 surveying fundamentals may be licensed if he or she is otherwise qualified.

34 (B) Each year of satisfactory work in an approved
35 engineering or engineering technology curriculum majoring in surveying may be
36 considered as one (1) year of experience in land surveying, but not exceeding

1 two (2) years.

2

3 SECTION 55. Arkansas Code § 17-48-205(a)(2)(A), concerning the
4 administrative violations and penalties of a surveyor, is amended to read as
5 follows:

6 (A) A felony listed under § 17-2-102;

7

8 SECTION 56. Arkansas Code § 17-50-301(a)(2), concerning applicant
9 qualifications for registration as a certified water well driller or
10 certified pump installer, is repealed.

11 ~~(2) Is of good moral character;~~

12

13 SECTION 57. Arkansas Code § 17-52-308(b)(3), concerning complaints
14 against and disciplinary procedures for a home inspector, is amended to read
15 as follows:

16 ~~(3)(A) Conviction in any jurisdiction of a misdemeanor involving~~
17 ~~moral turpitude or of any felony listed under § 17-2-102.~~

18 ~~(B) A plea of nolo contendere or no contest is considered~~
19 ~~a conviction for the purposes of this section;~~

20

21 SECTION 58. Arkansas Code § 17-52-315(a), concerning the application
22 for registration as a home inspector, is amended to read as follows:

23 (a) Any person applying for registration or renewal of registration as
24 a home inspector shall ~~be of good moral character and shall~~ submit to the
25 Arkansas Home Inspector Registration Board:

26 (1) An application under oath upon a form to be prescribed by
27 the board;

28 (2) A current certificate of insurance issued by an insurance
29 company licensed or surplus lines approved to do business in this state that
30 states that the applicant has procured general liability insurance in the
31 minimum amount of one hundred thousand dollars (\$100,000) and, if applicable,
32 workers' compensation insurance; and

33 (3) The required registration or registration renewal fee with
34 the application.

35

36 SECTION 59. Arkansas Code § 17-81-304(a)(2), concerning the

1 application for licensure as a chiropractor, is amended to read as follows:

2 (2) The applicant must submit proof satisfactory to the board of
3 graduation from a chartered school or college of chiropractic as herein
4 described and file with his or her application the affidavits of at least two
5 (2) licensed and reputable doctors of chiropractic ~~showing him or her to be~~
6 ~~of good moral character.~~

7

8 SECTION 60. Arkansas Code § 17-81-305(a)(6), concerning the
9 qualifications of applicants for licensure as a chiropractor, is repealed.

10 ~~(6) Be of good moral character;~~

11

12 SECTION 61. Arkansas Code § 17-81-318(e), concerning the criminal
13 background check required for a chiropractor, is amended to read as follows:

14 (e) Except as provided in subsection (f) of this section, a person
15 shall not receive or hold a license issued by the board if the person has
16 been convicted of or pleaded guilty or nolo contendere to any felony listed
17 under § 17-2-102 or a crime involving ~~moral turpitude~~, fraud, dishonesty,
18 untruthfulness, or untrustworthiness, or is a registered sex offender or
19 required to register as a sex offender.

20

21 SECTION 62. Arkansas Code § 17-82-304(b), concerning the licensing
22 procedure for dentists, is amended to read as follows:

23 (b) An applicant:

24 (1) ~~Must~~ Shall:

25 (A) Be at least twenty-one (21) years of age ~~and of good~~
26 ~~moral reputation and character;~~

27 (B) Submit upon request ~~such~~ proof as required by the
28 board ~~may require~~ touching upon age, ~~character~~, and fitness; and

29 (C) Have ~~been~~ graduated from an American Dental
30 Association-accredited college of dentistry with the degree of Doctor of
31 Dental Surgery or Doctor of Dental Medicine; or

32 (2) ~~Must~~ Shall:

33 (A) Be at least twenty-one (21) years of age ~~and of good~~
34 ~~moral reputation and character;~~

35 (B) Have graduated from a college of dentistry in North
36 America with the degree of Doctor of Dental Surgery, Doctor of Dental

1 Medicine, or an equivalent degree approved by the board;

2 (C) Have passed an examination approved by the board and
3 authorized under § 17-82-303;

4 (D) Be a resident of the State of Arkansas and the United
5 States and be in compliance with federal laws of immigration; and

6 (E) Serve a period of at least one (1) year under a
7 provisional license issued by the board to foreign graduates and successfully
8 complete the monitoring requirements as ordered by the board at the time the
9 provisional license is issued.

10

11 SECTION 63. Arkansas Code § 17-82-306(b), concerning the licensing
12 procedures for dental hygienists, is amended to read as follows:

13 (b) An applicant ~~must~~ shall:

14 ~~(1) Be of good moral reputation and character;~~

15 ~~(2)~~(1) Have graduated from a dental hygiene program which is
16 accredited by the American Dental Association Commission on Dental
17 Accreditation and approved by the board for the training of dental
18 hygienists; and

19 ~~(3)~~(2) Submit upon request ~~such~~ proof as required by the board
20 may require touching upon ~~character and~~ fitness.

21

22 SECTION 64. Arkansas Code § 17-82-308(b)(3), concerning the
23 credentials for dentists and dental hygienists licensed in other states, is
24 amended to read as follows:

25 (3) A certificate from the authority which issued the license,
26 setting forth the applicant's ~~moral reputation and character~~, history with
27 the board, professional ability, and such other information or data as the
28 board may deem necessary or expedient.

29

30 SECTION 65. Arkansas Code § 17-82-316(c)(3), concerning the revocation
31 or suspension of a license for a dentist, dental hygienist, or dental
32 assistant, is amended to read as follows:

33 (3) The commission of any criminal operation; habitual
34 drunkenness for a period of three (3) months; insanity; adjudication of
35 insanity or mental incompetency if deemed detrimental to patients; conviction
36 of an ~~infamous crime or~~ a felony listed under § 17-2-102; addiction to

1 narcotics; immoral, dishonorable, or scandalous conduct; professional
2 incompetency; failure to maintain proper standards of sanitation or failure
3 otherwise to maintain adequate safeguards for the health and safety of
4 patients; or employment in the practice of the profession of any drug,
5 nostrum, unknown formula, or dangerous or unknown anesthetic not generally
6 used by the dental profession;

7

8 SECTION 66. Arkansas Code § 17-82-802 is amended to read as follows:

9 17-82-802. License eligibility.

10 A person shall not be eligible to receive or hold a license to practice
11 dentistry or another healthcare profession issued by the Arkansas State Board
12 of Dental Examiners if the person has pleaded guilty or nolo contendere or
13 has been found guilty of ~~either an infamous crime that would impact his or~~
14 ~~her ability to practice dentistry or oral hygiene in the State of Arkansas or~~
15 a felony, regardless of whether the conviction has been sealed, expunged, or
16 pardoned listed under § 17-2-102.

17

18 SECTION 67. Arkansas Code § 17-83-307 is amended to read as follows:

19 17-83-307. Grounds for denial, revocation, or suspension.

20 The Arkansas Dietetics Licensing Board may refuse to issue or renew a
21 license or may revoke or suspend a license issued under this chapter for any
22 of the following, but is not limited to:

23 (1) Violation of a provision of this chapter;

24 (2) Engaging in unprofessional conduct or gross incompetence as
25 defined by the rules of the board or violating the standards of professional
26 responsibility adopted and published by the board; or

27 (3) ~~Conviction in this or any other state of any crime that is a~~
28 ~~felony in this state~~ of a felony listed under § 17-2-102; or

29 ~~(4) Conviction of a felony in a federal court.~~

30

31 SECTION 68. Arkansas Code § 17-84-304(a)(3), concerning the
32 qualifications for licensure and internship for hearing instrument
33 dispensers, is amended to read as follows:

34 (3) Show to the satisfaction of the board that he or she:

35 (A) Is twenty (20) years of age or older; and

36 (B) Has an education equivalent of two (2) or more years

1 of accredited college-level course work from a regionally accredited college
2 or university; ~~and~~

3 ~~(C) Is of good moral character.~~

4
5 SECTION 69. Arkansas Code § 17-84-308(a)(1), concerning the
6 suspension, revocation, nonissuance, or nonrenewal of a hearing instrument
7 dispenser license, is amended to read as follows:

8 (1) Being convicted of a crime ~~involving moral turpitude. A~~
9 ~~record of a conviction, certified by the judge or the clerk of the court~~
10 ~~where the conviction occurred, shall be sufficient evidence to warrant~~
11 ~~suspension, revocation, or refusal to issue or renew~~ listed under § 17-2-102;
12

13 SECTION 70. Arkansas Code § 17-86-203(e)-(h), concerning the powers
14 and duties of the State Board of Health regarding massage therapy licenses,
15 are amended to read as follows:

16 ~~(e)(1) For purposes of this section, an applicant is not eligible to~~
17 ~~receive or hold a license issued by the Department of Health if the applicant~~
18 ~~has pleaded guilty or nolo contendere to or been found guilty of a felony or~~
19 ~~Class A misdemeanor or any offense involving fraud, theft, dishonesty, sexual~~
20 ~~misconduct, sexual solicitation, lewd behavior, child abuse or molestation,~~
21 ~~statutory rape, sexual assault, human trafficking, or other violent crimes~~
22 the board shall follow the licensing restrictions based on criminal records
23 under § 17-2-102.

24 ~~(2) A provision of this section may be waived by the Department~~
25 ~~of Health if:~~

26 ~~(A) The conviction is for a Class A misdemeanor and:~~

27 ~~(i) The completion of the applicant's sentence and~~
28 ~~probation or completion of the applicant's sentence or probation of the~~
29 ~~offense is at least three (3) years from the date of the application; and~~

30 ~~(ii) The applicant has no criminal convictions~~
31 ~~during the three-year period; or~~

32 ~~(B) The conviction is for a felony of any classification~~
33 ~~and:~~

34 ~~(i) The completion of the applicant's sentence and~~
35 ~~probation or the completion of the applicant's sentence or probation of the~~
36 ~~offense is at least five (5) years from the date of the application; and~~

1 ~~(ii) The applicant has no criminal convictions~~
2 ~~during the five year period.~~

3 ~~(f) The Department of Health may permit an applicant to be licensed~~
4 ~~regardless of having been convicted of an offense listed in this section,~~
5 ~~upon making a determination that the applicant does not pose a risk of harm~~
6 ~~to any person served by the Department of Health.~~

7 ~~(g) In making a determination under subsection (f) of this section,~~
8 ~~the Department of Health may consider the following factors:~~

9 ~~(1) The nature and severity of the crime;~~
10 ~~(2) The consequences of the crime;~~
11 ~~(3) The number and frequency of crimes;~~
12 ~~(4) The relationship between the crime and the health, safety,~~
13 ~~and welfare of persons served by the Department of Health, such as:~~

14 ~~(A) The age and vulnerability of victims of the crime;~~
15 ~~(B) The harm suffered by the victim; and~~
16 ~~(C) The similarity between the victim and persons served~~
17 ~~by the Department of Health;~~

18 ~~(5) The time elapsed without a repeat of the same or similar~~
19 ~~event;~~

