

(4) One (1) of the greatest challenges is access to qualified and properly licensed individuals to provide services to individuals with mental illness; and

(5) Reforms are necessary to streamline and improve the licensure application and approval process for individuals seeking licensure or relicensure to provide mental health services in Arkansas.

(b) It is the intent of the General Assembly to:

(1) Amend the Arkansas Code to combine all professions that treat mental illness under one (1) licensing board;

(2) Allow the licensing board under subdivision (b)(1) of this section to create committees based on each category of a professional specialty to make recommendations to the full licensing board regarding rulemaking, disciplinary issues, ethical complaints, and evaluation of applicants; and

(3) Streamline and improve the mental health professional licensure process.

SECTION 2. DO NOT CODIFY. Abolition of Arkansas Board of Examiners in Counseling – Transfer to Arkansas State Board of Mental Health Professionals.

(a) The Arkansas Board of Examiners in Counseling is abolished, and its authority, powers, duties, functions, records, contracts, personnel, property, and unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting or purchasing of the Arkansas Board of Examiners in Counseling, are transferred to the Arkansas State Board of Mental Health Professionals.

(b)(1) The Arkansas Board of Examiners in Counseling's statutory powers, duties, and functions, including the functions of budgeting or purchasing, records, contracts, personnel, property, and unexpended balances of appropriations, allocations, and other funds are transferred to the Arkansas State Board of Mental Health Professionals.

(2) All existing contracts with the Arkansas Board of Examiners in Counseling may be renegotiated by the Arkansas State Board of Mental Health Professionals.

SECTION 3. DO NOT CODIFY. Abolition of State Board of Examiners of Alcoholism and Drug Abuse Counselors – Transfer to Arkansas State Board of

Mental Health Professionals.

(a) The State Board of Examiners of Alcoholism and Drug Abuse Counselors is abolished, and its authority, powers, duties, functions, records, contracts, personnel, property, and unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting or purchasing of the State Board of Examiners of Alcoholism and Drug Abuse Counselors, are transferred to the Arkansas State Board of Mental Health Professionals.

(b)(1) The State Board of Examiners of Alcoholism and Drug Abuse Counselors' statutory powers, duties, and functions, including the functions of budgeting or purchasing, records, contracts, personnel, property, and unexpended balances of appropriations, allocations, and other funds are transferred to the Arkansas State Board of Mental Health Professionals.

(2) All existing contracts with the State Board of Examiners of Alcoholism and Drug Abuse Counselors may be renegotiated by the Arkansas State Board of Mental Health Professionals.

SECTION 4. DO NOT CODIFY. Abolition of Arkansas Psychology Board – Transfer to Arkansas State Board of Mental Health Professionals.

(a) The Arkansas Psychology Board is abolished, and its authority, powers, duties, functions, records, contracts, personnel, property, and unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting or purchasing of the Arkansas Psychology Board, are transferred to the Arkansas State Board of Mental Health Professionals.

(b)(1) The Arkansas Psychology Board's statutory powers, duties, and functions, including the functions of budgeting or purchasing, records, contracts, personnel, property, and unexpended balances of appropriations, allocations, and other funds are transferred to the Arkansas State Board of Mental Health Professionals.

(2) All existing contracts with the Arkansas Psychology Board may be renegotiated by the Arkansas State Board of Mental Health Professionals.

SECTION 5. DO NOT CODIFY. Abolition of Arkansas Social Work Licensing Board – Transfer to Arkansas State Board of Mental Health Professionals.

(a) The Arkansas Social Work Licensing Board is abolished, and its authority, powers, duties, functions, records, contracts, personnel, property, and unexpended balances of appropriations, allocations, and other funds including the functions of budgeting or purchasing of the Arkansas Social Work Licensing Board, are transferred to the Arkansas State Board of Mental Health Professionals.

(b)(1) The Arkansas Social Work Licensing Board's statutory powers, duties, and functions, including the functions of budgeting or purchasing, records, contracts, peronnell, property, and unexpended balances of appropriations, allocations, and other funds are transferred to the Arkansas State Board of Mental Health Professionals.

(2) All existing contracts with the Arkansas Social Work Licensing Board may be renegotiated by the Arkansas State Board of Mental Health Professionals.

SECTION 6. Arkansas Code § 10-3-2602(b)(4), concerning the membership of the Arkansas Legislative Task Force on Autism, is amended to read as follows:

(b)(4) One (1) member who is a board-certified behavior analyst, appointed by the ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals;

SECTION 7. Arkansas Code Title 17, Chapter 27, is repealed.

~~Chapter 27 — Counselors~~

~~Subchapter 1 — General Provisions~~

~~17-27-101. Policy — Purpose.~~

~~(a) It is declared to be the policy of this state that activities of those persons who render service to the public in the counseling area and use the title "licensed professional counselor", "licensed associate counselor", "licensed marriage and family therapist", or "licensed associate marriage and family therapist" should be regulated for the protection of public health, safety, and welfare.~~

~~(b) It is the purpose and intent of this chapter to:~~

~~(1) Provide for the regulation of the practice of counseling in~~

~~the State of Arkansas;~~

~~(2) Create a board of examiners in counseling and prescribe the duties and powers of the board;~~

~~(3) Provide for the examination and licensure of counselors;~~

~~(4) Fix penalties for the violation of this chapter;~~

~~(5) Impose reasonable fees for applications, licenses, examinations, and other administrative purposes that the board deems necessary and provide for the use of funds derived from the fees; and~~

~~(6) Provide for the regulation of the use of the titles "licensed professional counselor", "licensed associate counselor", "licensed marriage and family therapist", and "licensed associate marriage and family therapist" for those who offer counseling services to the public.~~

~~17-27-102. Definitions.~~

~~As used in this chapter, unless the context otherwise requires:~~

~~(1) "Counseling services" means those acts and behaviors coming within the practice of counseling, as defined in this section;~~

~~(2) "Counselor educator" means a person who:~~

~~(A) Possesses an advanced degree in counseling, psychology, or a closely related field; and~~

~~(B) Is employed in a teaching position at least part-time at an Arkansas institution of higher education or is retired from employment in a teaching position with an Arkansas institution of higher education;~~

~~(3) "Licensed associate counselor" means any person who:~~

~~(A) Holds himself or herself out to the public by any title or description of services incorporating the words "licensed associate counselor";~~

~~(B) Offers to render counseling services to individuals, groups, organizations, corporations, institutions, government agencies, or the general public for monetary remuneration or otherwise implying that he or she is licensed, trained, experienced, or expert in counseling; and~~

~~(C) Holds a current, valid license to practice counseling under the supervision of a licensed professional counselor. Nothing in this definition shall be construed to include those professions excluded by § 17-27-103;~~

~~(4) "Licensed associate marriage and family therapist" means any~~

~~person who:~~

~~(A) Holds himself or herself out to the public by any title or description of services incorporating the words “licensed associate marriage and family therapist”;~~

~~(B) Offers to render marriage and family therapy services to individuals, couples, and families, singularly or in groups, for monetary remuneration; and~~

~~(C) Holds a current, valid license to practice marriage and family therapy services under the supervision of a licensed marriage and family therapist. Nothing in this definition shall be construed to include those professions excluded by § 17-27-103;~~

~~(5) “Licensed marriage and family therapist” means any person who:~~

~~(A) Holds himself or herself out to the public by any title or description of services incorporating the words “licensed marriage and family therapist”;~~

~~(B) Offers to render marriage and family therapy services to individuals, groups, couples, families, organizations, corporations, institutions, government agencies, or the general public for monetary remuneration or otherwise implying that he or she is licensed, trained, experienced, or expert in marriage and family therapy; and~~

~~(C) Holds a current, valid license to practice marriage and family therapy, with the exception of those professions listed in § 17-27-103;~~

~~(6) “Licensed professional counselor” means any person who:~~

~~(A) Holds himself or herself out to the public by any title or description of services incorporating the words “licensed professional counselor”;~~

~~(B) Offers to render counseling services to individuals, groups, organizations, corporations, institutions, government agencies, or the general public for monetary remuneration or otherwise, implying that he or she is licensed, trained, experienced, or expert in counseling; and~~

~~(C) Holds a current, valid license to practice counseling, with the exception of those professions listed in § 17-27-103;~~

~~(7)(A) “Marriage and family therapy” means the use of scientific and applied marriage and family theories, methods, and procedures for the~~

~~purpose of describing, evaluating, and modifying marital, family, and individual behavior within the context of marital and family systems, including the context of marital formation and dissolution.~~

~~(B) Marriage and family therapy is based on systems, theories, marriage and family development, normal and dysfunctional behavior, human sexuality, and psychotherapeutic, marital, and family therapy theories and techniques and includes the use of marriage and family therapy theories and techniques in the evaluation, assessment, and treatment of intrapersonal or interpersonal dysfunctions within the context of marriage and family systems.~~

~~(C) Marriage and family therapy may also include clinical research into more effective methods for the treatment and prevention of the above-named conditions.~~

~~(D) Nothing in this definition or in this chapter shall be construed as precluding licensed professional counselors or licensed associate counselors from rendering these services; and~~

~~(8) "Practice of counseling" means rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, methods, or procedures of the counseling profession which include, but are not restricted to:~~

~~(A) "Counseling", which means assisting an individual or groups, through the counseling relationship, to develop understandings of personal problems, to define goals, and to plan action reflecting his or her interests, abilities, aptitudes, and needs as these are related to personal social concerns, educational progress, and occupations and careers;~~

~~(B) "Appraisal activities", which means selecting, administering, scoring, and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics but shall not include the use of projective techniques in the assessment of personality;~~

~~(C) "Consulting", which means interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations;~~

~~(D) "Referral activities", which means the evaluating of data to identify problems and to determine the advisability of referral to other specialists; and~~

~~(E) “Research activities”, which means reporting, designing, conducting, or consulting on research in counseling with human subjects.~~

~~17-27-103. Exemptions.~~

~~(a) This chapter shall not be applicable to persons engaged in counseling individuals or groups concerning weight loss, weight control, or nutrition education, nor to persons whose counseling activities are confined to the area of alcohol and drug abuse.~~

~~(b) Nothing in § 17-27-104 shall be construed to preclude the advertising of services or to limit:~~

~~(1) The professional pursuits of administrators, teachers, and school counselors certified by the Division of Elementary and Secondary Education within the scope of their duties in recognized public and private schools;~~

~~(2) Nonresident persons engaged in consulting or research activities in counseling for a period not greater than thirty (30) days in a calendar year;~~

~~(3) Clergymen insofar as their activities and services are a part of the official duties in salaried positions;~~

~~(4) Practitioners of medicine;~~

~~(5) Psychologists;~~

~~(6) Social workers;~~

~~(7) Listed Christian Science practitioners insofar as their activities and services are a part of the official duties;~~

~~(8) Individuals offering volunteer services who are approved by the organization or agency for whom the service is rendered;~~

~~(9) Persons in the employ of the federal, state, or local government or accredited institutions of higher education, insofar as their activities and services are a part of the official duties in salaried positions; or~~

~~(10) Other professionals, provided that:~~

~~(A) Such persons hold valid licenses, certificates, or registrations in the State of Arkansas and are operating within the scope of their professional duties; and~~

~~(B) The title “licensed professional counselor”, “licensed~~

~~associate counselor”, “licensed marriage and family therapist”, or “licensed associate marriage and family therapist” is not used.~~

~~(c) Students engaged in counselor training programs and other persons preparing for the profession of licensed counselor may perform as part of their training the functions specified in § 17-27-102, provided that such functions are performed under supervision of a licensed professional counselor.~~

~~17-27-104. Prohibitions—Penalties.~~

~~(a)(1) A person who holds himself or herself out to the public as being engaged in the practice of counseling or marriage and family therapy as defined in § 17-27-102 or represents himself or herself by the title “licensed professional counselor”, “licensed associate counselor”, “licensed marriage and family therapist”, or “licensed associate marriage and family therapist” and shall not then possess in full force and effect a valid license to practice counseling under this chapter is guilty of:~~

~~(A) For a first offense, a Class A misdemeanor; and~~

~~(B) For a second or subsequent offense, a Class D felony.~~

~~(2)(A) Each violation and conviction shall be deemed a separate offense.~~

~~(B) Notwithstanding the limits imposed for a Class A misdemeanor or a Class D felony as appropriate, if the defendant has derived pecuniary gain in the form of client fees received for services in violation of this chapter, the fees will be refunded.~~

~~(3) In addition to the criminal penalties provided under this section and in addition to any other laws under which a person may obtain relief, a person aggrieved or damaged by a violation of this section has a civil cause of action against the defendant for injunctive and other curative relief and may also recover:~~

~~(A) The greater of ten thousand dollars (\$10,000) or the actual damages caused by the violation;~~

~~(B) Court costs;~~

~~(C) Reasonable attorney’s fees;~~

~~(D) Costs and expenses reasonably related to the expenses of investigating and bringing the civil action; and~~

~~(E) Exemplary or punitive damages in an amount determined~~

~~by the fact finder.~~

~~(b) No firm, partnership, or corporation may offer to the public or other firms, partnerships, or corporations any counseling services as specified in § 17-27-102 unless those services are performed or supervised by individuals fully and validly licensed under this chapter.~~

~~17-27-105. Injunctions.~~

~~The courts of this state are vested with the jurisdiction and power to enjoin the unlawful practice of counseling or false representation as a licensed counselor in any proceeding brought by the Arkansas Board of Examiners in Counseling or by any member thereof or by any citizen of this state.~~

~~Subchapter 2 — Arkansas Board of Examiners in Counseling~~

~~17-27-201. Creation — Members.~~

~~(a) There is created a board to be known as the “Arkansas Board of Examiners in Counseling”, consisting of nine (9) members who shall be appointed by the Governor, subject to confirmation by the Senate.~~

~~(b) Appointments shall be made so as to ensure that the Arkansas Board of Examiners in Counseling consists of citizens of the United States, residents of Arkansas, at least one (1) member of each sex, and at least one (1) member of an ethnic minority.~~

~~(c)(1) The composition of the Arkansas Board of Examiners in Counseling shall include:~~

~~(A)(i) Six (6) licensed or licensable counselors, three (3) of whom are practicing counselors and three (3) of whom are counselor educators.~~

~~(ii) The Governor shall consult the Executive Committee of the Arkansas Counseling Association and the Executive Committee of the Arkansas Mental Health Counselors Association before making an appointment under this subdivision (c)(1)(A);~~

