

HOUSE AMENDMENT 1 TO hb2182.

deleting Sections 1 through 37 and substituting therefor the following:

"Section 1. Short title. This act may be cited as the Board of Hypnosis Practitioners Act .

Section 2. Declaration of public policy. The purpose of this act is to set standards for the qualifications and experience for those who seek to be licensed Hypnosis Practitioners, to uphold standards of professional performance for those licensed to practice hypnosis/hypnotherapy in the state of Arkansas, to set standards and license hypnosis schools, license stage hypnotists and to protect the public from unprofessional conduct by persons practicing hypnotherapy/hypnosis as herein set forth. There is a need for the protection of the consumer and of ethical and qualified practitioners of hypnosis.

Section 3. Definitions. As used in this act:

(a) Board means the Arkansas Board of Hypnosis Practitioners.

(b) Combination School means any school in which all programs of study are conducted by both correspondence and resident training.

(c) Correspondence school means any school in which all programs of study are conducted by correspondence.

(d) Director means the authorized representative of the Arkansas State Board of Hypnosis Practitioners for the purpose of administering the provisions of this act.

(e) Extension course site means a location away from the school whereby a specialized course or courses are conducted one (1) or more times during the licensure period.

(f) General hypnosis/hypnotherapy means a professional relationship between a licensed hypnotherapist/hypnotist providing assistance to the client in matters related to the recreational, vocational, avocational, educational, stress management or self-improvement goals of the client, provided such goals are not within the focus and scope of a medical or mental health disorder unless the therapist is so licensed in such fields.

(g) Hypnosis Practitioner means any person who uses hypnosis and its adjunct therapies for any reason whatsoever.

(h) Hypnosis related practices means the use of techniques encompassing adjunctive therapies such as but not limited to: neuro-linguistic programming, gestalt dream therapy, time line therapy, biofeedback and eye movement desensitization and relaxation.

(i) Hypnotherapy and Hypnosis means the induction of a hypnotic state in a client to increase motivation or alter behavioral patterns. Hypnotherapy includes consultation with a client to determine the nature of the client's problem, assessment of

a client to determine suitability for hypnotherapy, preparation of a client to enter a hypnotic state, explanation to a client of the nature of the hypnotic state, instruction of a client in self-hypnosis conditioning, testing a client to determine the degree of physical and emotional suggestibility, induction of the hypnotic state in a client using individualized methods and techniques based on interpretation of test results and analysis of problems, and discussion with a client regarding the results of hypnosis.

(j) Independent practice means the provision to the public of general hypnotherapy/hypnosis or referred hypnotherapy for remuneration by a person who meets all requirements for the practice of hypnotherapy as herein set forth and who has received a license as required for the practice of hypnotherapy/hypnosis.

(k) License means that which is required to practice, perform or teach hypnosis and its adjunct therapies as defined in this act.

(l) Licensed Hypnotist , Hypnotherapist , Clinical Hypnotherapist and Doctor of Hypnotherapy means any person who is licensed in accordance with this act for the practice of hypnosis/hypnotherapy.

(m) National professional organization means an organization that is dedicated to providing training, continuing education and performance testing in hypnotherapy that is incorporated in any state of the United States of America, can document active membership in at least three (3) states of the United States of America and has training requirements that are at least sufficient for licensing as a Licensed Hypnosis Practitioner in the State of Arkansas.

(n) Person means an individual, association, partnership, or corporation.

(o) Program of study means an organized unit of courses or an individual course in which instruction is offered.

(p) Psychotherapy means a relationship for remuneration between a therapist and a client in which the therapist renders assistance to the client for the purpose of diagnosing, treating, curing, or improving mental health disorders.

(q) Qualified supervisor means any person who is a Licensed Hypnosis Practitioner who meets the qualifications for independent practice of hypnotherapy and has been in practice as a hypnotherapist for at least three (3) years.

(r) Referred hypnotherapy means any professional relationship between a Licensed Hypnosis Practitioner and a client in which the Licensed Hypnosis Practitioner either provides assistance to the client in:

(1) matters related to a medical condition diagnosed by a licensed medical doctor, licensed doctor of dental medicine, or a licensed doctor of chiropractic medicine who has specifically referred the client to the Licensed Hypnosis Practitioner in writing or by prescription or,

(2) provides assistance to the client in matters related to a mental health condition diagnosed by a licensed mental health professional who has specifically referred the client to the Licensed Hypnosis Practitioner

by written referral. Referred hypnotherapy shall not include the making of any specific medical or psychological diagnosis and must be offered as an adjunct to health care provided by the licensed professional who has specifically referred the client to the Licensed Hypnosis Practitioner. (s) Resident school means any school in which all programs of study are conducted in resident classrooms or held in public meeting facilities that are held out as being sites for instruction.

(t) Satellite school means a location within the State of Arkansas away from the school where programs of study are offered on a regular continuing basis by Arkansas schools.