20 ~~(6) Documentation of successful completion of training or~~
21 ~~rehabilitation pertinent to the incident; and~~

22 ~~(7) Any other information that bears on the applicant's ability~~
23 ~~to care for others or other relevant information.~~

24 ~~(h) If the Department of Health waives the provisions of subsection~~
25 ~~(e) of this section, the Department of Health shall submit the reasons for~~
26 ~~waiving this provision in writing, and the determination and reasons shall be~~
27 ~~made available to the members of the Department of Health for review.~~

28
29 SECTION 71. Arkansas Code § 17-86-303(a)(1), concerning qualifications
30 for licensure as a massage therapist, is amended to read as follows:

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

33
34 SECTION 72. Arkansas Code § 17-86-311(a), concerning the disciplinary
35 actions and penalties for massage therapists, is amended to read as follows:

36 (a) The Massage Therapy Technical Advisory Committee may deny,

1 suspend, place on probation, or revoke a license upon any one (1) of the
2 following grounds:

3 (1) ~~Conviction of, finding of guilt, or entry of a plea of~~
4 ~~guilty or nolo contendere to a felony, Class A misdemeanor, or prostitution A~~
5 felony listed under § 17-2-102;

6 (2) Malpractice or gross incompetency;

7 (3) The use in advertisements of untruthful or improbable
8 statements or flamboyant, exaggerated, or extravagant claims concerning the
9 licensee's professional excellence or abilities;

10 (4) Habitual drunkenness or habitual use of any illegal drugs;

11 (5) Serving alcoholic beverages at the clinic or school in a
12 room where massage therapy is being performed or in a massage therapy school;

13 (6) ~~Moral turpitude or immoral or unprofessional~~ Unprofessional
14 conduct;

15 (7) Failure to comply with the Department of Health's Massage
16 Therapy Code of Ethics or any valid regulation or order of the committee;

17 (8) Invasion of the field of practice of any profession for
18 which a license is required, the diagnosis of ailments, diseases, or injuries
19 of human beings, the performance of osseous adjustments, prescription of
20 medications, or other breaches of the scope of practice of massage therapy;

21 (9) Failure of any licensee to comply with this chapter; or

22 (10) Failure to have licensed personnel to perform massage
23 therapy techniques in his or her clinic or school.

24

25 SECTION 73. Arkansas Code § 17-87-301(a), concerning the
26 qualifications for an applicant for licensure as a registered nurse, is
27 amended to read as follows:

28 (a) Qualifications. Before taking the examination or before the
29 issuance of a license by endorsement, an applicant for a license to practice
30 professional nursing shall submit to the Arkansas State Board of Nursing
31 written evidence, verified by oath, that the applicant:

32 ~~(1) Is of good moral character;~~

33 ~~(2)~~(1) Has completed an approved high school course of study or
34 the equivalent thereof as determined by the appropriate educational agency;
35 and

36 ~~(3)~~(2) Has completed the required approved professional nursing

1 education program.

2

3 SECTION 74. Arkansas Code § 17-87-304(a), concerning the
4 qualifications of an applicant for licensure as a licensed practical nurse,
5 is amended to read as follows:

6 (a) Qualifications. An applicant for a license to practice practical
7 nursing shall submit to the Arkansas State Board of Nursing evidence,
8 verified by oath, that the applicant:

9 ~~(1) Is of good moral character;~~

10 ~~(2)~~(1) Has completed an approved high school course of study or
11 the equivalent thereof as determined by the appropriate educational agency;
12 and

13 ~~(3)~~(2) Has completed a prescribed curriculum in a state-approved
14 program for the preparation of practical nurses and holds a diploma or
15 certificate therefrom. However, the board may waive this requirement if the
16 board determines the applicant to be otherwise qualified.

17

18 SECTION 75. Arkansas Code § 17-87-305(a), concerning the
19 qualifications of an applicant for licensure as a licensed psychiatric
20 technician nurse, is amended to read as follows:

21 (a) Qualifications. An applicant for a license to practice
22 psychiatric technician nursing shall submit to the Arkansas State Board of
23 Nursing evidence, verified by oath, that the applicant:

24 ~~(1) Is of good moral character;~~

25 ~~(2)~~(1) Has completed an approved high school course of study or
26 the equivalent thereof as determined by the appropriate educational agency;
27 and

28 ~~(3)~~(2) Has completed a prescribed curriculum in a state-approved
29 program for the preparation of psychiatric technician nurses and holds a
30 diploma or certificate therefrom. However, the board may waive this
31 requirement if the board determines the applicant to be otherwise qualified.

32

33 SECTION 76. Arkansas Code § 17-87-312(d)-(1), concerning criminal
34 background checks for nurses, are amended to read as follows:

35 (d) Upon completion of the criminal background check, the
36 Identification Bureau of the Department of Arkansas State Police shall

1 forward to the board all releasable information obtained concerning the
2 applicant in the commission of any offense listed in subsection (e) of this
3 section.

4 (e) For purposes of this section, the board shall follow the licensing
5 restrictions based on criminal records under § 17-2-102. Except as provided
6 in subdivision (1)(1) of this section, a person shall not be eligible to
7 receive or hold a license issued by the board if that person has pleaded
8 guilty or nolo contendere to or has been found guilty of any of the following
9 offenses by a court in the State of Arkansas or of any similar offense by a
10 court in another state or of any similar offense by a federal court:

- 11 (1) ~~Capital murder as prohibited in § 5-10-101;~~
- 12 (2) ~~Murder in the first degree as prohibited in § 5-10-102 and~~
13 ~~murder in the second degree as prohibited in § 5-10-103;~~
- 14 (3) ~~Manslaughter as prohibited in § 5-10-104;~~
- 15 (4) ~~Negligent homicide as prohibited in § 5-10-105;~~
- 16 (5) ~~Kidnapping as prohibited in § 5-11-102;~~
- 17 (6) ~~False imprisonment in the first degree as prohibited in § 5-~~
18 ~~11-103;~~
- 19 (7) ~~Permanent detention or restraint as prohibited in § 5-11-~~
20 ~~106;~~
- 21 (8) ~~Robbery as prohibited in § 5-12-102;~~
- 22 (9) ~~Aggravated robbery as prohibited in § 5-12-103;~~
- 23 (10) ~~Battery in the first degree as prohibited in § 5-13-201;~~
- 24 (11) ~~Aggravated assault as prohibited in § 5-13-204;~~
- 25 (12) ~~Introduction of a controlled substance into the body of~~
26 ~~another person as prohibited in § 5-13-210;~~
- 27 (13) ~~Aggravated assault upon a law enforcement officer or an~~
28 ~~employee of a correctional facility, § 5-13-211, if a Class Y felony;~~
- 29 (14) ~~Terroristic threatening in the first degree as prohibited~~
30 ~~in § 5-13-301;~~
- 31 (15) ~~Rape as prohibited in § 5-14-103;~~
- 32 (16) ~~Sexual indecency with a child as prohibited in § 5-14-110;~~
- 33 (17) ~~Sexual extortion, § 5-14-113;~~
- 34 (18) ~~Sexual assault in the first degree, second degree, third~~
35 ~~degree, and fourth degree as prohibited in §§ 5-14-124—5-14-127;~~
- 36 (19) ~~Incest as prohibited in § 5-26-202;~~

1 ~~(20) Felony offenses against the family as prohibited in §§ 5-~~
2 ~~26-303 — 5-26-306;~~

3 ~~(21) Endangering the welfare of an incompetent person in the~~
4 ~~first degree as prohibited in § 5-27-201;~~

5 ~~(22) Endangering the welfare of a minor in the first degree as~~
6 ~~prohibited in § 5-27-205 and endangering the welfare of a minor in the second~~
7 ~~degree as prohibited in § 5-27-206;~~

8 ~~(23) Permitting abuse of a minor as prohibited in § 5-27-221(a);~~

9 ~~(24) Engaging children in sexually explicit conduct for use in~~
10 ~~visual or print media, transportation of minors for prohibited sexual~~
11 ~~conduct, pandering or possessing visual or print medium depicting sexually~~
12 ~~explicit conduct involving a child, or use of a child or consent to use of a~~
13 ~~child in a sexual performance by producing, directing, or promoting a sexual~~
14 ~~performance by a child as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and~~
15 ~~5-27-403;~~

16 ~~(25) Computer child pornography as prohibited in § 5-27-603;~~

17 ~~(26) Computer exploitation of a child in the first degree as~~
18 ~~prohibited in § 5-27-605;~~

19 ~~(27) Felony adult abuse as prohibited in § 5-28-103;~~

20 ~~(28) Felony theft of property as prohibited in § 5-36-103;~~

21 ~~(29) Felony theft by receiving as prohibited in § 5-36-106;~~

22 ~~(30) Arson as prohibited in § 5-38-301;~~

23 ~~(31) Burglary as prohibited in § 5-39-201;~~

24 ~~(32) Felony violation of the Uniform Controlled Substances Act,~~
25 ~~§ 5-64-101 et seq., as prohibited in the former § 5-64-401 and §§ 5-64-419 —~~
26 ~~5-64-442;~~

27 ~~(33) Promotion of prostitution in the first degree as prohibited~~
28 ~~in § 5-70-104;~~

29 ~~(34) Stalking as prohibited in § 5-71-229; and~~

30 ~~(35) Criminal attempt, criminal complicity, criminal~~
31 ~~solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-~~
32 ~~3-301, and 5-3-401, to commit any of the offenses listed in this subsection.~~

33 (f)(1)(A) The board may issue a nonrenewable temporary permit for
34 licensure to a first-time applicant pending the results of the criminal
35 background check.

36 ~~(B)(2)~~ The permit shall be valid for no more than six (6)

1 months.

2 ~~(2) Except as provided in subdivision (1)(1) of this section,~~
3 ~~upon receipt of information from the Identification Bureau of the Department~~
4 ~~of Arkansas State Police that the person holding the letter of provisional~~
5 ~~licensure has pleaded guilty or nolo contendere to, or has been found guilty~~
6 ~~of, any offense listed in subsection (e) of this section, the board shall~~
7 ~~immediately revoke the provisional license.~~

8 ~~(g)(1) The provisions of subsection (e) and subdivision (f)(2) of this~~
9 ~~section may be waived by the board upon the request of:~~

10 ~~(A) An affected applicant for licensure; or~~

11 ~~(B) The person holding a license subject to revocation.~~

12 ~~(2) Circumstances for which a waiver may be granted shall~~
13 ~~include, but not be limited to, the following:~~

14 ~~(A) The age at which the crime was committed;~~

15 ~~(B) The circumstances surrounding the crime;~~

16 ~~(C) The length of time since the crime;~~

17 ~~(D) Subsequent work history;~~

18 ~~(E) Employment references;~~

19 ~~(F) Character references; and~~

20 ~~(G) Other evidence demonstrating that the applicant does~~
21 ~~not pose a threat to the health or safety of the public.~~

22 ~~(h)(1)(g)(1) Any information received by the board from the~~
23 ~~Identification Bureau of the Department of Arkansas State Police pursuant to~~
24 ~~under this section shall not be available for examination except by:~~

25 ~~(A) The affected applicant for licensure or his or her~~
26 ~~authorized representative; or~~

27 ~~(B) The person whose license is subject to revocation or~~
28 ~~his or her authorized representative.~~

29 ~~(2) No record, file, or document shall be removed from the~~
30 ~~custody of the Department of Arkansas State Police.~~

31 ~~(i)(h) Any information made available to the affected applicant for~~
32 ~~licensure or the person whose license is subject to revocation shall be~~
33 ~~information pertaining to that person only.~~

34 ~~(j)(i) Rights of privilege and confidentiality established in this~~
35 ~~section shall not extend to any document created for purposes other than this~~
36 ~~background check.~~

1 ~~(k)(j)~~ The board shall adopt the necessary rules and regulations to
2 fully implement the provisions of this section.