~~(B)(i) One (1) licensed marriage and family therapist.~~

~~(ii) The Governor shall consult the Board of Directors of the Arkansas Association for Marriage and Family Therapists before making an appointment under this subdivision (c)(1)(B);~~

~~(C) One (1) member from the general public who is not licensed or licensable and not actively engaged in or retired from the profession of counseling who shall represent consumers; and~~

~~(D)(i) One (1) member who shall represent the elderly.~~

~~(ii) This member shall be sixty (60) years of age or older and not actively engaged in or retired from the profession of counseling.~~

~~(iii) He or she shall be appointed from the state at large subject to confirmation by the Senate and shall be a full voting member but shall not participate in the grading of examinations.~~

~~(2) The same person may not be both the consumer representative and the representative of the elderly.~~

~~(d) Arkansas Board of Examiners in Counseling members shall be appointed for three-year terms.~~

~~(e) Any Arkansas Board of Examiners in Counseling member may be removed by the Governor after written notice and a hearing for incapacity, incompetence, neglect of duty, or malfeasance in office.~~

~~(f)(1) The members shall immediately and before performing public duties take the constitutional oath of office.~~

~~(2) Each member may receive expense reimbursement in accordance with § 25-16-901 et seq., provided that the expenses shall in no case exceed funds available to the Arkansas Board of Examiners in Counseling.~~

~~17-27-202. Officers and proceedings.~~

~~(a) The Arkansas Board of Examiners in Counseling shall organize within thirty (30) days following the appointment of any new members by the Governor on January 2 of each year.~~

~~(b) The board shall elect a chair and a secretary from its members to serve for terms of one (1) year.~~

~~(c) The board shall hold at least one (1) meeting each year. Additional meetings may be held at the discretion of the Chair of the Arkansas Board of Examiners in Counseling or upon the written request of any three (3) members of the board.~~

~~(d) Five (5) members of the board shall at all times constitute a quorum.~~

~~(e) The board shall adopt a seal which must be affixed to all licenses~~

~~issued by the board.~~

~~17-27-203. Duties and powers.~~

~~(a) The Arkansas Board of Examiners in Counseling shall perform those duties and have those powers as this chapter prescribes and confers upon it.~~

~~(b) The board shall adopt rules and procedures as it deems necessary for the performance of its duties.~~

~~(c) The board shall adopt the Code of Ethics of the American Counseling Association and any revisions or additions deemed appropriate by this board to govern appropriate practice or behavior referred to in this chapter.~~

~~(d) The board shall adopt the Code of Ethics of the American Association for Marriage and Family Therapy to govern licensed marriage and family therapists and licensed associate marriage and family therapists.~~

~~(e) The board is required to charge an application fee determined by the board.~~

~~(f) The board shall be empowered to accept grants from foundations and institutions to carry on its functions and to hire assistants as are necessary to perform its activities.~~

~~Subchapter 3—Licensing~~

~~17-27-301. Licensed professional counselor—Qualifications.~~

~~The Arkansas Board of Examiners in Counseling shall issue a license as a licensed professional counselor to each applicant who files an application upon a form and in the manner that the board prescribes accompanied by a fee as set by the board and who furnishes satisfactory evidence of the following to the board:~~

~~(1) The applicant is not a minor under the laws of Arkansas;~~

~~(2) The applicant is highly regarded in professional ethics;~~

~~(3) The applicant is not in violation of any of the provisions of this chapter and the rules adopted under this chapter;~~

~~(4) The applicant has applied for a criminal background check and has not been found guilty of, or pleaded guilty or nolo contendere to, any of the offenses listed in § 17-27-313(e) [repealed];~~

~~(5)(A) The applicant has received a graduate degree from a~~

~~regionally accredited institution of higher education that is primarily professional counseling in content and has accumulated the graduate semester hours that meet the academic and training content standards established by the board.~~

~~(B) The board shall use the standards for the preparation of counselors prepared by that special professional association nationally as a guide in establishing the standards for counseling;~~

~~(6)(A) The applicant has three thousand (3,000) client contact hours of supervised full time experience in professional counseling acceptable to the board.~~

~~(B) Two thousand (2,000) client contact hours of experience may be gained for each sixty (60) graduate semester hours earned beyond the master's degree, provided that the hours are clearly related to the field of counseling and are acceptable to the board.~~

~~(C) The applicant may not have less than one thousand (1,000) client contact hours of professional experience; and~~

~~(7)(A) The applicant has declared special competencies and demonstrated professional competence in specialty areas by having passed a written, oral, or situational examination or any combination thereof as the board will prescribe.~~

~~(B) Upon the examination of credentials, the board, by a majority of the board members present and voting, may consider those credentials adequate evidence of professional competence and recommend to the Chair of the Arkansas Board of Examiners in Counseling that a license be approved in that specialty.~~

~~17-27-302. Licensed associate counselor — Qualifications.~~

~~(a) The Arkansas Board of Examiners in Counseling shall issue a license of licensed associate counselor to each applicant who meets the requirements established in § 17-27-301, with the exception of § 17-27-301(6).~~

~~(b) The licensed associate counselor may practice only under direct supervision of a licensed professional counselor.~~

~~(c) The plan for supervision of the licensed associate counselor must be approved by the board before any actual performance of counseling on the part of the licensed associate counselor.~~

~~(d) Any licensed associate counselor may petition the board for licensure review for the licensed professional counselor, provided that the requirements of § 17-27-301(6) have been completed.~~

~~17-27-303. Licensed marriage and family therapist—Qualifications—Application before January 1, 1998.~~

~~The Arkansas Board of Examiners in Counseling shall issue a license as a licensed marriage and family therapist to each applicant who files an application upon a form and in the manner as the board prescribes accompanied by a fee as set by the board and who furnishes satisfactory evidence of the following to the board:~~

- ~~(1) The applicant is not a minor under the laws of Arkansas;~~
- ~~(2) The applicant is highly regarded in professional ethics;~~
- ~~(3) The applicant is not in violation of any of the provisions of this chapter and the rules adopted hereunder;~~
- ~~(4) The applicant has received a graduate degree in either marriage and family therapy or a related field with specific course work in marriage and family therapy as approved by the board; and~~
- ~~(5) The applicant has at least five (5) years of clinical experience in the practice of marriage and family therapy or clinical membership in the American Association for Marriage and Family Therapy or the National Academy of Certified Family Counselors or certification by an appropriate professional organization, as defined by the board.~~

~~17-27-304. Licensed marriage and family therapist—Qualifications—Application after January 1, 1998.~~

~~The Arkansas Board of Examiners in Counseling shall issue a license as a marriage and family therapist to each applicant who files an application after January 1, 1998, upon a form and in a manner as the board prescribes accompanied by a fee as set by the board if he or she meets the qualifications set forth in § 17-27-303(1)–(3) and if the applicant provides satisfactory evidence to the board that he or she:~~

- ~~(1) Meets educational experience qualifications as follows:
 - ~~(A) Educational Requirements.—A master's degree or a doctoral degree in marriage and family therapy from a regionally accredited educational institution or a graduate degree in the allied fields referred to~~~~

~~in § 17-27-303(4) from a regionally accredited educational institution and graduate level course work which is equivalent to a master's degree in marriage and family therapy as determined by the board; and~~

~~(B) Experience Requirements. The applicant has three thousand (3,000) client contact hours of supervised full time experience in marriage and family therapy acceptable to the board. Two thousand (2,000) client contact hours may be gained for each sixty (60) graduate semester hours earned beyond the master's degree, provided that the hours are clearly related to the field of marriage and family therapy and are acceptable to the board. The applicant may not have less than one thousand (1,000) client contact hours of professional supervised experience; and~~

~~(2) Passes an examination or examinations administered by the board.~~

~~17-27-305. Licensed associate marriage and family therapist—
Qualifications.~~

~~(a) The Arkansas Board of Examiners in Counseling shall issue a license as a licensed associate marriage and family therapist to each applicant who meets the requirements of § 17-27-304, with the exception of § 17-27-304(1)(B).~~

~~(b) The licensed associate marriage and family therapist may practice only under direct supervision of a licensed marriage and family therapist.~~

~~(c) The plan for supervision of the licensed associate marriage and family therapist must be approved by the board before any actual performance of marriage and family therapy by the licensed associate marriage and family therapist.~~

~~(d) Any licensed associate marriage and family therapist may petition the board for licensure review for licensed marriage and family therapist, provided the requirements of § 17-27-304(1)(B) have been met.~~

~~17-27-306. Examination.~~

~~(a)(1) The Arkansas Board of Examiners in Counseling shall provide approval before an applicant is allowed to sit for examination.~~

~~(2) The board shall designate the time and place of any examination in advance of any examination.~~

~~(b) The board is required to preserve examination materials in~~

~~accordance with state rules.~~

~~(c)(1) In the event that an applicant fails to pass an examination, he or she may reapply and may be allowed to take a subsequent examination.~~

~~(2) An applicant who fails an examination shall wait three (3) months before taking a subsequent examination.~~

~~17-27-307. Renewal.~~

~~(a)(1) Biannually at the time of renewal, counselors and licensed marriage and family therapists licensed under this chapter shall be required to submit a license renewal fee to be established by the Arkansas Board of Examiners in Counseling.~~

~~(2)(A) Failure to pay the biannual renewal fee within the time stated shall automatically suspend the right of any licensee to practice while delinquent.~~

~~(B) The lapsed license may be renewed within a period of one (1) year after payment of all fees in arrears.~~

~~(b) No license shall be renewed unless the renewal request is accompanied by evidence satisfactory to the board of the completion during the previous twenty-four (24) months of relevant professional or continued educational experience.~~

~~(c) If any licensed professional counselor, licensed associate counselor, licensed marriage and family therapist, or licensed associate marriage and family therapist duly licensed under this chapter by virtue of additional training and experience is qualified to practice in a specialty other than that for which he or she was deemed competent at the time of initial licensing and wishes to offer service under the provisions of this chapter, he or she is required to submit additional credentials and he or she is to be given the opportunity to demonstrate his or her knowledge and application thereof in areas deemed relevant to his or her specialty.~~

~~17-27-308. Reciprocity.~~

~~At its discretion, the Arkansas Board of Examiners in Counseling may waive formal examination requirements of a candidate who is licensed or certified to practice counseling or marriage and family therapy by a similar board in another state if, in the opinion of the Arkansas Board of Examiners in Counseling, the standards and qualifications required for the practice of~~

~~counseling in the candidate's licensing state are at least equal to those required by this chapter.~~

~~17-27-309.—Suspension or revocation.~~

~~(a) The Arkansas Board of Examiners in Counseling shall have the power to suspend or revoke a license issued under this chapter or impose other appropriate restrictions or additional sanctions, including without limitation supervision, probation, counseling, or additional education, for any person:~~

~~(1) Found guilty of violating any ethical or professional standard; or~~

~~(2) Placed upon a registry of this state or another state in regards to public safety, including without limitation a child maltreatment registry, an adult maltreatment registry, or a sex offender registry.~~

~~(b) The board shall revoke the license of any person who is found guilty of or pleads guilty or nolo contendere to any offense listed in § 17-27-313(c) [repealed] unless the person requests and the board grants a waiver pursuant to § 17-27-313(g) [repealed].~~

~~17-27-310.—Fees—Disposition of funds.~~

~~(a) All fees from applicants seeking licensure under this chapter and all license or renewal fees received shall be paid to the Arkansas Board of Examiners in Counseling.~~

~~(b) No part of any fee shall be returnable under any condition other than failure of the board to hold examinations at the time originally announced, whereupon the entire fee may be returned at the option of the applicant.~~

~~(c)(1) All fees collected or gifts or grants shall be deposited into the State Treasury to the credit of the board via electronic transfer from a financial institution in this state chosen by the board.~~

~~(2) Expenses shall be paid under written direction of the Chair of the Arkansas Board of Examiners in Counseling and the secretary of the board in accordance with usual state procedures.~~

~~17-27-311.—Privileged communication.~~

~~(a) For the purposes of this chapter, the confidential relations and~~

~~communications between a licensed counselor and a client, a licensed associate counselor and a client, a licensed marriage and family therapist and a client, or between a licensed associate marriage and family therapist and a client are placed upon the same basis as those between an attorney and a client.~~

~~(b) Nothing in this chapter shall be construed to require that any privileged communication be disclosed.~~

~~17-27-312. Application of laws pertaining to licensed professional counselors.~~

~~All laws of this state that pertain to licensed professional counselors shall likewise pertain to and include licensed marriage and family therapists.~~

~~17-27-313. Criminal background checks.~~

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

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

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

~~(d) Upon completion of the criminal background check, the Identification Bureau of the Division of Arkansas State Police shall forward to the board all releasable information obtained concerning the applicant.~~

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

~~(f) For the purposes of this section, the board shall follow the licensing restrictions based on criminal records under § 17-3-102.~~

~~(g)(1) Any information received by the board from the Identification Bureau of the Division of Arkansas State Police under this section shall not~~

~~be available for examination except by:~~

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

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

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

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

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

~~(j) The board shall adopt the necessary rules to fully implement the provisions of this section.~~

~~Subchapter 4 — Licensing Alcoholism and Drug Abuse Counselors~~

~~17-27-401. — Definitions.~~

~~As used in this subchapter:~~

~~(1) “Licensed alcoholism and drug abuse counselor” means a person who renders for compensation alcoholism and drug abuse counseling or alcoholism and drug abuse counseling-related services to an individual, group, organization, corporation, institution, or to the general public, and who holds a license issued by the State Board of Examiners of Alcoholism and Drug Abuse Counselors or by another health or behavioral sciences board to engage in the practice of alcoholism and drug abuse counseling;~~

~~(2) “Practice of alcoholism and drug abuse counseling” means the professional activity of helping individuals, groups, organizations, corporations, institutions, or the general public to develop an understanding of alcoholism and drug dependency problems and to define goals and plan action reflecting the individual’s or group’s interests, abilities, and needs as affected by claimed alcoholism and drug dependency problems. It includes the professional application of values, principles, and techniques to one (1) or more of the following ends:~~

~~(A) Counseling with individuals, families, and groups;~~

~~(B) Helping people obtain tangible services;~~
~~(C) Assisting communities or groups;~~
~~(D) Providing or improving social and health services; and~~
~~(E) Engaging in alcoholism and drug abuse education and prevention through the appropriate administration of alcoholism and drug abuse counseling services;~~

~~(3) "Registered clinical supervisor" means a person registered by the State Board of Examiners of Alcoholism and Drug Abuse Counselors to provide clinical supervision of applicants for certification or licensure; and~~