(u) School means any person, firm, partnership, association, corporation, or other form of business organization seeking to do business or offering in the State of Arkansas such residence or correspondence training that leads to or enhances occupational qualification whether or not the instruction is subject to Arkansas Code 6-61-301.

(v) Seminar license means a license granted to those people desiring to offer training in hypnosis and adjunct therapies in one (1) or two (2) day seminars in various locations in the state during a given licensure year.

(w) Stage Hypnotist means any person who uses hypnosis before the public or in private as a form of entertainment and is so remunerated.

(x) Supervised practice means the provision of hypnotherapy to a client under the guidance, critique and review of a qualified supervisor.

(y) Supervision means review of aspects of the therapeutic relationship between a hypnotherapist and client or clients in a face-to-face meeting for the purpose of improving the therapeutic skills of the person under supervision.

(z) Teacher and instructor means a person who instructs or otherwise provides education to others in the field of hypnosis. A teacher shall be licensed as a Hypnosis Practitioner in Arkansas if she or he has fulfilled the requirements of a qualified supervisor in accordance with this act.

Section 4. Nature of practice.

(a) Persons holding valid licenses as Licensed Hypnosis Practitioners under this act may practice general hypnosis/hypnotherapy in independent practice, or as part of an association, partnership or corporation.

(b) Persons who are in training to meet the requirements for a license as Hypnosis Practitioners under this act may practice without license provided such practice is supervised practice with a person who is a qualified supervisor as defined by this act, and provided such persons in training hold themselves out to the public using the term intern , or some other designation of trainee status.

Section 5. Exemptions.

(a) This act does not prohibit any persons legally licensed in this state by any other act from engaging in the practice for which they are authorized so long as they do not represent themselves by the title of Licensed Hypnosis Practitioner. Nothing in the act shall be construed to limit the activities and services provided by a person legally regulated in this state by any other act from engaging in the practice of hypnotherapy as defined in this act provided the regulatory act governing such persons contains a scope of practice which might reasonably be interpreted to include the use of hypnotherapy.

(b) Nothing in this act shall be construed to limit the activities and services of a person or intern in hypnotherapy seeking to fulfill the educational or supervision requirements in order to qualify for license under this act provided that the activities and services of a person or intern are supervised as specified in the act.

(c) Corporations, partnerships, and associations may employ persons seeking to fulfill the educational or supervision requirements for license under this act if the activities and services rendered by that person constitute a part of the trainee's supervised course of study or required professional supervision.

(d) Nothing in this section shall prohibit a corporation, partnership, or association from contracting with a licensed or registered health care professional to provide services that are similar to those provided by Licensed Hypnosis Practitioners provided these professionals are licensed under Arkansas law so long as they do not use the title Licensed Hypnosis Practitioner.

(e) Nothing in this act shall be construed to limit the services of a person, not licensed under the provisions of this act in the employ of a state, county, or municipal agency or other political subdivision:

(1) the services are a part of the duties of his or her salaried position,

(2) the services are performed solely on behalf of his or her employer, or

(3) such persons are not in any manner held out to the public as a

Licensed Hypnosis Practitioner.

(f) Members of any bona fide religious denomination shall not be restricted from functioning in their ministerial capacity by this act provided they do not represent themselves as being Licensed Hypnosis Practitioners.

(g) Private institutes exclusively offering instruction to any or all levels from preschool through twelfth (12th) grade.

(h) Schools operated solely to provide programs of study in theology, divinity, religious education and ministerial training.

(i) Schools covered by Arkansas Code 6-61-301(a) (3).

(j) Training offered on military bases where the majority of the students enrolled are active or retired military personnel or their dependents.

Section 6. Restrictions and limitations.

(a) Unless exempted under Section 5 of this act, no person shall, without holding valid license as a Licensed Hypnosis Practitioner issued by the Board, in any manner hold him or herself out to the public as a Licensed Hypnosis Practitioner by:

(1) attaching the title Licensed Hypnosis Practitioner ;

(2) offer to render or render to individuals, corporations, or the public hypnotherapy as defined in Section 3(f) of this act, or

(3) offer to teach or teach hypnosis, either in an unlicensed school or as an unlicensed instructor.

(b) Nothing in this act shall be construed as permitting persons licensed as Licensed Hypnosis Practitioners to engage in any manner in the practice of medicine unless those persons are so licensed in such fields.

(c) When, in the course of providing hypnotherapy to any person, a Licensed Hypnosis Practitioner licensed under the provisions of this act finds indication of a disease or condition that in his or her judgment requires professional service outside of his or her scope of practice, he or she shall refer that person to a physician licensed to practice medicine or another appropriate health care provider.