3 ~~(1)(1)~~ For purposes of this section, an expunged record of a
4 conviction or a plea of guilty or nolo contendere to an offense listed in
5 subsection (e) of this section shall not be considered a conviction, guilty
6 plea, or nolo contendere plea to the offense unless the offense is also
7 listed in subdivision (1)(2) of this section.

8 ~~(2)~~ Because of the serious nature of the offenses and the close
9 relationship to the type of work that is to be performed, the following shall
10 result in permanent disqualification:

11 ~~(A)~~ Capital murder as prohibited in § 5-10-101;

12 ~~(B)~~ Murder in the first degree as prohibited in § 5-10-102
13 and murder in the second degree as prohibited in § 5-10-103;

14 ~~(C)~~ Kidnapping as prohibited in § 5-11-102;

15 ~~(D)~~ Aggravated assault upon a law enforcement officer or
16 an employee of a correctional facility, § 5-13-211, if a Class Y felony;

17 ~~(E)~~ Rape as prohibited in § 5-14-103;

18 ~~(F)~~ Sexual extortion, § 5-14-113;

19 ~~(G)~~ Sexual assault in the first degree as prohibited in §
20 5-14-124 and sexual assault in the second degree as prohibited in § 5-14-125;

21 ~~(H)~~ Incest as prohibited in § 5-26-202;

22 ~~(I)~~ Endangering the welfare of an incompetent person in
23 the first degree as prohibited in § 5-27-201;

24 ~~(J)~~ Endangering the welfare of a minor in the first degree
25 as prohibited in § 5-27-205;

26 ~~(K)~~ Adult abuse that constitutes a felony as prohibited in
27 § 5-28-103; and

28 ~~(L)~~ Arson as prohibited in § 5-38-301.
29

30 SECTION 77. Arkansas Code § 17-87-707(a)(1), concerning disciplinary
31 actions for nurses, is amended to read as follows:

32 (1) Has been found guilty of or pleads guilty or nolo contendere
33 to:

34 (A) Fraud or deceit in procuring or attempting to procure
35 a medication assistive person certificate; or

36 (B) Providing services as a medication assistive person

1 without a valid certificate; or

2 ~~(C) Committing a crime of moral turpitude;~~

3

4 SECTION 78. Arkansas Code § 17-88-302(2), concerning the
5 qualifications of an applicant for licensure as an occupational therapist, is
6 repealed.

7 ~~(2) The applicant must be of good moral character;~~

8

9 SECTION 79. Arkansas Code § 17-88-309(b)(4), concerning the denial,
10 revocation, or suspension of an occupational therapist license, is amended to
11 read as follows:

12 (4) Being convicted of a ~~crime, other than minor offenses~~
13 ~~defined as “minor misdemeanors”, “violations”, or “offenses”, in any court if~~
14 ~~the acts for which the applicant or licensee was convicted are found by the~~
15 ~~board to have a direct bearing on whether he or she should be entrusted to~~
16 ~~serve the public in the capacity of an occupational therapist or occupational~~
17 ~~therapy assistant felony listed under § 17-2-102; and~~

18

19 SECTION 80. Arkansas Code § 17-89-302(a), concerning the
20 qualifications of an applicant for licensure as a licensed dispensing
21 optician, is amended to read as follows:

22 (a) Every applicant for examination as a licensed dispensing optician
23 shall present satisfactory evidence to the Arkansas Board of Dispensing
24 Opticians that he or she is over twenty-one (21) years of age, ~~of good moral~~
25 ~~character~~, a high school graduate or the equivalent thereof, and either:

26 (1) Is a graduate of a school of opticianry whose curriculum
27 consists of at least eighteen (18) months of didactic and practical
28 instruction which is accredited by a national accreditation organization and
29 approved by the board; or

30 (2)(A) Has been engaged in the providing of ophthalmic
31 dispensing services, as defined in this chapter, in the State of Arkansas for
32 a period of not less than five (5) years immediately before application.

33 (B) No more than three (3) years may consist of:

34 (i) Working in a qualified service optical
35 laboratory approved by the board; or

36 (ii) Providing ophthalmic dispensing services under

1 the direct supervision of an Arkansas-licensed or registered dispensing
2 optician, Arkansas-licensed optometrist, or Arkansas physician skilled in
3 diseases of the eye.

4
5 SECTION 81. Arkansas Code § 17-89-303 is amended to read as follows:
6 17-89-303. Qualifications – Registered dispensing opticians.

7 Every applicant for examination as a registered dispensing optician
8 shall present satisfactory evidence to the Arkansas Board of Dispensing
9 Opticians that he or she is over twenty-one (21) years of age, ~~of good moral~~
10 ~~character~~, a high school graduate or the equivalent thereof, and either:

11 (1) Has a minimum of three (3) years' dispensing experience in
12 Arkansas under the direct supervision of an Arkansas-licensed optometrist or
13 Arkansas-licensed physician skilled in disease of the eye;

14 (2) Has a minimum of three (3) years' experience under the
15 direct supervision of a licensed or registered dispensing optician holding a
16 certificate of licensure or registry in the State of Arkansas, one (1) year
17 of which may be while working in a qualified full-service optical laboratory
18 approved by the board; or

19 (3) Is a graduate of an approved school of opticianry which has
20 been accredited by a national accreditation organization and is recognized by
21 the board.

22
23 SECTION 82. Arkansas Code § 17-89-305(b), concerning reciprocity for
24 dispensing opticians, is amended to read as follows:

25 (b) The certificate may be issued without a written or practical
26 examination upon payment of the fee prescribed in § 17-89-304(f) to the
27 Secretary-treasurer of the Arkansas Board of Dispensing Opticians and upon
28 satisfactory proof that the applicant:

29 (1) Is qualified under the provisions of this chapter;

30 ~~(2) Is of good moral character;~~

31 ~~(3)~~(2) Has provided ophthalmic dispensing services to the public
32 as a dispensing optician in the state of licensure or registration for a
33 period of at least five (5) years for licensure or three (3) years for
34 registration immediately before his or her application for reciprocity to
35 this state; and

36 ~~(4)~~(3) Is licensed or registered in a state which grants like

1 reciprocal privileges to opticians who hold certificates of licensure or
2 registry issued by this state.

3
4 SECTION 83. Arkansas Code § 17-89-306(b), concerning an ophthalmic
5 dispensers from nonlicensing states seeking licensure as a dispensing
6 opticians in Arkansas, is amended to read as follows:

7 (b) The applicant ~~must~~ shall:

8 (1) Be qualified under the provisions of this chapter;

9 ~~(2) Be of good moral character;~~

10 ~~(3)(2)~~ Have been engaged in ophthalmic dispensing as described
11 in § 17-89-102(4) for a period of:

12 (A) Five (5) years for applicants for licensure, of which
13 no more than three (3) years may be while working in a qualified full-service
14 optical laboratory approved by the board; or

15 (B) Three (3) years for applicants for registry, of which
16 no more than one (1) year may be while working in a qualified full-service
17 laboratory approved by the board immediately before the date of application;

18 ~~(4)(3)~~ Successfully complete the written and practical
19 examination for licensure or registry prepared and conducted by the board;
20 and

21 ~~(5)(4)~~ Have paid the fee prescribed in § 17-89-304(f) to the
22 Secretary-treasurer of the Arkansas Board of Dispensing Opticians.

23
24 SECTION 84. Arkansas Code § 17-89-309(a)(3), concerning grounds of
25 denial, suspension, or revocation of a licensure or registration of an
26 ophthalmic dispensers, is amended to read as follows:

27 (3) The applicant, licensee, or registrant being convicted of a
28 felony listed under § 17-2-102 ~~in any state or federal court, and not~~
29 ~~pardoned, if the acts for which the person is convicted are found by the~~
30 ~~board to have a direct bearing on whether he or she should be entrusted to~~
31 ~~serve the public in the capacity of a dispensing optician;~~

32
33 SECTION 85. Arkansas Code § 17-90-301(b), concerning examinations for
34 licensure as an optometrist, is amended to read as follows:

35 (b) Every applicant for examination shall present satisfactory
36 evidence that he or she is:

- 1 (1) ~~Over~~ At least twenty-one (21) years of age;
- 2 (2) A successful candidate having passed all parts of the
- 3 National Board of Examiners in Optometry examination since January 1, 1997;
- 4 and
- 5 ~~(3) Of good moral character; and~~
- 6 ~~(4)~~(3) A graduate of a college of optometry that has been
- 7 accredited by the Accreditation Council on Optometric Education of the
- 8 American Optometric Association.

9

10 SECTION 86. Arkansas Code § 17-90-302(c)(3), concerning licensure by

11 endorsement for optometrists, is amended to read as follows:

- 12 (3) A certificate of good standing from each authority which
- 13 issued the license, setting forth the applicant's ~~moral reputation and~~
- 14 ~~character~~, history with the authority, professional ability, continuing
- 15 education compliance, and other information or data as the State Board of
- 16 Optometry may deem necessary or expedient;

17

18 SECTION 87. Arkansas Code § 17-90-305(a)(3), concerning the grounds

19 for denial, revocation, or suspension of an optometrist license, is amended

20 to read as follows:

- 21 (3) Conviction of a felony listed under § 17-2-102 or the
- 22 conviction of a misdemeanor, if the misdemeanor conduct would denote an
- 23 impairment in the ability to practice optometry;

24

25 SECTION 88. Arkansas Code § 17-91-101(a), concerning the licensing

26 requirements for an osteopathic physician, is amended to read as follows:

27 (a) The Arkansas State Medical Board shall accept for licensure by

28 examination any person who:

- 29 (1) Is at least twenty-one (21) years of age;
- 30 (2) Is a citizen of the United States;
- 31 ~~(3) Is of good moral character;~~
- 32 ~~(4)~~(3) Has not been guilty of acts constituting unprofessional
- 33 conduct as defined in the Arkansas Medical Practices Act, § 17-95-201 et
- 34 seq., § 17-95-301 et seq., and § 17-95-401 et seq.;

35 ~~(5)~~(4) Is a graduate of an osteopathic college of medicine whose

36 course of study has been recognized by the Department of Education of the

1 American Osteopathic Association; and
 2 ~~(6)~~(5) Has completed a one-year internship in a hospital
 3 approved by the American Medical Association or the American Osteopathic
 4 Association.