~~(4) "Supervised work experience" means paid or voluntary work experience as an alcohol and drug abuse counselor who provides alcohol and drug abuse counseling services under the supervision of a credentialed alcohol and drug abuse counselor to persons with alcoholism or other drug dependency, or both.~~

~~17-27-402. Purpose.~~

~~(a) It is the purpose and policy of the State of Arkansas to protect the public from being misled by incompetent and unauthorized persons and from unprofessional conduct on the part of qualified alcoholism and drug abuse counselors by providing regulatory authority over persons who hold themselves out to the public as licensed alcoholism and drug abuse counselors under this subchapter.~~

~~(b) The purpose of this subchapter is to allow the State Board of Examiners of Alcoholism and Drug Abuse Counselors to establish appropriate licensure and certification requirements and define the practice of alcoholism and drug abuse counseling and to promote high standards of professional performance for those engaged in the practice of alcoholism and drug abuse counseling by setting standards of qualification, training, and experience for those who seek to engage in the practice of alcoholism and drug abuse counseling under this subchapter.~~

~~17-27-403. Exemptions.~~

~~(a) This subchapter is not applicable to employees of the Division of Elementary and Secondary Education or local boards of education who meet the certification as established or which may be established by the State Board~~

~~of Education.~~

~~(b) This subchapter does not:~~

~~(1) Limit or restrict the regulation of the title, setting of standards, qualifications, training, or experience of those who seek to engage in the practice of alcoholism and drug abuse counseling and who have been or will be certified by the State Board of Examiners of Alcoholism and Drug Abuse Counselors for the position for which they have been employed;~~

~~(2) Require persons employed by the State of Arkansas, the director or administrative head of a social service agency or division of a city or county, or applicants for such employment to be licensed;~~

~~(3) Limit the activities and services of a student or intern seeking to fulfill the educational requirements in order to qualify for a license under this subchapter or acts of other recognized health or behavioral sciences professions;~~

~~(4) Prohibit individuals not licensed under the provisions of this subchapter who work in self-help groups or programs or not-for-profit organizations from providing services in those groups, programs, or organizations or agencies;~~

~~(5) Prevent qualified members of other recognized health or behavioral science professions from performing work within the standards and ethics of their respective professions;~~

~~(6) Prevent persons licensed under other health or behavioral science boards from the practice of alcoholism and drug abuse counseling so long as those persons maintain current licensure in their respective fields;~~

~~(7) Prevent members of the clergy or Christian Science practitioners from performing work within the standards and any code of ethics of their respective professions as long as they do not hold themselves out to the public as being licensed alcoholism and drug abuse counselors; or~~

~~(8) Restrict the licensure of programs under §§ 20-64-901—20-64-909.~~

~~17-27-404. Establishment of licensure board.~~

~~(a)(1) There is hereby created the State Board of Examiners of Alcoholism and Drug Abuse Counselors to be composed of thirteen (13) members who shall be appointed by the Governor.~~

~~(2) Two (2) of the initial members shall be alcoholism and drug~~

~~abuse counselors certified by the Arkansas Substance Abuse Certification Board who are licensed under the provisions of this subchapter and who have rendered service, education, or research in alcoholism and drug abuse counseling for at least five (5) years. Their successors shall be alcoholism and drug abuse counselors licensed by the State Board of Examiners of Alcoholism and Drug Abuse Counselors who have rendered service, education, or research in alcoholism and drug abuse counseling for at least two (2) years.~~

~~(3) Four (4) of the initial members shall be alcoholism and drug abuse counselors certified by the Arkansas Substance Abuse Certification Board who are licensed under the provisions of this subchapter and who have rendered service, education, or research in alcoholism and drug abuse counseling for at least two (2) years. Their successors shall be alcoholism and drug abuse counselors licensed by the State Board of Examiners of Alcoholism and Drug Abuse Counselors who have rendered service, education, or research in alcoholism and drug abuse counseling for at least five (5) years.~~

~~(4) Four (4) of the initial members shall be alcoholism and drug abuse counselors certified by the Arkansas Substance Abuse Certification Board who are licensed under the provisions of this subchapter and who engage in the independent practice of alcoholism and drug abuse counseling. Their successors shall be alcoholism and drug abuse counselors licensed by the State Board of Examiners of Alcoholism and Drug Abuse Counselors who have rendered service, education, or research in alcoholism and drug abuse counseling for at least five (5) years.~~

~~(5) One (1) member shall be licensed by an Arkansas health or behavioral sciences board and hold a specialty in alcohol and drug abuse counseling or addiction and a current license from his or her licensing boards.~~

~~(6) One (1) member shall be a licensed professional counselor with a specialty in alcohol and drug abuse counseling or addiction.~~

~~(7) One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated.~~

~~(b) The initial members of the State Board of Examiners of Alcoholism and Drug Abuse Counselors shall be appointed so that three (3) members serve a one-year term, three (3) members serve a two-year term, three (3) members serve a three-year term, and four (4) members serve a four-year term.~~

~~Successor members shall serve four-year terms except that persons appointed to fill vacancies resulting in an unexpired term shall serve for the remainder of that unexpired term.~~

~~(c) Upon the recommendation of the State Board of Examiners of Alcoholism and Drug Abuse Counselors made after notice and hearing, the Governor may remove any member of the State Board of Examiners of Alcoholism and Drug Abuse Counselors for incompetence, neglect of duty, or malfeasance in office.~~

~~(d) Any vacancy on the State Board of Examiners of Alcoholism and Drug Abuse Counselors shall be filled by the Governor.~~

~~(e) The Governor shall call the first board meeting and designate a member to preside at that meeting. The State Board of Examiners of Alcoholism and Drug Abuse Counselors shall elect annually from its membership a chair, a vice chair, and a secretary. The State Board of Examiners of Alcoholism and Drug Abuse Counselors shall meet as frequently as it deems necessary, at such times and places as the State Board of Examiners of Alcoholism and Drug Abuse Counselors designates. Additional meetings may be held upon the call of the chair or upon the written request of five (5) members of the State Board of Examiners of Alcoholism and Drug Abuse Counselors.~~

~~(f) Seven (7) members of the State Board of Examiners of Alcoholism and Drug Abuse Counselors shall constitute a quorum.~~

~~17-27-405. Compensation for board members.~~

~~The members of the State Board of Examiners of Alcoholism and Drug Abuse Counselors may receive a stipend of sixty dollars (\$60.00) per day for each day of attendance at a board meeting plus expense reimbursement pursuant to § 25-16-901 et seq. The stipend and expense reimbursement shall not be made if available funds are insufficient for this purpose.~~

~~17-27-406. Powers and duties of board.~~

~~(a) The State Board of Examiners of Alcoholism and Drug Abuse Counselors shall administer and enforce the provisions of this subchapter and shall adopt rules consistent with its provisions, including a code of ethical practice.~~

~~(b) The board shall review and act upon applications for licensure and certification at least four (4) times a year and shall regulate the renewal~~

~~of licenses or certifications.~~

~~(c) The board may conduct hearings on charges calling for the denial, revocation, or suspension of a license or certification or issuance of a monetary fine, shall adopt rules for the conduct of the hearings, and shall cause the prosecution of all persons who violate any provisions of this subchapter or any rule promulgated pursuant to its provisions.~~

~~(d) The board may sue and be sued in its own name.~~

~~(e) The Department of Health may employ any persons it deems necessary to carry on the work of the board and the department shall define their duties and fix their compensation within the limits prescribed by law.~~

~~(f) The board shall maintain a register of all individuals licensed or certified under the provisions of this subchapter. The register shall be a public record.~~

~~(g) The board shall keep a complete record of all of its proceedings.~~

~~(h)(1) The board shall set by rule a fee schedule for:~~

~~(A) Applications for licensure;~~

~~(B) Examinations;~~

~~(C) Renewal of licensure;~~

~~(D) Late fees;~~

~~(E) Fines; and~~

~~(F) Administrative costs.~~

~~(2) The fees shall be set at a level sufficient to cover the cost of supporting the duties of the board, hiring persons necessary to carry on the work of the board, and other functions necessary for the successful operation of the board.~~

~~17-27-407. Board to enjoin violations.~~

~~When it appears to the State Board of Examiners of Alcoholism and Drug Abuse Counselors that a person is violating any provisions of this subchapter, the board or any member thereof shall not be required to furnish bond for any cost or filing fees in connection with the proceeding.~~

~~17-27-408. Licensed alcoholism and drug abuse counselor — License requirements.~~

~~(a) The State Board of Examiners of Alcoholism and Drug Abuse Counselors shall issue the license as a licensed alcoholism and drug abuse~~

~~counselor to an applicant who meets the following requirements:~~

~~(1) Is at least twenty one (21) years of age;~~

~~(2)(A) Has successfully completed a minimum of three (3) years or six thousand (6,000) hours of supervised experience.~~

~~(B) Supervised experience shall be approved and documented by a registered clinical supervisor in good standing with the board;~~

~~(3)(A) Has successfully completed a minimum of two hundred seventy (270) clock hours of approved education.~~

~~(B) Approved education shall be directly related to alcoholism or drug abuse counseling subjects, theory, practice, or research;~~

~~(4) Has submitted an application on a form provided by the board and paid an application fee fixed by the board;~~

~~(5) Has certified under penalty of perjury as evidenced by a notarized signature on the application for licensure that all education and experience requirements have been met;~~

~~(6) Has submitted three (3) letters of reference;~~

~~(7) Has paid to the board an examination fee fixed by the board;~~

~~(8) Has passed a national qualifying written examination prescribed by the board, sufficient to ensure professional competence in keeping with the highest standards of the alcoholism and drug abuse counseling profession;~~

~~(9) Has signed a written agreement to abide by the code of ethics adopted by the board; and~~

~~(10) Holds a master's degree in the health or behavioral sciences field or other appropriate field from an accredited college or university.~~

~~(b) The license shall be displayed in the licensee's principal place of practice and shall entitle the licensee to hold himself or herself forth to the public as providing services as authorized by this subchapter.~~

~~17-27-409. Licensed associate alcoholism and drug abuse counselor—
License requirements.~~

~~(a) The State Board of Examiners of Alcoholism and Drug Abuse Counselors shall issue a license as a licensed associate alcoholism and drug abuse counselor to an applicant who meets the following requirements:~~

~~(1) Is at least twenty one (21) years of age;~~

~~(2)(A) Has successfully completed a minimum of three (3) years or six thousand (6,000) hours of supervised experience.~~

~~(B) Supervised experience shall be approved and documented by a registered clinical supervisor in good standing with the board;~~

~~(3)(A) Has successfully completed a minimum of two hundred seventy (270) clock hours of approved education.~~

~~(B) Approved education shall be directly related to alcoholism or drug abuse counseling subjects, theory, practice, or research;~~

~~(4) Has submitted an application on a form provided by the board and paid an application fee fixed by the board;~~

~~(5) Has certified under penalty of perjury as evidenced by a notarized signature on the application for licensure that all education and experience requirements have been met;~~

~~(6) Has submitted three (3) letters of reference;~~

~~(7) Has paid to the board an examination fee fixed by the board;~~

~~(8) Has passed a national qualifying written examination prescribed by the board, sufficient to ensure professional competence in keeping with the highest standards of the alcoholism and drug abuse counseling profession;~~

~~(9) Has signed a written agreement to abide by the code of ethics adopted by the board;~~

~~(10) Holds a baccalaureate degree in the health or behavioral sciences field or other appropriate field from an accredited college or university; and~~

~~(11)(A) Has successfully completed a minimum of three (3) years or six thousand (6,000) hours of supervised direct counseling experience in the alcoholism or drug abuse counseling field, either paid or voluntary.~~

~~(B) Supervised experience shall be approved and documented by a registered clinical supervisor in good standing with the board.~~

~~(b) The certification shall be displayed in the associate's principal place of practice and shall entitle the individual to hold himself or herself forth to the public as providing services as authorized by this subchapter.~~

~~(c) Associates licensed by the board may engage in the practice of alcoholism and drug abuse counseling after successfully completing a schedule of supervision prescribed by the board and performed under the direct supervision of a registered clinical supervisor in good standing with the~~

board.

~~17-27-410. Certified alcoholism and drug abuse technician—
Certification requirements.~~

~~(a) The State Board of Examiners of Alcoholism and Drug Abuse Counselors shall issue the certification as a certified alcoholism and drug abuse technician to an applicant who meets the following requirements:~~

~~(1) Is at least twenty one (21) years of age;~~

~~(2)(A) Has successfully completed a minimum of three (3) years or six thousand (6,000) hours of supervised experience.~~

~~(B) Supervised experience shall be approved and documented by a registered clinical supervisor in good standing with the board;~~

~~(3)(A) Has successfully completed a minimum of two hundred seventy (270) clock hours of approved education.~~

~~(B) Approved education shall be directly related to alcoholism or drug abuse counseling subjects, theory, practice, or research;~~

~~(4) Has submitted an application on a form provided by the board and paid an application fee fixed by the board;~~

~~(5) Has certified under penalty of perjury as evidenced by a notarized signature on the application for licensure that all education and experience requirements have been met;~~

~~(6) Has submitted three (3) letters of reference;~~

~~(7) Has paid to the board an examination fee fixed by the board;~~

~~(8) Has passed a national qualifying written examination prescribed by the board, sufficient to ensure professional competence in keeping with the highest standards of the alcoholism and drug abuse counseling profession;~~

~~(9) Has signed a written agreement to abide by the code of ethics adopted by the board; and~~

~~(10) Holds a high school diploma or equivalent.~~

~~(b) The certification shall be displayed in the technician's principal place of practice and shall entitle the individual to hold himself or herself forth to the public as providing services as authorized by this subchapter.~~

~~(c) Technicians certified by the board may engage in the practice of alcoholism and drug abuse counseling only while under the direct supervision of a licensed alcoholism and drug abuse counselor who is registered as a~~

~~registered clinical supervisor by the board.~~

~~(d) A technician shall not receive a license as a licensed alcoholism and drug abuse counselor or a license as an associate alcoholism and drug abuse counselor unless the provisions of §§ 17-27-408 and 17-27-409 have been met.~~

~~17-27-411. Registered clinical supervisors.~~

~~The State Board of Examiners of Alcoholism and Drug Abuse Counselors may register persons who meet the qualifications and standards established by the board for registered clinical supervisors.~~

~~17-27-412. [Repealed.]~~

~~17-27-413. License and certificate renewal — Fee — Waiver.~~

~~(a) Each licensed alcoholism and drug abuse counselor, licensed associate alcoholism and drug abuse counselor, and certified alcoholism and drug abuse technician shall:~~

~~(1) Renew his or her license or certificate every two (2) years; and~~

~~(2) Pay the State Board of Examiners of Alcoholism and Drug Abuse Counselors a renewal fee fixed by the board.~~

~~(b)(1) Renewal fees shall be waived for any licensee or person certified actually serving in the United States Armed Forces.~~

~~(2) A waiver under subdivision (b)(1) of this section shall be effective for six (6) months following honorable discharge, separation, or release from the United States Armed Forces, after which period a license or certificate shall be considered lapsed.~~

~~(c) The board, at its discretion, may require continuing education as a condition of license or certificate renewal.~~

~~17-27-414. Grievance procedure — Denial, revocation, or suspension of license or certificate — Appeals.~~

~~(a) The State Board of Examiners of Alcoholism and Drug Abuse Counselors may hear the grievances of any person whose application for a license, registration, or certificate has been denied.~~

~~(b)(1) The board may deny, revoke, or suspend any license,~~

~~registration, or certificate upon proof that the person has willfully or repeatedly violated any of the provisions of this subchapter or any rule promulgated by the board or upon proof that a person has practiced outside the scope of practice for which he or she is licensed or certified under this subchapter.~~

~~(2) The board may assess a monetary fine to a person licensed or certified under this subchapter in addition to or in lieu of the denial, revocation, or suspension of a license, registration, or certificate under subdivision (b)(1) of this section.~~

~~(c) The board shall not suspend, revoke, or refuse to renew a license or certificate or assess a monetary fine, except after a hearing held before the board, upon notice to the person charged.~~

~~(d) The notice shall:~~

~~(1) Be in writing;~~

~~(2) State the nature of the charges and the time and place of the hearing; and~~

~~(3) Be served on the person charged by certified mail not less than thirty (30) days before the date of the hearing.~~

~~(e) The person charged:~~

~~(1) May appear in person or by counsel;~~

~~(2) May testify;~~

~~(3) May produce evidence and witnesses on his or her own behalf;~~

~~(4) May cross-examine witnesses; and~~

~~(5) Is entitled on application to the board to the issuance of subpoenas to compel the attendance of witnesses and the production of documentary evidence.~~

~~(f)(1) The board or its authorized representative on his or her behalf shall have the authority to issue subpoenas to compel the attendance of witnesses and the production of documents and may administer oaths.~~

~~(2) The board may invoke the aid of the circuit court for the county in which the hearing is held to enforce compliance with its subpoenas.~~

~~(g) A stenographic or mechanical record of the hearing shall be taken, and a transcript shall be preserved by the board.~~

~~(h) At all hearings before the board, the Attorney General of the State of Arkansas or one (1) of his or her assistants designated by him or her shall appear and represent the board.~~

~~(i) The decision of the board shall be by a majority vote of the board.~~

~~(j) A copy of the board's order shall be sent by certified mail to the last known address of the person charged.~~

~~(k) The board may grant a rehearing when new and material evidence is offered for its consideration.~~

~~(1)(1) Any person aggrieved by a final order of the board, within thirty (30) days of the entry of the order, may appeal to the circuit court of the county in which he or she resides.~~

~~(2) The appeal shall be determined by the court upon the certified record, and new or additional evidence shall not be heard or considered by the court.~~

~~17-27-415.—Funding of board.~~

~~All moneys received by the State Board of Examiners of Alcoholism and Drug Abuse Counselors under this subchapter shall be deposited into one (1) or more financial institutions in this state. The moneys shall be used for the operation of the board.~~

~~17-27-416.—Confidentiality of information—Exception.~~

~~No individual licensed or certified under the provisions of this subchapter may disclose any information he or she may have acquired from persons consulting him or her in his or her capacity as a person regulated under this subchapter, except:~~

~~(1) With the written consent of the person or, in the case of death or disability, of his or her authorized representative, or the beneficiary of an insurance policy on his or her life, health, or physical condition;~~

~~(2) A communication that reveals the contemplation of a crime or a harmful act;~~

~~(3) When the communication indicates that the person was the victim of a crime, the individual shall be required to testify fully when properly ordered by a court of competent jurisdiction in any examination, trial, or other proceeding in which the commission of a crime is the subject of inquiry;~~

~~(4) Communications made in the course of an examination ordered~~

~~by a court of competent jurisdiction when the client has been informed before the examination that any communications made during the examination would not be privileged;~~

~~(5) When the individual is a defendant in either a civil or criminal action; or~~

~~(6) If the individual has reasonable ground to suspect that a child has been abused or neglected, he or she shall report such information as required by law.~~

SECTION 8. Arkansas Code § 17-80-302(e), concerning the minority members of state health-related agencies, boards, and commissions, is amended to read as follows:

(e) The health-related agencies, boards, and commissions for which recommendations may be considered under this section include the:

(1) Arkansas Board of Podiatric Medicine;

(2) ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals;

~~(3) Arkansas Social Work Licensing Board;~~

~~(4)~~(3) Arkansas State Board of Dental Examiners;

~~(5)~~(4) Arkansas State Medical Board;

~~(6)~~(5) Arkansas State Board of Pharmacy;

~~(7)~~(6) Board of Examiners in Speech-Language Pathology and Audiology; and

~~(8)~~(7) State Board of Optometry.

SECTION 9. Arkansas Code § 17-97-102(a)(2)(B)(i), concerning the definition of "psychological examiner", is amended to read as follows:

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

SECTION 10. Arkansas Code § 17-97-201 and 17-97-202 are repealed.

~~17-97-201. Creation—Members.~~

~~(a)(1) There is created the Arkansas Psychology Board, which shall~~

~~consist of nine (9) members who shall be appointed by the Governor for terms of five (5) years.~~

~~(2) The Governor shall appoint:~~

~~(A) One (1) academic psychologist engaged in the full-time teaching of psychology at the graduate level at an approved institute of higher education or holding an active faculty appointment in an American Psychological Association approved pre- or post-doctoral internship program;~~

~~(B)(i) Four (4) practicing psychologists engaged in the full-time practice of psychology with at least one (1) psychologist engaged in the full-time, private practice of psychology.~~

~~(ii) The Governor shall ensure that the psychologist members reflect a diversity of practice specialties, including, but not limited to, clinical psychology, counseling psychology, health psychology, neuro-psychology, and school psychology;~~

~~(C) Two (2) psychological examiners engaged in the full-time practice of psychology; and~~

~~(D) Two (2) persons who are not actively engaged in or retired from the practice of psychology who shall be voting members-at-large.~~

~~(3)(A) The academic psychologist member, the practicing psychologist members, and the psychological examiner members shall be appointed by the Governor after consulting the Arkansas Psychological Association Incorporated and the Arkansas Association of Masters in Psychology, Inc. and subject to confirmation by the Senate.~~

~~(B)(i) Of the two (2) members appointed pursuant to subdivision (a)(2)(D) of this section, one (1) member shall represent consumers, and one (1) member shall be sixty (60) years of age or older and shall represent the elderly.~~

~~(ii) Both shall be appointed from the state at large, subject to confirmation by the Senate.~~

~~(iii) The two (2) positions may not be held by the same person.~~

~~(iv) Both shall be full voting members but shall not vote on or participate in the administration or grading of examinations of applicants for licensure.~~

~~(C)(i) Any public member appointed under subdivision (a)(2)(D) of this section after July 28, 1995, shall be an Arkansas resident~~

~~and shall have resided in Arkansas for at least five (5) years immediately preceding appointment.~~

~~(ii) Furthermore, the person shall never have been a psychologist or psychological examiner, an applicant or former applicant for licensure as a psychologist or psychological examiner, a member of another mental health profession, a member of a household that includes a psychologist or psychological examiner, or otherwise have conflicts of interest or the appearance of conflicts with his or her duties as a board member.~~

~~(4)(A) Each psychologist and psychological examiner appointed to the board after July 28, 1995, shall reside within the State of Arkansas, hold a current valid license to practice, and shall have been licensed to practice psychology in Arkansas for at least five (5) years immediately preceding his or her appointment to the board.~~

~~(B) At the time of appointment, each such member shall be free of any conflict of interest and the appearance of any conflict with his or her duties as a member of the board.~~

~~(C) To the extent possible, psychologist and psychological examiner board members shall be members or fellows of state or national professional organizations, such as the Arkansas Psychological Association Incorporated, the Arkansas Association of Masters in Psychology, Inc., or the American Psychological Association.~~

~~(5)(A) The Governor shall fill all vacancies on the board within thirty (30) days after the vacancy occurs.~~

~~(B) The Governor shall remove any member from the board if he or she:~~

~~(i) Ceases to be qualified;~~

~~(ii) Fails to attend three (3) successive board meetings without just cause as determined by the board;~~

~~(iii) Is found to be in violation of this chapter;~~

~~(iv) Pleads guilty or nolo contendere to or is found guilty of a felony listed under § 17-3-102 by a court of competent jurisdiction; or~~

~~(v) Pleads guilty or nolo contendere to or is found guilty of malfeasance, misfeasance, or nonfeasance in relation to his or her board duties by a court of competent jurisdiction.~~

~~(b) All vacancies occurring on the board shall be filled by the Governor for the unexpired term and, for the professional members from the list of those qualified, within thirty (30) days after the vacancy occurs.~~

~~(c) The term of each member shall expire on December 31 of the year designated, and on or before that date, for the professional members, the association shall make its recommendations to the Governor for a successor appointee. A successor appointee shall be named by the Governor on or before the expiration date of the terms so expiring.~~

~~(d) Immediately and before entering upon the duties of office, the members of the board shall take the constitutional oath of office and shall file it in the office of the Governor, who upon receiving the oath of office shall issue to each member a certificate of appointment.~~

~~(e) Each member may receive expense reimbursement in accordance with § 25-16-901 et seq. However, that expense shall in no case exceed the fees collected by the board.~~

~~17-97-202. Organization and proceedings.~~

~~(a) The Arkansas Psychology Board shall meet and organize by electing a chair, a secretary, and a treasurer.~~

~~(b) The board shall hold at least one (1) regular meeting each year. Called meetings may be held at the discretion of the Chair of the Arkansas Psychology Board or at the written request of any two (2) members of the board.~~

~~(c) A majority of the members of the board shall at all times constitute a quorum.~~

~~(d) The board shall adopt a seal which shall be affixed to all certificates issued by the board.~~

SECTION 11. Arkansas Code § 17-97-203 is amended to read as follows:

17-97-203. Powers and duties.

The ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals shall:

(1) Be empowered to hire assistants as necessary to carry on its activities, within the limits of funds available to the board;

(2) Be empowered to accept grants from foundations or institutions;

(3) From time to time adopt rules that comply with national guidelines and standards as it may deem necessary for the performance of its duties;

(4) Examine and pass upon the qualifications of the applicants for the practice of psychology as provided; and

(5) Adopt the code of ethics of the American Psychological Association to govern appropriate practices or behavior as referred to in this chapter and file the code with the Secretary of State within thirty (30) days before the effective date of the code of ethics.

SECTION 12. Arkansas Code § 17-97-204(a), concerning the collection and disposition of fees related to the licensing of psychologists and psychological examiners, is amended to read as follows:

(a) ~~The Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals may establish various fees and penalties for services related to provision of temporary permits, printed materials, handling returned checks, costs incurred in processing delinquent payments, and other reasonable services as may be determined by the board and the Department of Health is authorized to collect such fees and penalties.

SECTION 13. Arkansas Code § 17-97-302(a), concerning the licensure application and qualifications for a psychologist, is amended to read as follows:

(a) Any person wishing to obtain the right to practice as a psychologist in this state who has not heretofore been licensed to do so shall make application to the ~~Arkansas Psychology Board through the Chair of the Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals in a form and in a manner as shall be adopted and prescribed by the board and obtain from the board a license to do so.

SECTION 14. Arkansas Code § 17-97-303(a), concerning the licensure application and qualifications of a psychological examiner, is amended to read as follows:

(a) Any person wishing to obtain the right to practice as a psychological examiner who has not heretofore been licensed to do so shall make application to the ~~Arkansas Psychology Board through the Chair of the~~

~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals upon a form and in the manner as shall be adopted and prescribed by the board and shall obtain from the board a license to do so.

SECTION 15. Arkansas Code § 17-97-304(a)(1), concerning examinations for a license to practice as a psychologist or a psychological examiner, is amended to read as follows:

(a)(1) Examination of applicants for a license to practice as a psychologist or as a psychological examiner shall be made by the ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals at least one (1) time a year according to methods and in such subject fields as may be deemed by the board to be the most practical and expeditious to test the applicant's qualifications.

SECTION 16. Arkansas Code § 17-97-305(a), concerning issuance of licenses to practice psychology, is amended to read as follows:

(a) License to Practice Psychology. The ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals shall be the sole agency empowered to examine candidates concerning competence in the practice of psychology and to grant license for the practice of psychology at the appropriate level. The license shall be signed by the Chair of the ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals and attested by the Secretary of the ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals under the seal of the board, whereupon a proper license shall be issued in accordance with this chapter.

SECTION 17. Arkansas Code § 17-97-306 is amended to read as follows:
17-97-306. Reciprocity.

At its discretion, the ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals may grant a certificate without an assembled examination to any person residing or employed in the state who:

(1) At the time of application is licensed or certified by a similar board of another state whose standards, in the opinion of the board, are not lower than those required by this chapter or who has been practicing psychology in another state and has qualifications not lower than those required by this chapter; and

(2) Is able to satisfy the board that to grant him or her a license would be in the public interest.

SECTION 18. Arkansas Code § 17-97-308(a), concerning annual registration fee for licensures to practice psychology, is amended to read as follows:

(a) The ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals may adopt and enforce rules requiring every person having a license to practice to pay an annual registration fee in a sum to be fixed by the board.

SECTION 19. Arkansas Code § 17-97-309(a), concerning application fees for licensure to practice psychology, is amended to read as follows:

(a)(1) There shall be paid to the Chair of the ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals by each applicant for a permanent license an application fee of two hundred dollars (\$200).

(2) An additional fee to be determined by the ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals, but in no event to exceed the sum of one hundred dollars (\$100), shall be paid as deemed necessary to defray the cost of acquiring and administering the examination test and related expenses in connection therewith.