5
 6 SECTION 89. Arkansas Code § 17-92-305(a), concerning qualification of
 7 applicants for licensure as a pharmacist, is amended to read as follows:

8 (a) Each applicant for examination as a pharmacist shall:
 9 (1) ~~Shall be~~ Be not less than twenty-one (21) years of age; and
 10 ~~(2) Shall be of good moral character and temperate habits; and~~
 11 ~~(3)~~(2) ~~Shall have~~ Have:

12 (A) Graduated and received the first professional
 13 undergraduate degree from a pharmacy degree program which has been approved
 14 by the Arkansas State Board of Pharmacy; or

15 (B) Graduated from a foreign college of pharmacy,
 16 completed a transcript verification program, taken and passed a college of
 17 pharmacy equivalency exam program, and completed a process of communication
 18 ability testing as defined under board regulations so that it is assured that
 19 the applicant meets standards necessary to protect public health and safety.

20
 21 SECTION 90. Arkansas Code § 17-92-311(a)(3), concerning grounds for
 22 revocation, suspension, or nonrenewal of licensure or registration, is amended
 23 to read as follows:

24 (3) The person has been found guilty or pleaded guilty or nolo
 25 contendere in a criminal proceeding, regardless of whether or not the
 26 adjudication of guilt or sentence is withheld by a court of this state,
 27 another state, or the United States Government for:

28 (A) Any felony listed under § 17-2-102;

29 (B) Any act involving ~~moral turpitude~~, gross immorality,
 30 or which is related to the qualifications, functions, and duties of a
 31 licensee; or

32 (C) Any violation of the pharmacy or drug laws or rules of
 33 this state, or of the pharmacy or drug statutes, rules, and regulations of
 34 any other state or of the United States Government;

35
 36 SECTION 91. Arkansas Code § 17-92-317(e), concerning criminal

1 background check requirements for an intern or pharmacist license or a
2 pharmacy technician registration, is amended to read as follows:

3 (e) Notwithstanding the provisions of § 17-1-103, ~~no person shall be a~~
4 person is not eligible to receive or hold an intern or pharmacist license or
5 pharmacy technician registration issued by the board if that person has
6 pleaded guilty or nolo contendere to, or has been found guilty of, any of the
7 following offenses, regardless of whether an adjudication of guilt or
8 sentencing or imposition of sentence is withheld, by any court in the State
9 of Arkansas or of any similar offense by a court in another state or of any
10 similar offense by a federal court:

11 (1) Any felony listed under § 17-2-102;

12 (2) Any act involving ~~moral turpitude~~, gross immorality,
13 dishonesty, or which is related to the qualifications, functions, and duties
14 of a person holding the license or registration; or

15 (3) Any violation of Arkansas pharmacy or drug law or
16 regulations, including, but not limited to, this chapter, the Uniform
17 Controlled Substances Act, § 5-64-101 et seq., and the Food, Drug, and
18 Cosmetic Act, § 20-56-201 et seq.

19

20 SECTION 92. Arkansas Code § 17-93-303(b), concerning qualification of
21 applicants for licensure as a physical therapist, is amended to read as
22 follows:

23 (b) Each physical therapist applicant shall:

24 (1) Be at least twenty-one (21) years of age;

25 ~~(2) Be of good moral character;~~

26 ~~(3)~~(2) Have graduated from a school of physical therapy
27 accredited by a national accreditation agency approved by the board;

28 ~~(4)~~(3) Have passed examinations selected and approved by the
29 board; and

30 ~~(5)~~(4) Submit fees as determined by the board.

31

32 SECTION 93. Arkansas Code § 17-93-304(b), concerning qualification of
33 applicants for licensure as a physical therapist assistant, is amended to
34 read as follows:

35 (b) Each physical therapist assistant applicant shall:

36 (1) Be at least eighteen (18) years of age;

- 1 ~~(2) Be of good moral character;~~
- 2 ~~(3)(2)~~ Have graduated from a school of physical therapy
- 3 accredited by a national accreditation agency approved by the Arkansas State
- 4 Board of Physical Therapy;
- 5 ~~(4)(3)~~ Have passed examinations selected and approved by the
- 6 Arkansas State Board of Physical Therapy; and
- 7 ~~(5)(4)~~ Submit fees as determined by the Arkansas State Board of
- 8 Physical Therapy.

9

10 SECTION 94. Arkansas Code § 17-93-308(a)(4), concerning the

11 revocation, suspension, or denial of licensure for physical therapists, is

12 repealed.

13 ~~(4) Has been convicted of a crime involving moral turpitude;~~

14

15 SECTION 95. Arkansas Code § 17-93-412(a)(1), concerning the

16 revocation, suspension, or denial of a license for an athletic trainer, is

17 amended to read as follows:

18 (1) Been convicted of a felony ~~or misdemeanor involving moral~~

19 ~~turpitude, the record of conviction being conclusive evidence of conviction~~

20 ~~if the board determines after investigation that the person has not been~~

21 ~~sufficiently rehabilitated to warrant the public trust listed under § 17-2-~~

22 102;

23

24 SECTION 96. Arkansas Code § 17-95-104(a)(2), concerning a hospital's

25 duty to report physician misconduct, is amended to read as follows:

26 (2) The hospital shall also report any other formal disciplinary

27 action concerning any such physician taken by the hospital upon

28 recommendation of the medical staff relating to professional ethics, medical

29 incompetence, ~~moral turpitude,~~ or drug or alcohol abuse.

30

31 SECTION 97. Arkansas Code § 17-95-307 is amended to read as follows:

32 17-95-307. License eligibility.

33 ~~No~~ A person shall be is not eligible to receive or hold a license to

34 practice medicine or another healthcare profession issued by the Arkansas

35 State Medical Board if the person has pleaded guilty or nolo contendere to or

36 has been found guilty of ~~either an infamous crime that would impact his or~~

1 ~~her ability to practice medicine in the State of Arkansas or a felony listed~~
2 ~~under § 17-2-102, regardless of whether the conviction has been sealed,~~
3 ~~expunged, or pardoned.~~

4

5 SECTION 98. Arkansas Code § 17-95-403(b)(2), concerning qualification
6 of applicants for licensure as a physician, is amended to read as follows:

7 (2) ~~Is of good moral character and has~~ Has not been guilty of
8 acts constituting unprofessional conduct as defined in § 17-95-409;

9

10 SECTION 99. Arkansas Code § 17-95-408(d)(2), concerning annual
11 registration for licensure as a physician, is amended to read as follows:

12 (2) If application for reinstatement is made, the board shall
13 consider the ~~moral character and~~ professional qualifications of the applicant
14 upon notice and hearing before ordering reinstatement. Unless such a showing
15 shall thereupon be made to the board as would entitle the applicant to the
16 issuance of an original license, reinstatement shall be denied.

17

18 SECTION 100. Arkansas Code § 17-95-409(a)(2)(A), concerning the
19 grounds for denial, suspension, or revocation of a physician license, is
20 amended to read as follows:

21 (A)(i) Conviction of ~~any crime involving moral turpitude~~
22 ~~or conviction of a felony listed under § 17-2-102.~~

23 (ii) The judgment of any such conviction, unless
24 pending upon appeal, shall be conclusive evidence of unprofessional conduct;

25

26 SECTION 101. Arkansas Code § 17-95-903(b)(7), concerning
27 qualifications of an applicant for licensure as a graduate registered
28 physician, is repealed.

29 ~~(7) Is of good moral character; and~~

30

31 SECTION 102. Arkansas Code § 17-95-910 is amended to read as follows:
32 17-95-910. Violation.

33 Following the exercise of due process, the Arkansas State Medical Board
34 may discipline a graduate registered physician who:

35 (1) Fraudulently or deceptively obtains or attempts to obtain a
36 license;

- 1 (2) Fraudulently or deceptively uses a license;
- 2 (3) Violates any provision of this subchapter or any rules
- 3 adopted by the board pertaining to this chapter;
- 4 (4) Is convicted of a felony listed under § 17-2-102;
- 5 (5) Is a habitual user of intoxicants or drugs to the extent
- 6 that he or she is unable to safely perform as a graduate registered
- 7 physician; or
- 8 (6) Has been adjudicated as mentally incompetent or has a mental
- 9 condition that renders him or her unable to safely perform as a graduate
- 10 registered physician; ~~or~~
- 11 ~~(7) Has committed an act of moral turpitude.~~

12
 13 SECTION 103. Arkansas Code § 17-96-303(a), concerning qualifications
 14 of an applicant for licensure as a podiatrist, is amended to read as follows:

15 (a) ~~No person shall be entitled to~~ A person shall not take any
 16 examination for such registration unless that person shall furnish the
 17 Arkansas Board of Podiatric Medicine with satisfactory proof that he or she:

- 18 (1) Is twenty-one (21) years of age or over; and
- 19 ~~(2) Is of good moral character; and~~
- 20 ~~(3)~~(2) Has received a license or certificate of graduation from
- 21 a legally incorporated, regularly established school of podiatric medicine
- 22 recognized by the Council on Podiatric Medical Education of the American
- 23 Podiatric Medical Association within the states, territories, districts, and
- 24 provinces of the United States or within any foreign country.

25
 26 SECTION 104. Arkansas Code § 17-96-308(c)(2)(C), concerning the
 27 definition of "unprofessional and dishonest conduct" regarding podiatric
 28 medicine licensure, is repealed.

29 ~~(C) Being guilty of an offense involving moral turpitude;~~

30
 31 SECTION 105. Arkansas Code § 17-97-201(a)(5)(B), concerning the
 32 membership of the Arkansas Psychology Board, is amended to read as follows:

33 (B) The Governor shall remove any member from the board if
 34 he or she:

- 35 (i) Ceases to be qualified;
- 36 (ii) Fails to attend three (3) successive board

- 1 meetings without just cause as determined by the board;
- 2 (iii) Is found to be in violation of this chapter;
- 3 (iv) Pleads guilty or nolo contendere to or is found
- 4 guilty of a felony ~~or an unlawful act involving moral turpitude~~ listed under
- 5 § 17-2-102 by a court of competent jurisdiction; or
- 6 (v) Pleads guilty or nolo contendere to or is found
- 7 guilty of malfeasance, misfeasance, or nonfeasance in relation to his or her
- 8 board duties by a court of competent jurisdiction.

9

10 SECTION 106. Arkansas Code § 17-97-302(b)(1), concerning

11 qualifications of an applicant for licensure as a psychologist, is amended to

12 read as follows:

13 (b)(1) A candidate for a license shall furnish the board with

14 satisfactory evidence that he or she:

- 15 ~~(A) Is of good moral character;~~
- 16 ~~(B)~~(A) Has received a doctoral degree in psychology from
- 17 an accredited institution recognized by the board as maintaining satisfactory
- 18 standards at the time the degree was granted or, in lieu of a degree, a
- 19 doctoral degree in a closely allied field if it is the opinion of the board
- 20 that the training required therefor is substantially similar;
- 21 ~~(C)~~(B) Has had at least two (2) years of experience in
- 22 psychology of a type considered by the board to be qualifying in nature with
- 23 at least one (1) of those years being postdoctoral work;
- 24 ~~(D)~~(C) Is competent in psychology, as shown by passing
- 25 examinations, written or oral, or both, as the board deems necessary;
- 26 ~~(E)~~(D) Is not considered by the board to be engaged in
- 27 unethical practice;
- 28 ~~(F)~~(E) Has applied for a criminal background check and has
- 29 not been found guilty of or pleaded guilty or nolo contendere to any of the
- 30 offenses listed in § 17-97-312(f); and
- 31 ~~(G)~~(F) Has not failed an examination given by the board
- 32 within the preceding six (6) months.