SECTION 20. Arkansas Code § 17-97-310(a), concerning the grounds for denial, suspension, revocation, fine, letter of reprimand, or additional education, is amended to read as follows:

(a) The ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals may refuse to grant a certificate or may suspend or revoke any license for a period to be determined by the board, may impose a fine of up to five thousand dollars (\$5,000), may issue a letter of reprimand, and may require additional hours of education of a licensee on the following grounds:

(1) The employment of fraud or deception in applying for a license or in passing the examination provided for in this chapter;

(2) The practice of psychology under a false or assumed name or the impersonation of another practitioner of a like or different name;

(3) Habitual intemperance in the use of ardent spirits,

narcotics, or stimulants to such an extent as to incapacitate the licensee or applicant for the performance of his or her duties;

(4) Violation of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.;

(5) Practice of a level of psychology inappropriate to the particular license held by the licentiate;

(6) Upon recommendation of the ethics committee of the Arkansas Psychological Association, Inc. Incorporated or of the American Psychological Association;

(7) Negligence or wrongful actions in the performance of his or her duties; or

(8) A violation of any rule of the board or the rules of ethics as adopted by the board.

SECTION 21. Arkansas Code § 17-97-311(a)(1)(A), concerning the proceedings for a denial, suspension, revocation, or other penalty, is amended to read as follows:

(a)(1)(A) The ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals may investigate or cause to be investigated any allegation or evidence that appears to show that a person:

(i) Is practicing psychology without a license; or

(ii) Licensed to practice in Arkansas and anyone under his or her supervision is or may be in violation of this chapter or of any of the rules adopted by the board.

SECTION 22. Arkansas Code § 17-97-312(a), concerning criminal background checks for licensures to practice psychology, is amended to read as follows:

(a) Each first-time applicant for a license issued by the ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals shall be required to apply to the Identification Bureau of the Division of Arkansas State Police for a state and national criminal background check to be conducted by the Federal Bureau of Investigation.

SECTION 23. Arkansas Code § 17-97-401(c), concerning the supervision of technicians employed by psychologists, is amended to read as follows:

(c) In addition to formal university or college-based preparation, a technician shall demonstrate training and instruction in the numerous areas that pertain to his or her role as a technician as established by the ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals.

SECTION 24. Arkansas Code § 17-97-403(a)(1), concerning the registration of technicians employed by licensed psychologists, is amended to read as follows:

(1) Register each technician with the ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals; and

SECTION 25. Arkansas Code § 17-97-405(c), concerning the supervision of technicians and supervised experience, is amended to read as follows:

(c) The setting shall include a licensed, ~~Arkansas Psychology Board-approved~~ Arkansas State Board of Mental Health Professionals-approved psychologist who is legally and ethically responsible for the oversight of the integrity and quality of the services as well as other resources necessary to meet the employment needs of the technician whose technical assistance is restricted to the practice of neuropsychology and research.

SECTION 26. Arkansas Code § 17-97-406(a)(3), concerning the qualifications of supervisors for technicians employed by licensed psychologists, is amended to read as follows:

(3) Approved by the ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals to practice neuropsychology.

SECTION 27. Arkansas Code § 17-97-502(a), concerning the administration of the Psychological Interjurisdictional Compact, is amended to read as follows:

(a) The ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals is the Psychological Interjurisdictional Compact administrator for this state.

SECTION 28. Arkansas Code § 17-103-103(2)(C)(i), concerning the definition of "licensed master social worker" within the Social Work

Licensing Act, is amended to read as follows:

(C)(i) May engage only in supervised practice as set forth in rules established by the ~~Arkansas Social Work Licensing Board~~ Arkansas State Board of Mental Health Professionals.

SECTION 29. Arkansas Code § 17-103-105(2), concerning violations of the Social Work Licensing Act, is amended to read as follows:

(2) Entering the private independent practice of clinical social work without being certified by the ~~Arkansas Social Work Licensing Board~~ Arkansas State Board of Mental Health Professionals;

SECTION 30. Arkansas Code § 17-103-106(b)(1)(A), concerning the penalties and enforcement of the Social Work Licensing Act, is amended to read as follows:

(b)(1)(A) When the ~~Arkansas Social Work Licensing Board~~ Arkansas State Board of Mental Health Professionals is made aware of a possible violation of § 17-103-105, a registered letter with a return receipt requested shall be mailed to the individual in question, calling to his or her attention the pertinent aspects of the law and the rules of the board.

SECTION 31. Arkansas Code § 17-103-201 and 17-103-202 are repealed.

~~17-103-201. Creation—Members.~~

~~(a) There is created the Arkansas Social Work Licensing Board.~~

~~(b) All members of the Arkansas Social Work Licensing Board shall be appointed by the Governor with the consent of the Senate for terms of three (3) years and shall be residents of the state and citizens of the United States.~~

~~(c) The Arkansas Social Work Licensing Board shall have nine (9) members, with no fewer than two (2) African American members, and shall be composed of the following:~~

~~(1)(A) Three (3) members who are licensed certified social workers, two (2) members who are licensed master social workers, and one (1) member who is a licensed social worker.~~

~~(B)(i) The professional members shall be appointed from the list of social workers licensed by this chapter and shall have five (5) years of full-time social work practice experience before appointment to the~~

~~Arkansas Social Work Licensing Board.~~

~~(ii) The experience required under subdivision (e)(1)(B)(i) of this section may consist of direct social work practice, teaching, or administration in social work;~~

~~(2)(A) One (1) member who is a psychiatrist certified by the American Board of Psychiatry and Neurology, Inc.~~

~~(B) The member appointed under subdivision (e)(2)(A) of this section shall be in good standing with the American Board of Psychiatry and Neurology, Inc.;~~

~~(3) One (1) member who is a representative of the public at large; and~~

~~(4)(A) One (1) member who is sixty (60) years of age or older, not actively engaged in or retired from professional social work, and shall represent the elderly.~~

~~(B) The member appointed under subdivision (e)(4)(A) of this section shall be appointed from the state at large and shall be a full voting member.~~

~~(C) The same member may not represent both the public at large and the elderly.~~

~~(d)(1) A member of the Arkansas Social Work Licensing Board may be removed from office by the Governor for cause.~~

~~(2) In case of death, resignation, or removal, the vacancy of the unexpired term shall be filled by the Governor in the same manner as other appointments.~~

~~(3) A member shall not serve more than two (2) consecutive terms.~~

~~(e)(1) A member of the Arkansas Social Work Licensing Board may receive expense reimbursement in accordance with § 25-16-902.~~

~~(2) All reimbursements for expenses authorized by this chapter shall be paid from the Social Work Licensing Fund.~~

~~(3) Money shall not be paid from the General Revenue Fund Account for the administration of this chapter.~~

~~(f) In addition to the expense reimbursement under subsection (e) of this section, each member of the Arkansas Social Work Licensing Board may receive a stipend in accordance with § 25-16-904.~~

~~17-103-202. Organization and functions.~~

~~(a)(1) At least two (2) regular meetings of the Arkansas Social Work Licensing Board shall be held each calendar year.~~

~~(2) At the first regular meeting each year, the board shall elect a chair, a vice chair, and a secretary.~~

~~(3) Other regular meetings may be held at such time as the rules of the board may provide.~~

~~(b) Special called meetings may be held at the discretion of the Chair of the Arkansas Social Work Licensing Board or at the written request of any three (3) members of the board.~~

~~(c) Reasonable notice of all meetings shall be given in the manner prescribed by the laws of this state.~~

~~(d) A quorum of the board shall consist of four (4) members.~~

~~(e) The board may employ a Director of the Arkansas Social Work Licensing Board, in consultation with the Secretary of the Department of Health, for the performance of its functions and fix the compensation of the director within the limits of funds available to the board.~~

~~(f) The board shall adopt a seal that shall be affixed to all certificates issued by the board.~~

SECTION 32. Arkansas Code § 17-103-203(a), concerning powers and duties of the Arkansas Social Work Licensing Board, is amended to read as follows:

(a) ~~The Arkansas Social Work Licensing Board~~ Arkansas State Board of Mental Health Professionals has all the powers and duties granted under this chapter.

SECTION 33. Arkansas Code § 17-103-204(a), concerning the disposition of funds under the Social Work Licensing Act, is amended to read as follows:

(a) ~~The Director of the Arkansas Social Work Licensing Board~~ Arkansas State Board of Mental Health Professionals or ~~his or her~~ the board's designee shall receive and account for all money derived under the provisions of this chapter and shall pay the money to the Treasurer of State, who shall keep the money in a separate fund to be known as the "Social Work Licensing Fund".

SECTION 34. Arkansas Code § 17-103-204(d), concerning the disposition

of funds under the Social Work Licensing Act, is amended to read as follows:

(d) The director shall be bonded to handle the finances of the ~~Arkansas Social Work Licensing Board~~ Arkansas State Board of Mental Health Professionals in compliance with state rules.

SECTION 35. Arkansas Code § 17-103-205 is amended to read as follows:
17-103-205. Fees.

The ~~Arkansas Social Work Licensing Board~~ Arkansas State Board of Mental Health Professionals shall establish, charge, and collect for:

(1) The filing of an application for a license under this chapter, a nonrefundable fee of not more than one hundred fifty dollars (\$150);

(2) A nonrefundable renewal of a license issued in accordance with this chapter, a fee of not more than one hundred fifty dollars (\$150);

(3) Replacement of a license, a nonrefundable fee of not more than forty dollars (\$40.00);

(4) Endorsement of an Arkansas social work license, a nonrefundable fee of not more than forty dollars (\$40.00);

(5) Renewal of a license after the expiration date, a nonrefundable late fee of not more than one hundred fifty dollars (\$150);

(6) A criminal background check processing fee, the fee amount to be determined by the ~~Department~~ Division of Arkansas State Police;

(7) The filing of an application for a certificate of registration under this chapter, a nonrefundable fee of not more than fifty dollars (\$50.00); and

(8) Renewal of a certificate of registration issued under this chapter, a nonrefundable fee of not more than twenty-five dollars (\$25.00).

SECTION 36. Arkansas Code § 17-103-302 is amended to read as follows:
17-103-302. Endorsement.

The ~~Arkansas Social Work Licensing Board~~ Arkansas State Board of Mental Health Professionals may grant a license without examination to a person meeting all of the other requirements of this chapter and who at the time of application is licensed as a social worker by a similar board of another state, territory, district, or Canadian province whose standards, in the opinion of the ~~Arkansas Social Work Licensing Board~~ Arkansas State Board of

Mental Health Professionals, are substantially equivalent to those required by this chapter.

SECTION 37. Arkansas Code § 17-103-304(a), concerning the expiration and renewal of a license under the Social Work Licensing Act, is amended to read as follows:

(a) A license is effective at the time of issuance by the ~~Arkansas Social Work Licensing Board~~ Arkansas State Board of Mental Health Professionals.

SECTION 38. Arkansas Code § 17-103-305(a), concerning disciplinary proceedings under the Social Work Licensing Act, is amended to read as follows:

(a) The ~~Arkansas Social Work Licensing Board~~ Arkansas State Board of Mental Health Professionals may refuse to issue or renew a license or may revoke or suspend a license issued under this chapter or may impose other appropriate restrictions or additional impositions, including without limitation supervision, probation, counseling, reporting, drug screening, and additional continuing education for any of the following causes or reasons:

- (1) Violation of a provision of this chapter;
- (2) Gross negligence in the practice of social work;
- (3) Engaging in a course of unprofessional conduct as defined by the rules established by the board or violation of the code of ethics made and published by the board; or
- (4) Failing to meet one (1) of the qualifications for issuance of a license under § 17-103-307.

SECTION 39. Arkansas Code § 17-103-306(a)(1), concerning the qualification and issuance of a licensed social worker license, is amended to read as follows:

(a)(1) The ~~Arkansas Social Work Licensing Board~~ Arkansas State Board of Mental Health Professionals shall issue a Licensed Social Worker license to an applicant who qualifies as follows:

(A) Has a baccalaureate degree in a social work program from a program accredited by the Council on Social Work Education or the Canadian Association for Social Work Education, or has received before June

17, 1986, a baccalaureate degree in a social work program from an accredited educational institution;

(B) Has passed an examination approved by the board for this purpose and level of practice;

(C) Has applied for a criminal background check and meets the qualifications for issuance of a license under § 17-103-307;

(D) [Repealed.]

(E) Is physically and mentally competent to provide social work services with reasonable skill and safety;

(F) Is not affected by a mental or physical disease or condition that would impair the applicant's competency to provide social work services;

(G) Has not pleaded guilty or nolo contendere to or been found guilty of a felony listed under § 17-3-102 or criminal offense involving violence, dishonesty, fraud, deceit, breach of client trust, or abuse of the vulnerable;

(H) Does not use drugs or alcohol to an extent that the use affects the applicant's professional competency; and

(I) Has not engaged in fraud or deceit in making the application.

SECTION 40. Arkansas Code § 17-103-307(a), concerning criminal background checks under the Social Work Licensing Act, is amended to read as follows:

(a) Each applicant for a license issued by the ~~Arkansas Social Work Licensing Board~~ Arkansas State Board of Mental Health Professionals is required to apply for a state and national criminal background check, to be conducted by the Division of Arkansas State Police and the Federal Bureau of Investigation.

SECTION 41. Arkansas Code Title 17 is amended to add an additional chapter to read as follows:

CHAPTER 108 – COUNSELORS

Subchapter 1 – General Provisions

17-108-101. Policy – Purpose.(a) It is declared to be the policy of this state that:

(1) Activities of those persons who render service to the public in the field of counseling and use the title “licensed professional counselor”, “licensed associate counselor”, “licensed marriage and family therapist”, “licensed associate marriage and family therapist”, "licensed alcoholism and drug abuse counselor", "licensed associate alcoholism and drug abuse counselor", and "certified alcoholism and drug abuse technician" should be regulated for the protection of public health, safety, and welfare; and

(2) The public should be protected from being misled by incompetent and unauthorized persons and from unprofessional conduct on the part of qualified alcoholism and drug abuse counselors to provide regulatory authority over persons who hold themselves out to the public as alcoholism and drug abuse counselors under this chapter.