33

34 SECTION 107. Arkansas Code § 17-97-303(b)(1), concerning

35 qualifications of an applicant for licensure as a psychological examiner, is

36 amended to read as follows:

1 (b)(1) A candidate for a license shall furnish the board with
2 satisfactory evidence that he or she:

3 ~~(A) Is of good moral character;~~

4 ~~(B)(A)~~ Has a master's degree in psychology or a closely
5 related field from an accredited educational institution recognized by the
6 board as maintaining satisfactory standards;

7 ~~(C)(B)~~ Is competent as a psychological examiner as shown
8 by passing examinations, written or oral, or both, as the board deems
9 necessary;

10 ~~(D)(C)~~ Is not considered by the board to be engaged in
11 unethical practice;

12 ~~(E)(D)~~ Has applied for a criminal background check and has
13 not been found guilty of or pleaded guilty or nolo contendere to any of the
14 offenses listed in § 17-97-312(f); and

15 ~~(F)(E)~~ Has not failed an examination given by the board
16 within the preceding six (6) months.

17
18 SECTION 108. Arkansas Code § 17-97-305(d)(1)(C), concerning the
19 qualifications for examination for a provisional license as a psychologist,
20 is repealed.

21 ~~(C) Has good moral character;~~

22
23 SECTION 109. Arkansas Code § 17-97-305(d)(1)(F), concerning the
24 qualifications for a provisional license for psychologists and psychological
25 examiners, is amended to read as follows:

26 (F) Has not been convicted of ~~a crime involving moral turpitude~~
27 ~~or~~ a felony listed under § 17-2-102;

28
29 SECTION 110. Arkansas Code § 17-97-308(f)(2), concerning annual
30 registration for licensure as a psychologist, is amended to read as follows:

31 (2) If application for reinstatement is made, the board shall
32 consider the ~~moral character and~~ professional qualifications of the applicant
33 as in the case of an original application.

34
35 SECTION 111. Arkansas Code § 17-97-312(d)-(m), concerning criminal
36 background checks for psychologists and psychological examiners, are amended

1 to read as follows:

2 (d) Upon completion of the criminal background check, the
3 Identification Bureau of the Department of Arkansas State Police shall
4 forward to the board all releasable information obtained concerning the
5 applicant ~~in the commission of any offense listed in subsection (f) of this~~
6 ~~section.~~

7 (e) At the conclusion of any background check required by this
8 section, the Identification Bureau of the Department of Arkansas State Police
9 shall promptly destroy the fingerprint card of the applicant.

10 (f) For purposes of this section, the board shall follow the licensing
11 restrictions based on criminal records under § 17-2-102. ~~Except as provided~~
12 ~~in subdivision (m)(1) of this section, no person shall be eligible to receive~~
13 ~~or hold a license issued by the board if that person has pleaded guilty or~~
14 ~~nolo contendere to or been found guilty of any of the following offenses by~~
15 ~~any court in the State of Arkansas or of any similar offense by a court in~~
16 ~~another state or of any similar offense by a federal court:~~

17 (1) ~~Capital murder as prohibited in § 5-10-101;~~

18 (2) ~~Murder in the first degree as prohibited in § 5-10-102 and~~
19 ~~murder in the second degree as prohibited in § 5-10-103;~~

20 (3) ~~Manslaughter as prohibited in § 5-10-104;~~

21 (4) ~~Negligent homicide as prohibited in § 5-10-105;~~

22 (5) ~~Kidnapping as prohibited in § 5-11-102;~~

23 (6) ~~False imprisonment in the first degree as prohibited in § 5-~~
24 ~~11-103;~~

25 (7) ~~Permanent detention or restraint as prohibited in § 5-11-~~
26 ~~106;~~

27 (8) ~~Robbery as prohibited in § 5-12-102;~~

28 (9) ~~Aggravated robbery as prohibited in § 5-12-103;~~

29 (10) ~~Battery in the first degree as prohibited in § 5-13-201;~~

30 (11) ~~Aggravated assault as prohibited in § 5-13-204;~~

31 (12) ~~Introduction of a controlled substance into the body of~~
32 ~~another person as prohibited in § 5-13-210;~~

33 (13) ~~Aggravated assault upon a law enforcement officer or an~~
34 ~~employee of a correctional facility, § 5-13-211, if a Class Y felony;~~

35 (14) ~~Terroristic threatening in the first degree as prohibited~~
36 ~~in § 5-13-301;~~

- 1 ~~(15) Rape as prohibited in § 5-14-103;~~
2 ~~(16) Sexual indecency with a child as prohibited in § 5-14-110;~~
3 ~~(17) Sexual extortion, § 5-14-113;~~
4 ~~(18) Sexual assault in the first degree, second degree, third~~
5 ~~degree, and fourth degree as prohibited in §§ 5-14-124 — 5-14-127;~~
6 ~~(19) Incest as prohibited in § 5-26-202;~~
7 ~~(20) Offenses against the family as prohibited in §§ 5-26-303—~~
8 ~~5-26-306;~~
9 ~~(21) Endangering the welfare of an incompetent person in the~~
10 ~~first degree as prohibited in § 5-27-201;~~
11 ~~(22) Endangering the welfare of a minor in the first degree as~~
12 ~~prohibited in § 5-27-205;~~
13 ~~(23) Permitting abuse of a minor as prohibited in § 5-27-221;~~
14 ~~(24) Engaging children in sexually explicit conduct for use in~~
15 ~~visual or print media, transportation of minors for prohibited sexual~~
16 ~~conduct, pandering or possessing a visual or print medium depicting sexually~~
17 ~~explicit conduct involving a child, or use of a child or consent to use of a~~
18 ~~child in a sexual performance by producing, directing, or promoting a sexual~~
19 ~~performance by a child as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and~~
20 ~~5-27-403;~~
21 ~~(25) Computer child pornography as prohibited in § 5-27-603;~~
22 ~~(26) Computer exploitation of a child in the first degree as~~
23 ~~prohibited in § 5-27-605;~~
24 ~~(27) Felony adult abuse as prohibited in § 5-28-103;~~
25 ~~(28) Theft of property as prohibited in § 5-36-103;~~
26 ~~(29) Theft by receiving as prohibited in § 5-36-106;~~
27 ~~(30) Arson as prohibited in § 5-38-301;~~
28 ~~(31) Burglary as prohibited in § 5-39-201;~~
29 ~~(32) Felony violation of the Uniform Controlled Substances Act,~~
30 ~~§ 5-64-101 et seq., as prohibited in the former § 5-64-401 and §§ 5-64-419—~~
31 ~~5-64-442;~~
32 ~~(33) Promotion of prostitution in the first degree as prohibited~~
33 ~~in § 5-70-104;~~
34 ~~(34) Stalking as prohibited in § 5-71-229; and~~
35 ~~(35) Criminal attempt, criminal complicity, criminal~~
36 ~~solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-~~

1 ~~3-301, and 5-3-401, to commit any of the offenses listed in this subsection.~~

2 ~~(g)(1)~~ The board may issue a six-month nonrenewable letter of
3 provisional eligibility for licensure to a first-time applicant pending the
4 results of the criminal background check.

5 ~~(2) Except as provided in subdivision (m)(1) of this section,~~
6 ~~upon receipt of information from the Identification Bureau of the Department~~
7 ~~of Arkansas State Police that the person holding a letter of provisional~~
8 ~~licensure has pleaded guilty or nolo contendere to or been found guilty of~~
9 ~~any offense listed in subsection (f) of this section, the board shall~~
10 ~~immediately revoke the provisional license.~~

11 ~~(h)(1) The provisions of subsection (f) and subdivision (g)(2) of this~~
12 ~~section may be waived by the board upon the request of:~~

- 13 ~~(A) An affected applicant for licensure; or~~
14 ~~(B) The person holding a license subject to revocation.~~

15 ~~(2) Circumstances for which a waiver may be granted shall~~
16 ~~include, but not be limited to, the following:~~

- 17 ~~(A) The age at which the crime was committed;~~
18 ~~(B) The circumstances surrounding the crime;~~
19 ~~(C) The length of time since the crime;~~
20 ~~(D) Subsequent work history;~~
21 ~~(E) Employment references;~~
22 ~~(F) Character references; and~~
23 ~~(G) Other evidence demonstrating that the applicant does~~
24 ~~not pose a threat to the health or safety of children.~~

25 ~~(i)(1)(h)(1)~~ Any information received by the board from the
26 Identification Bureau of the Department of Arkansas State Police pursuant to
27 under this section shall not be available for examination except by the
28 affected applicant for licensure or his or her authorized representative or
29 the person whose license is subject to revocation or his or her authorized
30 representative.

31 (2) No record, file, or document shall be removed from the
32 custody of the department.

33 ~~(j)(i)~~ Any information made available to the affected applicant for
34 licensure or the person whose license is subject to revocation shall be
35 information pertaining to that person only.

36 ~~(k)(j)~~ Rights of privilege and confidentiality established in this

1 section shall not extend to any document created for purposes other than this
2 background check.

3 ~~(l)(k)~~ The board shall adopt the necessary rules and regulations to
4 fully implement the provisions of this section.

5 ~~(m)(1)~~ For purposes of this section, an expunged record of a
6 conviction or plea of guilty of or nolo contendere to an offense listed in
7 subsection (f) of this section shall not be considered a conviction, guilty
8 plea, or nolo contendere plea to the offense unless the offense is also
9 listed in subdivision (m)(2) of this section.

10 ~~(2)~~ Because of the serious nature of the offenses and the close
11 relationship to the type of work that is to be performed, the following shall
12 result in permanent disqualification:

13 ~~(A)~~ Capital murder as prohibited in § 5-10-101;

14 ~~(B)~~ Murder in the first degree as prohibited in § 5-10-102
15 and murder in the second degree as prohibited in § 5-10-103;

16 ~~(C)~~ Kidnapping as prohibited in § 5-11-102;

17 ~~(D)~~ Aggravated assault upon a law enforcement officer or
18 an employee of a correctional facility, § 5-13-211, if a Class Y felony;

19 ~~(E)~~ Rape as prohibited in § 5-14-103;

20 ~~(F)~~ Sexual extortion, § 5-14-113;

21 ~~(G)~~ Sexual assault in the first degree as prohibited in §
22 5-14-124 and sexual assault in the second degree as prohibited in § 5-14-125;

23 ~~(H)~~ Incest as prohibited in § 5-26-202;

24 ~~(I)~~ Endangering the welfare of an incompetent person in
25 the first degree as prohibited in § 5-27-201;

26 ~~(J)~~ Endangering the welfare of a minor in the first degree
27 as prohibited in § 5-27-205 and endangering the welfare of a minor in the
28 second degree as prohibited in § 5-27-206;

29 ~~(K)~~ Adult abuse that constitutes a felony as prohibited in
30 § 5-28-103; and

31 ~~(L)~~ Arson as prohibited in § 5-38-301.