(b) It is the purpose and intent of this chapter to:

(1) Provide for the regulation of the practice of counseling in the State of Arkansas;

(2) Create the Arkansas State Board of Mental Health Professionals and prescribe the duties and powers of the board;

(3) Provide for the examination and licensure of counselors;

(4) Fix penalties for a violation of this chapter;

(5) Impose reasonable fees for applications, licenses, examinations, certifications, and other administrative purposes that the board deems necessary and provide for the use of funds derived from the fees;

(6) Provide for regulation of the use of the titles “licensed professional counselor”, “licensed associate counselor”, “licensed marriage and family therapist”, “licensed associate marriage and family therapist”, "licensed alcoholism and drug abuse counselor", "licensed associate alcoholism and drug abuse counselor", and "certified alcoholism and drug abuse technician" for those who offer counseling services to the public; and

(7) Allow the board to establish appropriate licensure and certification requirements and define the practice of alcoholism and drug abuse counseling; and

(8) Promote high standards of professional performance for those engaged in the practice of alcoholism and drug abuse counseling by setting standards of qualification, training, and experience for those who seek to

engage in the practice of alcoholism and drug abuse counseling under this chapter.

17-108-102. Definitions.

As used in this chapter:

(1) "Counseling services" means those acts and behaviors coming within the practice of counseling;

(2) "Counselor educator" means a person who:

(A) Possesses an advanced degree in counseling, psychology, or a closely related field; and

(B) Is employed in a teaching position at least part-time at an Arkansas institution of higher education or is retired from employment in a teaching position with an Arkansas institution of higher education;

(3) "Licensed alcoholism and drug abuse counselor" means a person who renders for compensation alcoholism and drug abuse counseling or alcoholism and drug abuse counseling-related services to an individual, group, organization, corporation, institution, or to the general public, and who holds a license issued by the Arkansas State Board of Mental Health Professionals or by another health or behavioral sciences board to engage in the practice of alcoholism and drug abuse counseling;

(4)(A) "Licensed associate counselor" means a person who:

(i) Holds himself or herself out to the public by any title or description of services incorporating the words "licensed associate counselor";

(ii) Offers to render counseling services to individuals, groups, organizations, corporations, institutions, government agencies, or the general public for monetary remuneration or otherwise implying that he or she is licensed, trained, experienced, or expert in counseling; and

(iii) Holds a current, valid license to practice counseling under the supervision of a licensed professional counselor.

(B) "Licensed associate counselor" does not include those professions excluded by § 17-108-103;

(5)(A) "Licensed associate marriage and family therapist" means a person who:

(i) Holds himself or herself out to the public by

any title or description of services incorporating the words “licensed associate marriage and family therapist”;

(ii) Offers to render marriage and family therapy services to individuals, couples, and families, singularly or in groups, for monetary remuneration; and

(iii) Holds a current, valid license to practice marriage and family therapy services under the supervision of a licensed marriage and family therapist.

(B) “Licensed associate marriage and family therapist” does not include those professions excluded by § 17-108-103;

(6)(A) “Licensed marriage and family therapist” means any person who:

(A) Holds himself or herself out to the public by any title or description of services incorporating the words “licensed marriage and family therapist”;

(B) Offers to render marriage and family therapy services to individuals, groups, couples, families, organizations, corporations, institutions, government agencies, or the general public for monetary remuneration or otherwise implying that he or she is licensed, trained, experienced, or expert in marriage and family therapy; and

(C) Holds a current, valid license to practice marriage and family therapy.

(B) “Licensed marriage and family therapist” does not include those professions excluded by § 17-108-103;

(7)(A) “Licensed professional counselor” means a person who:

(i) Holds himself or herself out to the public by any title or description of services incorporating the words “licensed professional counselor”;

(ii) Offers to render counseling services to individuals, groups, organizations, corporations, institutions, government agencies, or the general public for monetary remuneration or otherwise, implying that he or she is licensed, trained, experienced, or expert in counseling; and

(iii) Holds a current, valid license to practice counseling.

(B) “Licensed professional counselor” does not include

those professions excluded by § 17-108-103;

(8)(A) “Marriage and family therapy” means the use of scientific and applied marriage and family theories, methods, and procedures for the purpose of describing, evaluating, and modifying marital, family, and individual behavior within the context of marital and family systems, including the context of marital formation and dissolution.

(B) “Marriage and family therapy” is based on systems, theories, marriage and family development, normal and dysfunctional behavior, human sexuality, and psychotherapeutic, marital, and family therapy theories and techniques and includes the use of marriage and family therapy theories and techniques in the evaluation, assessment, and treatment of intrapersonal or interpersonal dysfunctions within the context of marriage and family systems.

(C) “Marriage and family therapy” may also include clinical research into more effective methods for the treatment and prevention of the dysfunctions described under subdivision (7)(B) of this section.

(D) “Marriage and family therapy” does not preclude licensed professional counselors or licensed associate counselors from rendering these services;

(9)(A) “Practice of alcoholism and drug abuse counseling” means the professional activity of helping individuals, groups, organizations, corporations, institutions, or the general public to develop an understanding of alcoholism and drug dependency problems and to define goals and plan action reflecting the individual’s or group’s interests, abilities, and needs as affected by claimed alcoholism and drug dependency problems.

(B) “Practice of alcoholism and drug abuse counseling” includes the professional application of values, principles, and techniques to one (1) or more of the following ends:

(i) Counseling with individuals, families, and groups;

(ii) Helping people obtain tangible services;

(iii) Assisting communities or groups;

(iv) Providing or improving social and health services; and

(v) Engaging in alcoholism and drug abuse education

and prevention through the appropriate administration of alcoholism and drug abuse counseling services;

(10) "Practice of counseling" means rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, methods, or procedures of the counseling profession which include without limitation:

(A) "Counseling", which means assisting an individual or groups, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan action reflecting his or her interests, abilities, aptitudes, and needs as these are related to personal social concerns, educational progress, and occupations and careers;

(B)(i) "Appraisal activities", which means selecting, administering, scoring, and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics.

(ii) "Appraisal activities" does not include the use of projective techniques in the assessment of personality;

(C) "Consulting", which means interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations;

(D) "Referral activities", which means the evaluating of data to identify problems and to determine the advisability of referral to other specialists; and

(E) "Research activities", which means reporting, designing, conducting, or consulting on research in counseling with human subjects;

(11) "Registered clinical supervisor" means a person registered by the board to provide clinical supervision of applicants for certification or licensure; and

(12) "Supervised work experience" means paid or voluntary work experience as an alcoholism and drug abuse counselor who provides alcoholism and drug abuse counseling services under the supervision of a credentialed alcoholism and drug abuse counselor to persons with alcoholism or other drug dependency, or both.

17-108-103. Exemptions.

(a) This chapter does not apply to persons engaged in counseling individuals or groups concerning weight loss, weight control, or nutrition education.

(b) This chapter does not preclude the advertising of services or to limit:

(1) The professional pursuits of administrators, teachers, and school counselors certified by the Division of Elementary and Secondary Education within the scope of their duties in recognized public and private schools;

(2) Consulting or research activities in counseling engaged by a nonresident person for a period not greater than thirty (30) days in a calendar year;

(3) The activities and services of a member of the clergy insofar as his or her activities and services are a part of the official duties in salaried positions;

(4) The practice of medicine as defined under § 17-92-202;

(5) The practice of psychology as defined under § 17-97-102;

(6) The practice of social work as defined under § 17-103-103;

(7) The activities and services of a practitioner of Christian Science insofar as his or her activities and services are a part of the official duties;

(8) Volunteer services offered by individuals who are approved by the organization or agency for whom the service is rendered;

(9) The activities and services of a person in the employ of federal, state, or local government or an accredited institution of higher education, insofar as his or her activities and services are a part of the official duties in salaried positions; or

(10) The activities and services of other professionals if:

(A) Such persons hold a valid license, certificate, or registration in the State of Arkansas and are operating within the scope of their professional duties; and

(B) The title “licensed professional counselor”, “licensed associate counselor”, “licensed marriage and family therapist”, or “licensed associate marriage and family therapist” is not used.

(c) Students engaged in counselor training programs and other persons preparing for the profession of licensed counselor may perform as part of

their training the functions specified in § 17-108-102, provided that such functions are performed under the supervision of a licensed professional counselor.

17-108-104. Prohibitions – Penalties.

(a)(1) A person who holds himself or herself out to the public as engaged in the practice of counseling or marriage and family therapy or who represents himself or herself by the title “licensed professional counselor”, “licensed associate counselor”, “licensed marriage and family therapist”, or “licensed associate marriage and family therapist” and who does not possess a valid license to practice counseling under this chapter is guilty of:

(A) For a first offense, a Class A misdemeanor; and

(B) For a second or subsequent offense, a Class D felony.

(2)(A) Each violation and conviction under subdivision (a)(1) of this section shall be deemed a separate offense.

(B) Notwithstanding the limits imposed for a Class A misdemeanor or a Class D felony as appropriate, if the defendant has derived pecuniary gain in the form of client fees received for services in violation of this chapter, the defendant shall refund the fees.

(3) In addition to the criminal penalties provided under this section and in addition to any other laws under which a person may obtain relief, a person aggrieved or damaged by a violation of this section has a civil cause of action against the defendant for injunctive and other curative relief and may also recover from the defendant:

(A) The greater of ten thousand dollars (\$10,000) or the actual damages caused by the violation;

(B) Court costs;

(C) Reasonable attorney’s fees;

(D) Costs and expenses reasonably related to the expenses of investigating and bringing the civil action; and

(E) Exemplary or punitive damages in an amount determined by the fact finder.

(b) A firm, partnership, or corporation shall not offer to the public or other firms, partnerships, or corporations any counseling services unless those counseling services are performed or supervised by individuals licensed under this chapter.

17-108-105. Injunctions.

The courts of this state are vested with the jurisdiction and power to enjoin the unlawful practice of counseling or false representation as a licensed counselor in any proceeding brought by the Arkansas State Board of Mental Health Professionals or by any member of the board or by any citizen of this state.

Subchapter 2 – Arkansas State Board of Mental Health Professionals17-108-201. Creation – Members.

(a) There is created a board to be known as the “Arkansas State Board of Mental Health Professionals”, consisting of seventeen (17) members who shall be appointed by the Governor, subject to confirmation by the Senate.

(b) Appointments shall be made so as to ensure that the Arkansas State Board of Mental Health Professionals consists of citizens of the United States and residents of Arkansas.

(c)(1) The composition of the Arkansas State Board of Mental Health Professionals shall include:

(A)(i) Five (5) licensed or licensable counselors or therapists, three (3) of whom are practicing counselors or licensed marriage and family therapists with at least one (1) of the three (3) positions being held by a licensed marriage and family therapist, or counselor educators.

(ii) The Governor shall consult the Executive Committee of the Arkansas Counseling Association, the Executive Committee of the Arkansas Mental Health Counselors Association, and the Board of Directors of the Arkansas Association for Marriage and Family Therapists before making an appointment under this subdivision (c)(1)(A);

(B)(i) Four (4) licensed psychologists or psychological examiners who are engaged in the practice of psychology.

(ii) Of the four (4) members appointed under subdivision (c)(1)(B)(i) of this section, three (3) members shall be licensed psychologists and one (1) member shall be a psychological examiner.

(iii) The Governor shall consult the Arkansas Psychological Association, Inc. and the Arkansas Association of Masters in Psychology, Inc. before making an appointment under this subdivision

(c)(1)(B);

(C)(i) Five (5) licensed certified social workers, licensed master social workers, or licensed social workers and who have five (5) years of full-time social work practice experience before appointment.

(ii) Of the five (5) members appointed under subdivision (c)(1)(C)(i) of this section, two (2) members shall be licensed certified social workers, one (1) member shall be a licensed master social worker, and one (1) member shall be a licensed social worker;

(D) Two (2) licensed alcoholism and drug abuse counselors who have rendered service, education, or research in alcoholism and drug abuse counseling for at least five (5) years; and

(E) One (1) member from the general public who:

(i) Is not licensed or licensable and not actively engaged in or retired from the profession of counseling, the practice of psychology, the practice of social work, or the practice of alcoholism and drug abuse counseling; and

(ii) Represents consumers.

(d) Members of the Arkansas State Board of Mental Health Professionals shall be appointed for three-year terms.

(e) A member of the Arkansas State Board of Mental Health Professionals may be removed by the Governor after written notice and a hearing for incapacity, incompetence, neglect of duty, or malfeasance in office.

(f)(1) The members shall immediately and before performing public duties take the constitutional oath of office.

(2) Each member of the Arkansas State Board of Mental Health Professionals may receive expense reimbursement in accordance with § 25-16-901 et seq., provided that the expenses shall not exceed funds available to the Arkansas State Board of Mental Health Professionals.

17-108-202. Officers and proceedings.

(a) The Arkansas State Board of Mental Health Professionals shall organize within thirty (30) days following the appointment of any new members by the Governor on January 2 of each year.

(b) The board shall elect a chair and a secretary from its members to serve for terms of one (1) year.

(c)(1) The board shall hold at least one (1) meeting each month.

(2) Additional meetings may be held at the discretion of the Chair of the Arkansas State Board of Mental Health Professionals or upon the written request of any five (5) members of the board.

(d) Nine (9) members of the board shall at all times constitute a quorum.

(e) The board shall adopt a seal which shall be affixed to all licenses issued by the board.

17-108-203. Duties and powers.

(a) The Arkansas State Board of Mental Health Professionals shall perform those duties and have those powers as this chapter prescribes and confers upon it.

(b) The board shall adopt:

(1) Rules and procedures as it deems necessary for the performance of its duties;

(2) The Code of Ethics of the American Counseling Association and any revisions or additions deemed appropriate by the board to govern appropriate practice or behavior referred to in this chapter; and

(3) The Code of Ethics of the American Association for Marriage and Family Therapy to govern licensed marriage and family therapists and licensed associate marriage and family therapists.

(c) The board shall charge an application fee determined by the board.

(d) The board may accept grants from foundations and institutions to carry on its functions and to hire assistants as are necessary to perform its activities and duties.

(e) The board may create committees based on each category of a professional specialty to make recommendations to the board regarding rulemaking, disciplinary issues, ethical complaints, and evaluation of applicants.

17-103-204. Streamlined application process for all professions governed by the Arkansas State Board of Mental Health Professionals – Timeline.

(a) The Arkansas State Board of Mental Health Professionals shall develop and implement an application form that shall apply for all

professions governed by the board in order to streamline the application process for mental health professionals.

(b)(1) The board shall review and either approve or deny the application within thirty (30) days of receipt of a completed application or a completed application prior to the implementation of an application form under subsection (a) of this section.

(2) If the board requires additional information or issues arise with the completed application form or the completed application prior to the implementation of an application form under subsection (a) of this section, then the board shall have an additional fifteen (15) days to either approve or deny the application.

Subchapter 3 – Licensing

17-108-301. Licensed professional counselor – Qualifications.

The Arkansas State Board of Mental Health Professionals shall issue a license as a licensed professional counselor to each applicant who files an application upon a form and in the manner that the board prescribes, accompanied by a fee as set by the board, and who furnishes satisfactory evidence of the following to the board:

(1) The applicant is not a minor under the laws of Arkansas;

(2) The applicant is highly regarded in professional ethics;

(3) The applicant is not in violation of any of the provisions of this chapter and the rules adopted under this chapter;

(4) The applicant has applied for a criminal background check and has not been found guilty of, or pleaded guilty or nolo contendere to, any of the offenses listed in § 17-3-102;

(5)(A) The applicant has received a graduate degree from a regionally accredited institution of higher education that is primarily professional counseling in content and has accumulated the graduate semester hours that meet the academic and training content standards established by the board.

(B) The board shall use the standards for the preparation of counselors prepared by that special professional association nationally as a guide in establishing the standards for counseling;

(6)(A) The applicant has three thousand (3,000) client contact

hours of supervised full-time experience in professional counseling acceptable to the board.

(B) Two thousand (2,000) client contact hours of experience may be gained for each sixty (60) graduate semester hours earned beyond the master's degree, provided that the hours are clearly related to the field of counseling and are acceptable to the board.

(C) The applicant shall not have fewer than one thousand (1,000) client contact hours of professional experience; and

(7)(A) The applicant has declared special competencies and demonstrated professional competence in specialty areas by having passed a written, oral, or situational examination or any combination of a written, oral, or situational examination that the board prescribes.

(B) Upon the examination of credentials, the board, by a majority of the board members present and voting, may consider those credentials adequate evidence of professional competence and recommend to the Chair of the Arkansas State Board of Mental Health Professionals that a license be issued to the applicant in that specialty.

17-108-302. Licensed associate counselor – Qualifications.

(a) The Arkansas State Board of Mental Health Professionals shall issue a license of licensed associate counselor to each applicant who meets the requirements established in § 17-108-301, with the exception of § 17-108-301(6).

(b) The licensed associate counselor may practice only under the direct supervision of a licensed professional counselor.

(c) The plan for supervision of the licensed associate counselor shall be approved by the board before any actual performance of counseling by the licensed associate counselor.

(d) A licensed associate counselor may petition the board for licensure review for the licensed professional counselor if the requirements of § 17-108-301(6) have been completed.

17-108-303. Licensed marriage and family therapist – Qualifications – Application before January 1, 1998.

The Arkansas State Board of Mental Health Professionals shall issue a license as a licensed marriage and family therapist to each applicant who

files an application upon a form and in the manner that the board prescribes, accompanied by a fee as set by the board, and who furnishes satisfactory evidence of the following to the board:

(1) The applicant is not a minor under the laws of Arkansas;
(2) The applicant is highly regarded in professional ethics;
(3) The applicant is not in violation of any of the provisions of this chapter and the rules adopted under this chapter;

(4) The applicant has received a graduate degree in either marriage and family therapy or a related field with specific course work in marriage and family therapy as approved by the board; and

(5) The applicant has:

(A) At least five (5) years of clinical experience in the practice of marriage and family therapy;

(B) Clinical membership in the American Association for Marriage and Family Therapy or the National Academy of Certified Family Counselors; or

(C) Certification by an appropriate professional organization, as defined by the board.

17-108-304. Licensed marriage and family therapist – Qualifications – Application after January 1, 1998.

The Arkansas State Board of Mental Health Professionals shall issue a license as a marriage and family therapist to each applicant who files an application after January 1, 1998, upon a form and in a manner that the board prescribes, accompanied by a fee as set by the board, if he or she meets the qualifications set forth in § 17-108-303(1)-(3) and if the applicant provides satisfactory evidence to the board that he or she:

(1) Meets educational requirements of:

(A) A master's degree or a doctoral degree in marriage and family therapy from a regionally accredited educational institution; or

(B) A graduate degree in the allied fields referred to in § 17-108-303(4) from a regionally accredited educational institution and graduate-level course work which is equivalent to a master's degree in marriage and family therapy as determined by the board;

(2)(A) Meets the experience requirements of three thousand (3,000) client contact hours of supervised full-time experience in marriage

and family therapy, as acceptable to the board.

(B) Two thousand (2,000) client contact hours may be gained for each sixty (60) graduate semester hours earned beyond the master's degree if the hours are clearly related to the field of marriage and family therapy and are acceptable to the board.

(C) The applicant may not have less than one thousand (1,000) client contact hours of professional supervised experience; and

(3) Passes an examination or examinations administered by the board.

17-108-305. Licensed associate marriage and family therapist – Qualifications.

(a) The Arkansas State Board of Mental Health Professionals shall issue a license as a licensed associate marriage and family therapist to each applicant who meets the requirements of § 17-108-304, with the exception of § 17-108-304(2).

(b) The licensed associate marriage and family therapist shall practice only under the direct supervision of a licensed marriage and family therapist.

(c) The plan for supervision of the licensed associate marriage and family therapist shall be approved by the board before any performance of marriage and family therapy by the licensed associate marriage and family therapist.

(d) A licensed associate marriage and family therapist may petition the board for licensure review to practice as a licensed marriage and family therapist if the requirements of § 17-108-304(2) have been met.

17-108-306. Examination.

(a)(1) The Arkansas State Board of Mental Health Professionals shall provide approval before an applicant is allowed to sit for examination.

(2) The board shall designate the time and place of an examination in advance of an examination.

(b) The board shall preserve examination materials in accordance with state rules.

(c)(1) If an applicant fails to pass an examination, he or she may reapply and may be allowed to take a subsequent examination.

(2) An applicant who fails an examination shall wait three (3) months before taking a subsequent examination.

17-108-307. Renewal.

(a)(1) Biannually at the time of renewal, counselors and licensed marriage and family therapists licensed under this chapter shall submit a license renewal fee to be established by the Arkansas State Board of Mental Health Professionals.

(2)(A) If an individual fails to pay the biannual renewal fee within the time required by the board to complete renewal, the board shall suspend the right of a licensee to practice as long as the license is delinquent.

(B) The delinquent license may be renewed within a period of one (1) year after payment of all fees in arrears.

(b) A license shall not be renewed unless the renewal request is accompanied by evidence satisfactory to the board of the completion during the previous twenty-four (24) months of relevant professional or continued educational experience.

(c) If a licensed professional counselor, licensed associate counselor, licensed marriage and family therapist, or licensed associate marriage and family therapist licensed under this chapter through additional training and experience is qualified to practice in a specialty other than that for which he or she was deemed competent at the time of initial licensing and wishes to offer services under this chapter, he or she shall submit additional credentials and shall be given the opportunity to demonstrate his or her knowledge and application of knowledge in areas deemed relevant by the board to his or her specialty.

17-108-308. Reciprocity.

At its discretion, the Arkansas State Board of Mental Health Professionals may waive the formal examination requirements of a candidate who is licensed or certified to practice counseling or marriage and family therapy by a similar board in another state if, in the opinion of the Arkansas State Board of Mental Health Professionals, the standards and qualifications required for the practice of counseling in the candidate's licensing state are at least equal to those required by this chapter.

17-108-309. Suspension or revocation.

(a) The Arkansas State Board of Mental Health Professionals may suspend or revoke a license issued under this chapter or impose other appropriate restrictions or additional sanctions, including without limitation supervision, probation, counseling, or additional education, for a person:

(1) Found guilty of violating any ethical or professional standard; or

(2) Placed upon a registry of this state or another state in regards to public safety, including without limitation a child maltreatment registry, an adult maltreatment registry, or a sex offender registry.

(b) The board shall revoke the license of a person who is found guilty of or pleads guilty or nolo contendere to an offense listed in § 17-3-102 unless the person requests and the board grants a waiver pursuant to § 17-3-102.

17-108-310. Fees – Disposition of funds.

(a) All fees from applicants seeking licensure under this chapter and all license or renewal fees received shall be paid to the Arkansas State Board of Mental Health Professionals.

(b) A part of any fee shall not be returnable under any condition other than the failure of the board to hold examinations at the time originally announced, whereupon the entire fee may be returned at the request of the applicant.

(c)(1) All fees collected or gifts or grants received by the board shall be deposited into the State Treasury to the credit of the board via electronic transfer from a financial institution in this state chosen by the board.

(2) Expenses shall be paid under written direction of the Chair of the Arkansas State Board of Mental Health Professionals and the Secretary of the Arkansas State Board of Mental Health Professionals in accordance with usual state procedures.

17-108-311. Privileged communication.

(a) For the purposes of this chapter, the confidential relations and

communications between a licensed counselor and a client, a licensed associate counselor and a client, a licensed marriage and family therapist and a client, or a licensed associate marriage and family therapist and a client are the equivalent of confidential relations and communications between an attorney and a client.

(b) This chapter does not require that any privileged communication be disclosed.

17-108-312. Application of laws pertaining to licensed professional counselors.

All laws of this state that pertain to licensed professional counselors shall likewise pertain to and include licensed marriage and family therapists.

17-108-313. Criminal background checks.

(a) The Arkansas State Board of Mental Health Professionals may require each applicant for license renewal and each first-time applicant for a license issued by the board to apply to the Identification Bureau of the Division of Arkansas State Police for a state and national criminal background check, to be conducted by the Identification Bureau of the Division of Arkansas State Police and the Federal Bureau of Investigation.

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

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

(d) Upon completion of the state and national criminal background check, the Identification Bureau of the Division of Arkansas State Police shall forward to the board all releasable information obtained concerning the applicant.

(e) The board may issue a six-month nonrenewable letter of provisional eligibility for licensure to a first-time applicant pending the results of the state and national criminal background check.

(f) For the purposes of this section, the board shall follow the licensing restrictions based on criminal records under § 17-3-102.

(g)(1) Information received by the board from the Identification

Bureau of the Division of Arkansas State Police under this section shall not be available for examination except by:

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

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

(2) A record, file, or document shall not be removed from the custody of the Division of Arkansas State Police.

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

(i) Rights of privilege and confidentiality established under this section shall not extend to a document created for purposes other than the state and national criminal background check required by this section.

(j) The board shall adopt the rules necessary to fully implement this section.

Subchapter 4 – Licensed Alcoholism and Drug Abuse Counselors

17-108-401. Exemptions.

(a) This subchapter is not applicable to employees of the Division of Elementary and Secondary Education or local boards of education who meet the certification as established or which may be established by the State Board of Education.

(b) This subchapter does not:

(1) Limit or restrict the regulation of the title or the setting of standards, qualifications, training, or experience of those who seek to engage in the practice of alcoholism and drug abuse counseling and who have been or will be certified by the State Board of Examiners of Alcoholism and Drug Abuse Counselors for the position for which they have been employed;

(2) Require persons to be licensed who are employed by the State of Arkansas, the director or administrative head of a social service agency, or division of a city or county, or who are applicants for such employment;

(3) Limit the activities and services of a student or intern seeking to fulfill the educational requirements necessary to qualify for a license under this subchapter or limit the acts of other recognized health or

behavioral sciences professions;

(4) Prohibit individuals not licensed under this subchapter who work in self-help groups or programs or not-for-profit organizations from providing services in those groups, programs, or organizations or agencies;

(5) Prevent qualified members of other recognized health or behavioral science professions from performing work within the standards and ethics of their respective professions;

(6) Prevent persons licensed under other health or behavioral science boards from the practice of alcoholism and drug abuse counseling so long as those persons maintain current licensure in their respective fields;

(7) Prevent members of the clergy or Christian Science practitioners from performing work within the standards and any code of ethics of their respective professions as long as they do not hold themselves out to the public as being licensed alcoholism and drug abuse counselors; or

(8) Restrict the licensure of programs under §§ 20-64-901 – 20-64-909.

17-108-402. Powers and duties.

(a) The Arkansas State Board of Mental Health Professionals shall administer and enforce this subchapter and shall adopt rules consistent with its provisions, including a code of ethical practice.

(b) The board shall review and act upon applications for licensure and certification at least four (4) times a year and shall regulate the renewal of licenses or certifications.

(c) The board may conduct hearings on charges calling for the denial, revocation, or suspension of a license or certification or issuance of a monetary fine, shall adopt rules for the conduct of the hearings, and shall cause the prosecution of all persons who violate any provisions of this subchapter or any rule promulgated pursuant to its provisions.

(d) The board may sue and be sued in its own name.

(e) The Department of Health may employ any persons it deems necessary to carry on the work of the board, and the department shall define the duties of those persons and fix their compensation within the limits prescribed by law.

(f)(1) The board shall maintain a register of all individuals licensed or certified under this subchapter.

(2) The register shall be a public record.

(g) The board shall keep a complete record of all of its proceedings.

(h)(1) The board shall set by rule a fee schedule for:

(A) Applications for licensure;

(B) Examinations;

(C) Renewal of licensure;

(D) Late fees;

(E) Fines; and

(F) Administrative costs.

(2) The fees shall be set at a level sufficient to cover the cost of supporting the duties of the board, hiring persons necessary to carry on the work of the board, and other functions necessary for the successful operation of the board.

17-108-403. Board to enjoin violations.

If the Arkansas State Board of Mental Health Professionals finds that a person is violating any provision of this subchapter, the board or any member of the board shall not be required to furnish bond for any cost or filing fees in connection with the proceeding.

17-108-404. Licensed alcoholism and drug abuse counselor – License requirements.

(a) The Arkansas State Board of Mental Health Professionals shall issue a license as a licensed alcoholism and drug abuse counselor to an applicant who:

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

(2)(A) Has successfully completed a minimum of three (3) years or six thousand (6,000) hours of supervised experience.

(B) Supervised experience shall be approved and documented by a registered clinical supervisor in good standing with the board;

(3)(A) Has successfully completed a minimum of two hundred seventy (270) clock hours of approved education.

(B) Approved education shall be directly related to alcoholism or drug abuse counseling subjects, theory, practice, or research;

(4) Has submitted an application on a form provided by the board and paid an application fee fixed by the board;

(5) Has certified under penalty of perjury as evidenced by a notarized signature on the application for licensure that all education and experience requirements have been met;

(6) Has submitted three (3) letters of reference to the board;

(7) Has paid to the board an examination fee fixed by the board;

(8) Has passed a national qualifying written examination prescribed by the board, sufficient to ensure professional competence in keeping with the highest standards of the alcoholism and drug abuse counseling profession;

(9) Has signed a written agreement to abide by the code of ethics adopted by the board; and

(10) Holds a master's degree in a health or behavioral sciences field or other appropriate field from an accredited college or university.