32

33 SECTION 112. Arkansas Code § 17-98-302(a), concerning admission to
34 examination for licensure as a disease intervention specialist, is amended to
35 read as follows:

36 (a) The State Board of Disease Intervention Specialists shall admit to

1 examination any person who makes application to the Secretary of the State
2 Board of Disease Intervention Specialists on forms prescribed and furnished
3 by the board, pays an application fee set by the board to defray the expense
4 of examination, and submits satisfactory proof to the board that he or she:

5 ~~(1) Is a person of good moral character;~~

6 ~~(2)~~(1) Meets the minimum educational requirements;

7 ~~(3)~~(2) Meets the minimum specialized training requirements, as
8 determined by the board;

9 ~~(4)~~(3) Has had two (2) years of field experience in human
10 immunodeficiency virus/sexually transmitted disease intervention; and

11 ~~(5)~~(4) Is actively engaged in the field of human
12 immunodeficiency virus/sexually transmitted disease intervention at the time
13 he or she makes application.

14
15 SECTION 113. Arkansas Code § 17-98-303 is amended to read as follows:

16 17-98-303. Issuance of certificate without examination.

17 The State Board of Disease Intervention Specialists shall issue a
18 certificate of registration without examination to any person who makes
19 application on forms prescribed and furnished by the board, pays a
20 registration fee set by the board, and submits satisfactory proof that he or
21 she:

22 ~~(1) Is of good moral character;~~

23 ~~(2)~~(1) Has had at least two (2) years' experience in the field
24 of human immunodeficiency virus/sexually transmitted disease intervention;
25 and

26 ~~(3)~~(2) Is registered as a disease intervention specialist in a
27 state in which the qualifications for registration are not lower than the
28 qualifications for registration in this state at the time he or she applies
29 for registration.

30
31 SECTION 114. Arkansas Code §§ 17-98-305 and 17-98-306 are amended to
32 read as follows:

33 17-98-305. Application for reinstatement.

34 (a) A former registered disease intervention specialist whose
35 certificate has expired or has been suspended or revoked may make application
36 for reinstatement by paying a renewal fee and submitting satisfactory proof

1 to the State Board of Disease Intervention Specialists that he or she has
2 complied with the continuing education requirements.

3 (b) The board shall consider the ~~moral character and~~ professional
4 qualifications of the applicant as in the case of an original application.

5
6 17-98-306. Refusal to renew – Suspension or revocation.

7 The State Board of Disease Intervention Specialists may refuse to renew
8 or may suspend or revoke a certificate upon proof that the applicant+

9 ~~(1) Is not of good character; or~~

10 ~~(2) Is~~ is guilty of fraud, deceit, gross negligence,
11 incompetency, or misconduct relative to his or her duties as a disease
12 intervention specialist.

13

14 SECTION 115. Arkansas Code § 17-99-302(b), concerning qualifications
15 of an applicant for licensure as a respiratory care practitioner, is amended
16 to read as follows:

17 (b) Each applicant ~~must~~ shall:

18 (1) Be at least eighteen (18) years of age;

19 ~~(2) Be of good moral character;~~

20 ~~(3)~~(2) Have been awarded a high school diploma or its
21 equivalent;

22 ~~(4)~~(3) Have satisfactorily completed training in a respiratory
23 care program which has been approved by the Arkansas State Respiratory Care
24 Examining Committee, to include adequate instruction in basic medical
25 science, clinical science, and respiratory care theory and procedures; and

26 ~~(5)~~(4) Have passed an examination approved by the Arkansas State
27 Medical Board and the committee, unless exempted by other provisions of this
28 chapter.

29

30 SECTION 116. Arkansas Code § 17-99-307(3), concerning the grounds for
31 denial, suspension, or revocation of a respiratory care practitioner license,
32 is repealed.

33 ~~(3) Has been convicted of any crime involving moral turpitude;~~

34

35 SECTION 117. Arkansas Code § 17-100-302(b), concerning qualifications
36 of an applicant for licensure as a speech-language pathologist or

1 audiologist, is amended to read as follows:

2 (b) To be eligible for licensure by the board as a speech-language
3 pathologist or audiologist, a person shall:

4 ~~(1) Be of good moral character;~~

5 ~~(2)(1)~~ Possess at least a master's degree in the area of speech-
6 language pathology or a master's degree in audiology obtained on or before
7 December 30, 2006, or a doctoral degree obtained after January 1, 2007, from
8 an educational institution recognized by the board;

9 ~~(3)(2)~~ Submit evidence of the completion of the educational,
10 clinical experience, and employment requirements, which shall be based on
11 appropriate national standards and prescribed by the rules adopted under this
12 chapter; and

13 ~~(4)(3)~~ Pass an examination approved by the board before the
14 board approves a license.

15

16 SECTION 118. Arkansas Code § 17-100-302(d), concerning qualifications
17 of an applicant for provisional licensure as a speech-language pathologist or
18 audiologist, is amended to read as follows:

19 (d) To be eligible for provisional licensure by the board as a speech-
20 language pathologist or audiologist, a person shall:

21 ~~(1) Be of good moral character;~~

22 ~~(2)(1)~~ Possess at least a master's degree in the area of speech-
23 language pathology or audiology, as the case may be, from an educational
24 institution recognized by the board;

25 ~~(3)(2)~~ Be in the process of completing the postgraduate
26 professional experience requirement; and

27 ~~(4)(3)~~ Pass an examination approved by the board.

28

29 SECTION 119. Arkansas Code § 17-100-307(a)(3), concerning the grounds
30 for denial, suspension, or revocation of a license, or other disciplinary
31 action for speech-language pathologists and audiologists, is amended to read
32 as follows:

33 (3)(A) Being convicted of a felony listed under § 17-2-102 ~~in~~
34 ~~any court of the United States if the acts for which the licensee or~~
35 ~~applicant is convicted are found by the board to have a direct bearing on~~
36 ~~whether he or she should be entrusted to serve the public in the capacity of~~

1 ~~a speech language pathologist or audiologist.~~

2 ~~(B) A plea or verdict of guilty made to a charge of a~~
3 ~~felony or of any offense involving moral turpitude is a conviction within the~~
4 ~~meaning of this section.~~

5 ~~(C)(B)~~ At the direction of the board, and after due notice
6 and an administrative hearing in accordance with the provisions of applicable
7 Arkansas laws, the license of the person so convicted shall be suspended or
8 revoked or the board shall decline to issue a license when:

9 (i) The time for appeal has elapsed;
10 (ii) The judgment of conviction has been affirmed on
11 appeal; or

12 (iii) An order granting probation has been made
13 suspending the imposition of sentence, without regard to a subsequent order
14 under the provisions of state law allowing the withdrawal of a guilty plea
15 and the substitution of a not guilty plea, or the setting aside of a guilty
16 verdict, or the dismissal of the acquisition, information, or indictment;

17
18 SECTION 120. Arkansas Code § 17-101-305(a)(4)(A), concerning the
19 grounds for denial, suspension, or revocation of a veterinarian license, is
20 amended to read as follows:

21 (4)(A) Conviction of a felony ~~or other crime involving moral~~
22 ~~turpitude~~ listed under § 17-2-102.

23
24 SECTION 121. Arkansas Code § 17-102-304(a)(3), concerning
25 qualifications of an applicant for provisional licensure as an acupuncturist,
26 is amended to read as follows:

27 (3) Before any applicant shall be eligible for an examination,
28 the applicant shall furnish satisfactory proof to the board that he or she:

29 ~~(A) Is of good moral character by filing with his or her~~
30 ~~application the affidavits of at least two (2) reputable acupuncturists who~~
31 ~~attest to his or her character;~~

32 ~~(B)(A)~~ Has successfully completed not fewer than sixty
33 (60) semester credit hours of college education, to include a minimum of
34 thirty (30) semester credit hours in the field of science; and

35 ~~(C)(B)~~ Has completed a program in acupuncture and related
36 techniques and has received a certificate or diploma from an institute

1 approved by the board as described in this section. The training received in
2 the program shall be for a period of no fewer than four (4) academic years
3 and shall include a minimum of eight hundred (800) hours of supervised
4 clinical practice.

5

6 SECTION 122. Arkansas Code § 17-102-304(c)(4), concerning
7 qualifications of an applicant for provisional licensure as an acupuncturist,
8 is amended to read as follows:

9 (4) Not have been convicted of a felony listed under § 17-2-102;
10 and

11

12 SECTION 123. Arkansas Code § 17-103-305(b), concerning the grounds for
13 renewal, revocation, or suspension of a social worker license, is amended to
14 read as follows:

15 (b) The board shall refuse to issue or shall revoke the license of a
16 person who has been found guilty of a felony, ~~any crime involving moral~~
17 ~~turpitude,~~ listed under § 17-2-102 or criminal offense involving violence,
18 dishonesty, fraud, deceit, breach of client trust, or abuse of the vulnerable
19 unless the person requests and the board grants a waiver under § 17-103-
20 307(f).

21

22 SECTION 124. Arkansas Code § 17-103-306(a)(1)(D), concerning
23 qualifications of an applicant for licensure as a licensed social worker, is
24 repealed.

25 ~~(D) Has good moral character;~~

26

27 SECTION 125. Arkansas Code § 17-103-306(a)(1)(G), concerning
28 qualifications for a Licensed Social Worker license, is amended to read as
29 follows:

30 (G) Has not pleaded guilty or nolo contendere to or been
31 found guilty of a felony, ~~any crime involving moral turpitude,~~ listed under §
32 17-2-102 or criminal offense involving violence, dishonesty, fraud, deceit,
33 breach of client trust, or abuse of the vulnerable;

34

35 SECTION 126. Arkansas Code § 17-103-306(b)(1)(G), concerning the
36 qualifications for a Licensed Master Social Worker license, is amended to

1 read as follows:

2 (G) Has not pleaded guilty or nolo contendere to or been
3 found guilty of a felony, ~~any crime involving moral turpitude,~~ listed under §
4 17-2-102 or criminal offense involving violence, dishonesty, fraud, deceit,
5 breach of client trust, or abuse of the vulnerable;

6

7 SECTION 127. Arkansas Code § 17-103-306(c)(1)(H), concerning the
8 qualifications for a Licensed Certified Social Worker license, is amended to
9 read as follows:

10 (H) Has not pleaded guilty or nolo contendere to or been found
11 guilty of a felony, ~~any crime involving moral turpitude,~~ listed under § 17-2-
12 102 or criminal offense involving violence, dishonesty, fraud, deceit, breach
13 of client trust, or abuse of the vulnerable;

14

15 SECTION 128. Arkansas Code § 17-103-307(d)-(k), concerning criminal
16 background check requirements for social workers, are amended to read as
17 follows:

18 (d) Upon completion of the criminal background check, the
19 Identification Bureau of the Department of Arkansas State Police shall
20 forward to the board all releasable information obtained concerning the
21 applicant ~~in the commission of any offense listed in subsection (e) of this~~
22 ~~section.~~

23 (e) For purposes of this section, the board shall follow the licensing
24 restrictions based on criminal records under § 17-2-102. ~~Except as provided~~
25 ~~in subdivision (k)(1) of this section, a person is not eligible to receive or~~
26 ~~hold a license issued by the board if that person has pleaded guilty or nolo~~
27 ~~contendere to or been found guilty of a felony, any crime involving moral~~
28 ~~turpitude, or criminal offense involving violence, dishonesty, fraud, deceit,~~
29 ~~breach of client trust, or abuse of the vulnerable, including without~~
30 ~~limitation:~~

31 ~~(1) Capital murder as prohibited in § 5-10-101;~~

32 ~~(2) Murder in the first degree as prohibited in § 5-10-102 and~~
33 ~~murder in the second degree as prohibited in § 5-10-103;~~

34 ~~(3) Manslaughter as prohibited in § 5-10-104;~~

35 ~~(4) Negligent homicide as prohibited in § 5-10-105;~~

36 ~~(5) Kidnapping as prohibited in § 5-11-102;~~

- 1 ~~(6) False imprisonment in the first degree as prohibited in § 5-~~
2 ~~11-103;~~
- 3 ~~(7) Permanent detention or restraint as prohibited in § 5-11-~~
4 ~~106;~~
- 5 ~~(8) Robbery as prohibited in § 5-12-102;~~
- 6 ~~(9) Aggravated robbery as prohibited in § 5-12-103;~~
- 7 ~~(10) Battery in the first degree as prohibited in § 5-13-201;~~
- 8 ~~(11) Aggravated assault as prohibited in § 5-13-204;~~
- 9 ~~(12) Introduction of a controlled substance into the body of~~
10 ~~another person as prohibited in § 5-13-210;~~
- 11 ~~(13) Aggravated assault upon a law enforcement officer or an~~
12 ~~employee of a correctional facility, § 5-13-211, if a Class Y felony;~~
- 13 ~~(14) Terroristic threatening in the first degree as prohibited~~
14 ~~in § 5-13-301;~~
- 15 ~~(15) Rape as prohibited in § 5-14-103;~~
- 16 ~~(16) Sexual indecency with a child as prohibited in § 5-14-110;~~
- 17 ~~(17) Sexual extortion, § 5-14-113;~~
- 18 ~~(18) Sexual assault in the first degree, second degree, third~~
19 ~~degree, and fourth degree as prohibited in §§ 5-14-124 — 5-14-127;~~
- 20 ~~(19) Incest as prohibited in § 5-26-202;~~
- 21 ~~(20) Offenses against the family as prohibited in §§ 5-26-303 —~~
22 ~~5-26-306;~~
- 23 ~~(21) Endangering the welfare of an incompetent person in the~~
24 ~~first degree as prohibited in § 5-27-201;~~
- 25 ~~(22) Endangering the welfare of a minor in the first degree as~~
26 ~~prohibited in § 5-27-205;~~
- 27 ~~(23) Permitting abuse of a minor as prohibited in § 5-27-221(a);~~
- 28 ~~(24) Engaging children in sexually explicit conduct for use in~~
29 ~~visual or print media, transportation of minors for prohibited sexual~~
30 ~~conduct, pandering or possessing a visual or print medium depicting sexually~~
31 ~~explicit conduct involving a child, or use of a child or consent to use of a~~
32 ~~child in a sexual performance by producing, directing, or promoting a sexual~~
33 ~~performance by a child as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and~~
34 ~~5-27-403;~~
- 35 ~~(25) Computer child pornography as prohibited in § 5-27-603;~~
- 36 ~~(26) Computer exploitation of a child in the first degree as~~

- 1 ~~prohibited in § 5-27-605;~~
- 2 ~~(27) Felony adult abuse as prohibited in § 5-28-103;~~
- 3 ~~(28) Theft of property as prohibited in § 5-36-103;~~
- 4 ~~(29) Theft by receiving as prohibited in § 5-36-106;~~
- 5 ~~(30) Arson as prohibited in § 5-38-301;~~
- 6 ~~(31) Burglary as prohibited in § 5-39-201;~~
- 7 ~~(32) Felony violation of the Uniform Controlled Substances Act,~~
- 8 ~~§ 5-64-101 et seq., as prohibited in the former § 5-64-401 and §§ 5-64-419 -~~
- 9 ~~5-64-442;~~
- 10 ~~(33) Promotion of prostitution in the first degree as prohibited~~
- 11 ~~in § 5-70-104;~~
- 12 ~~(34) Stalking as prohibited in § 5-71-229; and~~
- 13 ~~(35) Criminal attempt, criminal complicity, criminal~~
- 14 ~~solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-~~
- 15 ~~3-301, and 5-3-401, to commit any of the offenses listed in this subsection.~~
- 16 ~~(f)(1) The provisions of subsection (e) of this section may be waived~~
- 17 ~~by the board upon the request of:~~
- 18 ~~(A) An affected applicant for licensure; or~~
- 19 ~~(B) The person holding a license subject to revocation.~~
- 20 ~~(2) Circumstances for which a waiver may be granted include, but~~
- 21 ~~are not limited to, the following:~~
- 22 ~~(A) The applicant's age at the time the crime was~~
- 23 ~~committed;~~
- 24 ~~(B) The circumstances surrounding the crime;~~
- 25 ~~(C) The length of time since the crime;~~
- 26 ~~(D) Subsequent work history;~~
- 27 ~~(E) Employment references;~~
- 28 ~~(F) Character references; and~~
- 29 ~~(G) Other evidence demonstrating that the applicant does~~
- 30 ~~not pose a threat to the health or safety of children or endangered adults.~~
- 31 ~~(g)(1)(f)(1) Information received by the board from the Identification~~
- 32 ~~Bureau of the Department of Arkansas State Police under this section shall~~
- 33 ~~not be available for examination except by the affected applicant for~~
- 34 ~~licensure or his or her authorized representative or the person whose license~~
- 35 ~~is subject to revocation or his or her authorized representative.~~
- 36 ~~(2) No record, file, or document shall be removed from the~~

1 custody of the department.

2 ~~(h)(g)~~ Information made available to the affected applicant for
3 licensure or the person whose license is subject to revocation shall be
4 information pertaining to that person only.

5 ~~(i)(h)~~ Rights of privilege and confidentiality established in this
6 section do not extend to any document created for purposes other than the
7 criminal background check.

8 ~~(j)(i)~~ The board shall adopt the necessary rules to fully implement
9 the provisions of this section.

10 ~~(k)(1)~~ As used in this section, an expunged record of a conviction or
11 plea of guilty or nolo contendere to an offense listed in subsection (e) of
12 this section shall not be a felony, any crime involving moral turpitude, or a
13 criminal offense involving violence, dishonesty, fraud, deceit, breach of
14 client trust, or abuse of the vulnerable unless the offense is also listed in
15 subdivision (k)(2) of this section.

16 ~~(2)~~ Because of the serious nature of the offenses and the close
17 relationship to the type of work that is to be performed, a conviction,
18 guilty plea, or nolo contendere plea to any of the following offenses shall
19 result in permanent disqualification for licensure:

- 20 ~~(A)~~ Capital murder as prohibited in § 5-10-101;
- 21 ~~(B)~~ Murder in the first degree as prohibited in § 5-10-102
22 and murder in the second degree as prohibited in § 5-10-103;
- 23 ~~(C)~~ Kidnapping as prohibited in § 5-11-102;
- 24 ~~(D)~~ Aggravated assault upon a law enforcement officer or
25 an employee of a correctional facility, § 5-13-211, if a Class Y felony;
- 26 ~~(E)~~ Rape as prohibited in § 5-14-103;
- 27 ~~(F)~~ Sexual extortion, § 5-14-113;
- 28 ~~(G)~~ Sexual assault in the first degree as prohibited in §
29 5-14-124 and sexual assault in the second degree as prohibited in § 5-14-125;
- 30 ~~(H)~~ Endangering the welfare of an incompetent person in
31 the first degree as prohibited in § 5-27-201;
- 32 ~~(I)~~ Endangering the welfare of a minor in the first degree
33 as prohibited in § 5-27-205 and endangering the welfare of a minor in the
34 second degree as prohibited in § 5-27-206;
- 35 ~~(J)~~ Engaging children in sexually explicit conduct for use
36 in visual or print media, transportation of minors for prohibited sexual

1 ~~conduct, or pandering or possessing a visual or print medium depicting~~
2 ~~sexually explicit conduct involving a child, or use of a child or consent to~~
3 ~~use of a child in a sexual performance by producing, directing, or promoting~~
4 ~~a sexual performance by a child, as prohibited in §§ 5-27-303, 5-27-305, 5-~~
5 ~~27-402, and 5-27-403;~~

6 ~~(K) Adult abuse that constitutes a felony as prohibited in~~
7 ~~§ 5-28-103; and~~

8 ~~(L) Arson as prohibited in § 5-38-301.~~

9
10 SECTION 129. Arkansas Code § 17-104-312(3)(F), concerning violations
11 of the Perfusionist Licensure Act, is amended to read as follows:

12 (F) A plea of guilty, nolo contendere, or a finding of
13 guilt of a felony listed under § 17-2-102 or any offense substantially
14 related to the qualifications, functions, or duties of a perfusionist, in
15 which event the record shall be conclusive evidence; or

16
17 SECTION 130. Arkansas Code § 17-105-102(b)(6), concerning
18 qualifications of an applicant for licensure as a physician assistant, is
19 repealed.

20 ~~(6) Is of good moral character;~~

21
22 SECTION 131. Arkansas Code § 17-105-113 is amended to read as follows:
23 17-105-113. Violation.

24 Following the exercise of due process, the Arkansas State Medical Board
25 may discipline any physician assistant who:

26 (1) Fraudulently or deceptively obtains or attempts to obtain a
27 license;

28 (2) Fraudulently or deceptively uses a license;

29 (3) Violates any provision of this chapter or any regulations
30 adopted by the board pertaining to this chapter;

31 (4) Is convicted of a felony listed under § 17-2-102;

32 (5) Is a habitual user of intoxicants or drugs to such an extent
33 that he or she is unable to safely perform as a physician assistant;

34 (6) Has been adjudicated as mentally incompetent or has a mental
35 condition that renders him or her unable to safely perform as a physician
36 assistant; or

- 1 ~~(7) Has committed an act of moral turpitude; or~~
2 ~~(8)~~(7) Represents himself or herself as a physician.

3
4 SECTION 132. Arkansas Code § 17-106-107(a)(2), concerning the
5 licensing requirements for healthcare professionals who use radioactive
6 materials or medical equipment emitting or detecting ionizing radiation on
7 human beings for diagnostic or therapeutic purposes, is amended to read as
8 follows:

9 (2) Submit satisfactory evidence verified by oath or affirmation
10 that the applicant:

11 (A) Is qualified to administer radioactive materials or
12 operate medical equipment emitting or detecting ionizing radiation upon human
13 beings;

14 ~~(B) Is of good moral character;~~

15 ~~(C)~~(B) Is at least eighteen (18) years of age at the time
16 of application; and

17 ~~(D)~~(C) Has been awarded a high school diploma or has
18 passed the General Educational Development Test or the equivalent.