(b) The license shall be displayed in the licensee's principal place of practice and shall entitle the licensee to hold himself or herself forth to the public as providing services as authorized by this subchapter.

17-108-405. Licensed associate alcoholism and drug abuse counselor – License requirements.

(a) The Arkansas State Board of Mental Health Professionals shall issue a license as a licensed associate alcoholism and drug abuse counselor to an applicant who:

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

(2)(A) Has successfully completed a minimum of three (3) years or six thousand (6,000) hours of supervised experience.

(B) Supervised experience shall be approved and documented by a registered clinical supervisor in good standing with the board;

(3)(A) Has successfully completed a minimum of two hundred seventy (270) clock hours of approved education.

(B) Approved education shall be directly related to alcoholism or drug abuse counseling subjects, theory, practice, or research;

(4) Has submitted an application on a form provided by the board and paid an application fee fixed by the board;

(5) Has certified under penalty of perjury as evidenced by a notarized signature on the application for licensure that all education and experience requirements have been met;

(6) Has submitted three (3) letters of reference to the board;
(7) Has paid to the board an examination fee fixed by the board;
(8) Has passed a national qualifying written examination prescribed by the board, sufficient to ensure professional competence in keeping with the highest standards of the alcoholism and drug abuse counseling profession;

(9) Has signed a written agreement to abide by the code of ethics adopted by the board;

(10) Holds a baccalaureate degree in a health or behavioral sciences field or other appropriate field from an accredited college or university; and

(11)(A) Has successfully completed a minimum of three (3) years or six thousand (6,000) hours of supervised direct counseling experience in the alcoholism or drug abuse counseling field, either paid or voluntary.

(B) Supervised experience shall be approved and documented by a registered clinical supervisor in good standing with the board.

(b) The license shall be displayed in the principal place of practice of the licensed associate alcoholism and drug abuse counselor and shall entitle the individual to hold himself or herself forth to the public as providing services as authorized by this subchapter.

(c) A licensed associate alcoholism and drug abuse counselor may engage in the practice of alcoholism and drug abuse counseling after successfully completing a schedule of supervision prescribed by the board and performed under the direct supervised practice of a registered clinical supervisor in good standing with the board.

17-108-406. Certified alcoholism and drug abuse technician – Certification requirements.

(a) The Arkansas State Board of Mental Health Professionals shall issue the certification as a certified alcoholism and drug abuse technician to an applicant who:

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

(2)(A) Has successfully completed a minimum of three (3) years or six thousand (6,000) hours of supervised experience.

(B) Supervised experience shall be approved and documented by a registered clinical supervisor in good standing with the board;

(3)(A) Has successfully completed a minimum of two hundred seventy (270) clock hours of approved education.

(B) Approved education shall be directly related to alcoholism or drug abuse counseling subjects, theory, practice, or research;

(4) Has submitted an application on a form provided by the board and paid an application fee fixed by the board;

(5) Has certified under penalty of perjury as evidenced by a notarized signature on the application for certification that all education and experience requirements have been met;

(6) Has submitted three (3) letters of reference to the board;

(7) Has paid to the board an examination fee fixed by the board;

(8) Has passed a national qualifying written examination prescribed by the board, sufficient to ensure professional competence in keeping with the highest standards of the alcoholism and drug abuse counseling profession;

(9) Has signed a written agreement to abide by the code of ethics adopted by the board; and

(10) Holds a high school diploma or the equivalent.

(b) The certification shall be displayed in the principal place of practice of the certified alcoholism and drug abuse technician and shall entitle the individual to hold himself or herself forth to the public as providing services as authorized by this subchapter.

(c) A certified alcoholism and drug abuse technician may engage in the practice of alcoholism and drug abuse counseling only while under the direct supervision of a licensed alcoholism and drug abuse counselor who is registered as a registered clinical supervisor by the board.

(d) A certified alcoholism and drug abuse technician shall not receive a license as a licensed alcoholism and drug abuse counselor or a license as an associate alcoholism and drug abuse counselor unless the provisions of §§ 17-108-408 and 17-108-409, respectively, have been met.

17-108-407. Registered clinical supervisors.

The Arkansas State Board of Mental Health Professionals may register persons who meet the qualifications and standards established by the board for registered clinical supervisors.

17-108-408. License and certificate renewal – Fee – Waiver.

(a) Each licensed alcoholism and drug abuse counselor, licensed associate alcoholism and drug abuse counselor, and certified alcoholism and drug abuse technician shall:

(1) Renew his or her license or certificate every two (2) years;
and

(2) Pay the Arkansas State Board of Mental Health Professionals a renewal fee fixed by the board.

(b)(1) Renewal fees shall be waived for any licensee or certified person who is actively serving in the United States Armed Forces.

(2) A waiver under subdivision (b)(1) of this section shall be effective for six (6) months following honorable discharge, separation, or release from the United States Armed Forces, after which period a license or certificate shall be considered lapsed.

(c) The board, at its discretion, may require continuing education as a condition of license or certificate renewal.

17-108-409. Grievance procedure – Denial, revocation, or suspension of license or certificate – Appeals.

(a) The Arkansas State Board of Mental Health Professionals may hear the grievances of any person whose application for a license, registration, or certificate has been denied.

(b)(1) The board may deny, revoke, or suspend any license, registration, or certificate upon proof that the person has willfully or repeatedly violated any of the provisions of this subchapter or any rule promulgated by the board or upon proof that a person has practiced outside the scope of practice for which he or she is licensed, registered, or certified under this subchapter.

(2) The board may assess a monetary fine to a person licensed, registered, or certified under this subchapter in addition to or in lieu of the denial, revocation, or suspension of a license, registration, or certificate under subdivision (b)(1) of this section.

(c) The board shall not suspend, revoke, or refuse to renew a license, registration, or certificate or assess a monetary fine, except after a hearing held before the board, upon notice to the person charged.

(d) The notice given under subsection (c) of this section shall:

(1) Be in writing;

(2) State the nature of the charges and the time and place of the hearing; and

(3) Be served on the person charged by certified mail not less than thirty (30) days before the date of the hearing.

(e) The person charged:

(1) May appear in person or by counsel;

(2) May testify;

(3) May produce evidence and witnesses on his or her own behalf;

(4) May cross-examine witnesses; and

(5) Is entitled on application to the board to the issuance of subpoenas to compel the attendance of witnesses and the production of documentary evidence.

(f)(1) The board or its authorized representative on behalf of the person charged may issue subpoenas to compel the attendance of witnesses and the production of documents and may administer oaths.

(2) The board may invoke the aid of the circuit court for the county in which the hearing is held to enforce compliance with subpoenas of the board.

(g) A stenographic or mechanical record of the hearing shall be taken, and a transcript shall be preserved by the board.

(h) At all hearings before the board, the Attorney General of the State of Arkansas or one (1) of his or her assistants designated by him or her shall appear and represent the board.

(i) The decision of the board shall be by a majority vote of the board.

(j) A copy of the board's order shall be sent by certified mail to the last known address of the person charged.

(k) The board may grant a rehearing when new and material evidence is offered for its consideration.

(l)(1) A person aggrieved by a final order of the board, within thirty (30) days of the entry of the order, may appeal to the circuit court of the county in which he or she resides.

(2) The appeal shall be determined by the court upon the certified record, and new or additional evidence shall not be heard or considered by the court.

17-108-410. Funding of board.

(a) All moneys received by the Arkansas State Board of Mental Health Professionals under this subchapter shall be deposited into one (1) or more financial institutions in this state.

(b) The moneys shall be used for the operation of the board.

17-108-411. Confidentiality of information – Exception.

(a) Except as provided in subsection (b) of this section, an individual who is licensed, registered, or certified under this subchapter shall not disclose any information he or she may have acquired from clients consulting him or her in the individual's capacity as an individual regulated under this subchapter, except with the written consent of the client or, in the case of death or disability of the client, of an authorized representative of the client, or the beneficiary of an insurance policy on his or her life, health, or physical condition.

(b) Information disclosed as described in subsection (a) of this section does not apply to communications:

(1) That reveal the contemplation of a crime or a harmful act;

(2) That indicate that the client was the victim of a crime, the individual shall be required to testify fully when properly ordered by a court of competent jurisdiction in any examination, trial, or other proceeding in which the commission of a crime is the subject of inquiry;

(3) Made in the course of an examination ordered by a court of competent jurisdiction when the client has been informed before the examination that any communications made during the examination would not be privileged;

(4) Made when the individual is a defendant in either a civil or criminal action; or

(5)(A) That provide reasonable grounds to suspect that a child has been abused or neglected.

(B) Any communication described in subdivision (b)(5)(A) of this section shall be report as required by law.

SECTION 42. Arkansas Code § 19-6-440 is amended to read as follows:

19-6-440. Social Work Licensing Fund.

The Social Work Licensing Fund shall consist of those special revenues as specified in § 19-6-301(110), there to be used by the ~~Arkansas Social Work Licensing Board~~ Arkansas State Board of Mental Health Professionals in exercising the powers, functions, and duties as set out in the Social Work Licensing Act, § 17-103-101 et seq.

SECTION 43. Arkansas Code § 20-45-201 is amended to read as follows:
20-45-201. Definitions.

As used in this subchapter:

(1) “Licensed certified social worker” means a licensed certified social worker licensed by the ~~Arkansas Social Work Licensing Board~~ under ~~§ 17-103-306(e)~~ Arkansas State Board of Mental Health Professionals who provides mental health services;

(2) “Licensed marriage and family therapist” means a licensed marriage and family therapist licensed by the ~~Arkansas Board of Examiners in Counseling~~ under ~~§ 17-27-303 or § 17-27-304~~ Arkansas State Board of Mental Health Professionals who provides mental health services;

(3) “Licensed professional counselor” means a licensed professional counselor licensed by the ~~Arkansas Board of Examiners in Counseling~~ under ~~§ 17-27-301~~ Arkansas State Board of Mental Health Professionals who provides mental health services;

(4) “Mental health services provider” means a licensed certified social worker, licensed marriage and family therapist, licensed professional counselor, physician, psychologist, or registered nurse who provides mental health services;

(5) “Patient” means an individual with whom a mental health services provider has established a patient-care provider relationship;

(6) “Physician” means a physician licensed by the Arkansas State Medical Board who provides mental health services;

(7) “Psychologist” means a psychologist licensed by the ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals who provides mental health services; and

(8)(A) “Registered nurse” means a registered nurse licensed by the Arkansas State Board of Nursing who provides mental health services.

(B) “Registered nurse” includes an advanced practice nurse.

SECTION 44. Arkansas Code § 23-86-113(g)(2), concerning the minimum benefits for mental illness in group accident and health insurance policies or subscriber's contracts, is amended to read as follows:

(2) Nothing in this subsection shall be deemed to expand the scope of the practice of licensed professional counselors currently licensed by the ~~Arkansas Board of Examiners in Counseling~~ Arkansas State Board of Mental Health Professionals and possessing the qualifications set forth in ~~§ 17-27-301 et seq.~~ § 17-103-301 et seq., or other applicable laws.

SECTION 45. Arkansas Code § 25-1-117(a), concerning demographic data reports, is amended to read as follows:

(a) A state agency, board, or commission that licenses or otherwise regulates a health profession shall procure demographic data regarding the healthcare workforce in this state, including without limitation:

- (1) The Arkansas Board of Podiatric Medicine;
- (2) The ~~Arkansas Psychology Board~~ Arkansas State Board of Mental Health Professionals;
- ~~(3) The Arkansas Social Work Licensing Board;~~
- ~~(4)~~(3) The Arkansas State Board of Dental Examiners;
- ~~(5)~~(4) The Arkansas State Medical Board;
- ~~(6)~~(5) The Arkansas State Board of Pharmacy;
- ~~(7)~~(6) The Board of Examiners in Speech-Language Pathology and Audiology; and
- ~~(8)~~(7) The State Board of Optometry.

SECTION 46. Arkansas Code § 25-15-104(a)(1)(D), concerning subpoena powers of certain boards and commissions, is amended to read as follows:

(D) ~~Arkansas Board of Examiners in Counseling, § 17-27-201 et seq.~~ Arkansas State Board of Mental Health Professionals;

SECTION 47. Arkansas Code § 25-16-903(32) is repealed.

~~(32) Arkansas Board of Examiners in Counseling;~~

SECTION 48. Arkansas Code § 25-16-904(22) is repealed.

~~(22) Arkansas Social Work Licensing Board;~~

SECTION 49. Arkansas Code § 25-43-802(a)(5), concerning the state entities transferred to the Department of Health, is amended to read as follows:

(5) ~~The Arkansas Board of Examiners in Counseling, created under § 17-27-201~~ Arkansas State Board of Mental Health Professionals, created under § 17-108-201 et seq.;

SECTION 50. Arkansas Code § 25-43-802(a)(12) and (13), concerning the state entities transferred to the Department of Health, are repealed.

~~(12) The Arkansas Psychology Board, created under § 17-97-201;~~

~~(13) The Arkansas Social Work Licensing Board, created under § 17-103-201;~~

SECTION 51. Arkansas Code § 25-43-802(a)(42), concerning the state entities transferred to the Department of Health, is repealed.

~~(42) The State Board of Examiners of Alcoholism and Drug Abuse Counselors, created under § 17-27-404;~~

SECTION 52. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that it is important to the citizens of Arkansas that state government services be provided in an efficient and cost-effective manner; that the consolidation of state boards that perform similar functions and serve similar constituencies is an effective way to achieve both operational efficiencies and economies of scale; and that this act is immediately necessary to obtain cost efficiencies and streamline the provision of government services without delay for the benefit of Arkansas taxpayers to allow services that preserve the health, safety, and property of Arkansas citizens; and that this act transferring the duties of the Arkansas Board of Examiners in Counseling, the State Board of Examiners of Alcoholism and Drug Abuse Counselors, the Arkansas Psychology Board, and the Arkansas Social Work Licensing Board to the Arkansas State Board of Mental Health Professionals and abolishment of the Arkansas Board of Examiners in Counseling, the State Board of Examiners of Alcoholism and Drug Abuse Counselors, the Arkansas Psychology Board, and the Arkansas Social Work Licensing Board should become effective on July 1, 2023, to coincide with the

appropriation bills of the Department of Health and ensure that the Arkansas State Board of Mental Health Professionals provides its expanded vital services as the transfer of duties is implemented and does not experience any issues with funding under the transfer of duties. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2023.

/s/Cavanaugh