19
20 SECTION 133. Arkansas Code § 17-106-110(a)(2), concerning discipline
21 for healthcare professionals who use radioactive materials or medical
22 equipment emitting or detecting ionizing radiation on human beings for
23 diagnostic or therapeutic purposes, is amended to read as follows:

24 (2) Has been convicted of a felony listed under § 17-2-102 ~~in a~~
25 ~~court of competent jurisdiction either within or outside of this state unless~~
26 ~~the conviction has been reversed and the holder of the license has been~~
27 ~~discharged or acquitted or if the holder has been pardoned with full~~
28 ~~restoration of civil rights, in which case the license shall be restored;~~

29
30 SECTION 134. Arkansas Code § 17-107-310(1), concerning disciplinary
31 action for orthotists, prosthetists, and pedorthists, is amended to read as
32 follows:

33 (1) Has pleaded guilty or nolo contendere to or has been found
34 guilty of a felony listed under § 17-2-102;

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/s/J. Cooper

APPROVED: 4/15/19

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: H2/4/19 S4/5/19

A Bill

HOUSE BILL 1255

5 By: Representative Dotson
6 By: Senator Hester
7

For An Act To Be Entitled

8
9 AN ACT TO PROMOTE, RECRUIT, AND RETAIN A HIGHLY
10 SKILLED WORKFORCE IN THE STATE OF ARKANSAS; TO AMEND
11 THE LAW CONCERNING LICENSING, REGISTRATION, AND
12 CERTIFICATION FOR CERTAIN PROFESSIONS; TO ESTABLISH A
13 SYSTEM OF ENDORSEMENT, RECOGNITION, AND RECIPROCITY
14 FOR LICENSING, REGISTRATION, AND CERTIFICATION FOR
15 CERTAIN PROFESSIONS; AND FOR OTHER PURPOSES.
16

Subtitle

17
18
19 TO AMEND THE LAW CONCERNING LICENSING,
20 REGISTRATION, AND CERTIFICATION FOR
21 CERTAIN PROFESSIONS; AND TO ESTABLISH A
22 SYSTEM OF ENDORSEMENT, RECOGNITION, AND
23 RECIPROCITY FOR LICENSING.
24

25
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code § 17-1-107 is amended to read as follows:
29 17-1-107. Reinstatement of licenses – Definition.

30 ~~(a)(1) It is not the intent of the General Assembly to cause the~~
31 ~~licensing entity to engage in simple comparisons of the required hours of~~
32 ~~training and other personal qualifications under Arkansas's occupational~~
33 ~~licensing statutes with those qualifications required in the state where the~~
34 ~~person is credentialed.~~

35 ~~(2) It is the intent of the General Assembly to ensure that a~~
36 ~~person may be credentialed to work in Arkansas if he or she generally~~



1 ~~demonstrates the skills and ethics required by state law based on the~~
2 ~~person's experience and credentials in another state.~~

3 ~~(b)(a)~~ A occupational licensing entity shall by rule adopt reduced
4 requirements for reinstatement of a license, registration, permit, or
5 certification for a person who:

6 (1) Demonstrates that he or she:

7 (A) Was previously licensed, registered, permitted, or
8 certified to practice in the field of his or her profession at any time in
9 this state;

10 (B) Held his or her license, registration, permit, or
11 certification in good standing at the time of licensing, registration,
12 permitting, or certification;

13 (C) Did not have his or her license, registration, permit,
14 or certification revoked for:

15 (i) An act of bad faith; or

16 (ii) A violation of law, rule, or ethics;

17 (D) Is not holding a suspended or probationary license,
18 registration, permit, or certification in any state; and

19 (E) Is sufficiently competent in his or her field; and

20 (2) Pays any reinstatement fee required by law.

21 ~~(e)(b)~~ The occupational licensing entity may require that sufficient
22 competency in a particular field be demonstrated by:

23 (1) Proficiency testing;

24 (2) Letters of recommendation; or

25 (3) Both proficiency testing and letters of recommendation.

26 ~~(d)(1)(c)(1)~~ Except as provided under subdivision ~~(e)(2)(b)~~ of this
27 section, the occupational licensing entity shall not require a person who
28 meets the requirements of subsection (a) of this section to participate in
29 the apprenticeship, education, or training required as a prerequisite to
30 licensing, registration, permitting, or certification of a new professional
31 in the field.

32 (2) The occupational licensing entity may require the person to
33 participate in continuing education or training if the continuing education
34 or training is required for all professionals in the field to maintain the
35 license, registration, permit, or certification.

36 ~~(e)(d)~~ A person shall not be required to comply with requirements

1 under this section to obtain reinstatement of his or her license,
2 *registration, permit, or certification* if the person meets the requirements
3 for reciprocity.

4 ~~(f)(e)~~ If a criminal background check is required of an applicant for
5 an original license, registration, permit, or certification, or of a person
6 currently holding a license, *registration, permit, or certification*, then the
7 *occupational licensing entity* may require a person seeking reinstatement
8 under this section to meet the same criminal background check requirements as
9 the applicant for an original license, registration, permit, or
10 certification, or as the person currently holding a license, registration,
11 permit, or certification.

12 ~~(g)(f)(l)~~ As used in this section, "occupational licensing entity"
13 means an agency, office, council, bureau, board, commission, department,
14 committee, or other authority of the government of the State of Arkansas,
15 whether within or subject to review by another agency, ~~except the General~~
16 ~~Assembly, the courts, and the Governor,~~ that has the duty to license,
17 register, *permit,* certify, or otherwise approve a person to work in a
18 particular field or industry.

19 (2) As used in subdivision (f)(l) of this section "agency"
20 does not include the General Assembly, the courts, or the Governor.

21
22 SECTION 2. Arkansas Code § 17-1-108, as added by Acts 2019, No. 426,
23 is amended to read as follows:

24 17-1-108. Expedited temporary and provisional licensure - Legislative
25 intent.

26 (a)(l) It is the intent of the General Assembly to ensure that an
27 individual may be credentialed to work in Arkansas if he or she generally
28 demonstrates the skills and ethics required by state law based on the
29 individual's experience and credentials in another state.

30 (2) It is not the intent of the General Assembly to cause the
31 licensing entity to engage in simple comparisons of the required hours of
32 training and other personal qualifications under Arkansas's occupational
33 licensing statutes with those qualifications required in the state where the
34 individual is credentialed.

35 ~~(a)(b)~~ As used in this section:

36 (1) "Individual" means a natural person, firm, association,

1 partnership, corporation, or other entity that may hold an occupational
2 licensure;

3 (2) "Occupational licensing entity" means an office, board,
4 commission, committee, department, council, bureau, or other agency of state
5 government having authority to license, certify, register, permit, or
6 otherwise authorize an individual to engage in a particular occupation or
7 profession; and

8 (3) "Occupational licensure" means a license, certificate,
9 registration, permit, or other form of authorization required by law or rule
10 that is required for an individual to engage in a particular occupation or
11 profession.

12 ~~(b)(c)~~ An occupational licensing entity shall by rule adopt the least
13 restrictive requirements for occupational licensure for an individual who:

14 (1) Demonstrates that he or she:

15 (A) Holds an occupational licensure that is substantially
16 similar to practice in the field of his or her occupation or profession in
17 another state, territory, or district of the United States;

18 (B) Holds his or her occupational licensure in good
19 standing;

20 (C) Has not had his or her occupational licensure revoked
21 for:

22 (i) An act of bad faith; or

23 (ii) A violation of law, rule, or ethics;

24 (D) Is not holding a suspended or probationary
25 occupational licensure in any state, territory, or district of the United
26 States; and

27 (E) Is sufficiently competent in his or her field; and

28 (2) Pays any occupational licensure fee required by law or rule.

29 ~~(e)(1)(A)(d)(1)(A)~~ An occupational licensing entity shall comply with
30 the requirements under subsection ~~(b)(c)~~ of this section by adopting the
31 least restrictive rule that allows for reciprocity or licensure by
32 endorsement.

33 (B) The rule adopted under subdivision ~~(e)(1)(A)(d)(1)(A)~~
34 of this section shall provide the procedure by which an occupational
35 licensing entity shall grant a temporary and provisional occupational
36 licensure for ninety (90) days or longer to an individual under subsection

1 ~~(b)~~(c) of this section if presented with evidence of a current and active
2 occupational licensure that is substantially similar to practice in the field
3 of his or her occupation or profession in another state, territory, or
4 district of the United States.

5 (2) If a state, territory, or district of the United States does
6 not require occupational licensure for a profession that requires
7 occupational licensure in this state, an occupational licensing entity shall
8 adopt a rule that is least restrictive to permit an individual who is
9 sufficiently competent in his or her field to obtain occupational licensure
10 for that occupation or profession in this state.

11 (3) The occupational licensing entity may require additional
12 state-specific education for an individual with an occupational licensure in
13 another state, territory, or district of the United States that does not
14 offer reciprocity similar to reciprocity under this section to individuals
15 with occupational licensure in this state.

16 ~~(d)~~(1)(e)(1) Except as provided under subdivision ~~(d)~~(1)(e)(2) of this
17 section, an occupational licensing entity shall not require an individual who
18 meets the requirements of subsection ~~(b)~~(c) of this section to participate in
19 the apprenticeship, education, or training required as a prerequisite to
20 occupational licensure of a new professional in the field.

21 (2) The occupational licensing entity may require the individual
22 to participate in continuing education or training if the continuing
23 education or training is required for all professionals in the field to
24 maintain the occupational licensure.

25 ~~(e)~~(f) If a criminal background check is required of an applicant for
26 an initial occupational licensure or of a ~~person~~ an individual currently
27 holding an occupational licensure, then the occupational licensing entity may
28 require a ~~person~~ an individual seeking his or her occupational licensure
29 under this section to meet the same criminal background check requirements as
30 the applicant for an initial occupational licensure or as the ~~person~~
31 individual currently holding an occupational licensure.

32 ~~(f)~~(g) The occupational licensing entity may require the individual
33 applying for occupational licensure under this section to meet any bonding,
34 financial statement, or insurance requirements that are applicable to all
35 applicants.

36 ~~(g)~~(h) This section shall not apply to:

1 (1) Reciprocity or license by endorsement provisions under §§
2 17-12-308, 17-26-315, 17-27-308, 17-28-306, 17-31-308, 17-36-304, 17-42-305,
3 17-43-307, 17-83-305, 17-88-305, 17-89-305, 17-90-302, 17-92-114, 17-92-308,
4 17-93-414, 17-97-306, 17-99-304, 17-100-304, and 17-103-302; or

5 (2) The occupational licensing entities that administer the
6 reciprocity provisions under subdivision ~~(g)(1)~~(h)(1) of this section.

7 ~~(h)(i)~~(i) An occupational licensing entity may enter into written
8 agreements with similar occupational licensing entities of another state,
9 territory, or district of the United States as necessary to assure ~~for~~ that
10 licensees in this state have comparable nonresident licensure opportunities
11 as those opportunities available to nonresidents by occupational licensing
12 entities in this state.

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/s/Dotson

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APPROVED: 4/15/19

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