(d) All persons licensed as Licensed Hypnosis Practitioners shall supply to any client that requests from that Licensed Hypnosis Practitioner a full and accurate written disclosure statement of the type and nature of education and training possessed by that Licensed Hypnosis Practitioner. The information contained in this disclosure statement shall contain, but not be limited to, academic degrees earned by the Licensed Hypnosis Practitioner and the nature of their accreditation, training programs in hypnotherapy completed by the Licensed Hypnosis Practitioner, including the number of hours of instruction and duration of training, and national certifications in hypnotherapy held by the Licensed Hypnosis Practitioner. The disclosure statement shall also state that neither psychotherapy nor the diagnosis of mental, dental or medical disease is a part of hypnotherapy as defined by this act, and that license as a Licensed Hypnosis Practitioner through this act does not authorize a person to practice psychotherapy or diagnosis.

(e) No person licensed as a Licensed Hypnosis Practitioner shall publicly advertise his or her services in any way that would cause a reasonable person to conclude that the person licensed as a Licensed Hypnosis Practitioner is also a doctor of medicine or of psychology, unless the person licensed under the provisions of this act is licensed for the practice of medicine or psychology.

Section 7. The Board.

(a) The Governor shall appoint the Arkansas Board of Hypnosis Practitioners of seven (7) members who shall serve for a term of five (5) years. The Governor shall make appointments or re-appointments to the Board to provide membership of the following: one

(1) member who is a licensed medical doctor who utilizes hypnosis in the practice of his or her field, one (1) member who is a licensed psychiatrist or psychologist who utilize hypnosis in the practice of his or her field, one (1) member who is a licensed dentist who utilizes hypnosis in the practice of his or her field, one (1) member who is a licensed professional in any other field who utilizes hypnosis in his or her field, one (1) member who owns, administers, or teaches in a licensed hypnosis school, and two (2) members from the general public who regularly utilizes hypnosis in a legitimate Arkansas business. All members must be at least twenty-one (21) years of age, a citizen of the United States, a resident of the State of Arkansas for at least six (6) months, and eligible to be licensed according to this act. If not already licensed, members shall be automatically licensed without cost for the duration of their term of Board membership.

(b) Each member of the Board shall, before entering upon the duties of the office, take the oath prescribed by the Constitution for State Officers and shall file it with the Secretary of the State who shall thereupon issue to each appointee a certificate of appointment.

(c) The Board shall have the sole power to approve or disapprove all applications for licensing, to administer and enforce the provisions of this act, formulate criteria, rules, regulations and standards, provide for adequate investigations of all applicants, participate in the hearings of applicants in case of revocation or denial of license, levy fines and fees and any other administrative duty normally associated with a state licensing board.

(d) Official meetings of the Board may be called by the President of the Board as necessary, but meetings shall be held at least four (4) times in a calendar year.

(e) Board meetings will be held with the following minimum standards:

(1) a minimum of four (4) favorable votes by the Board members at an official meeting is required for adoption of a recommendation, and

(2) four (4) members shall constitute a quorum at any meeting of the Board.

(f) Board members may receive reimbursement for expenses as provided in Arkansas Code §§ 25-16-901, et seq.

(g) The board shall adopt and use a seal, which shall be used for the authentication of the acts of the Board.

(h) The Board shall elect a president, vice-president, secretary and treasurer from among its members at the first regular meeting of each year. Terms for each position shall be for one (1) calendar year. Incumbent members may be reelected for a total of five (5) terms. Two (2) terms must pass before the member can be elected to the same position. Nothing shall be construed to prevent this member from being elected to another position during the two (2) interim years provided that member has been re-appointed to the Board.

(i) At the point where there is sufficient treasury, the Board shall employ a director who shall report to the Board. This director will then be in charge of the daily operation of the Board office and will carry out the duties and orders as deemed necessary

by the Board. In return, provisions will be made for a retirement plan for the staff with a contribution and Board approved investment option in the same manner as provided in § 24-7-901 et seq.

(j) Board members shall receive no compensation for their services on the Board with the exceptions herein provided in Section 7(a), and Section 7(f).

(k) The Governor may remove a Board member for misconduct, incompetency or neglect of official duties after giving the Board written notice of the charges against such member and an opportunity to be heard on such.

(l) In the case of vacancy of a Board position, for any reason, The Governor shall then appoint another member of like qualifications as provided in Section 7(a). This member will then fill the remaining term of the former member with all rights, privileges, and duties as befits that position with the exception of the elected offices. In such a case the Board will hold elections in order to fill the vacant elected office. The newly elected member will then fill the remaining term of the former member with all rights, privileges and duties as befits that position.

(m) No member of the Board, during the term of office or thereafter, shall be liable for damages as a result of any official act in the performance of his/her duty as such a member. Any action therefor shall, upon motion, be dismissed with prejudice at the cost of the plaintiff.

(n) Maintain a roster of the names and addresses of all Licensed Hypnosis Practitioners and all persons whose licenses have been suspended, revoked or denied renewal for just cause within the previous calendar year. Exception: School licenses shall remain on this file for five (5) years after revocation, denial of renewal or suspension. These rosters shall be available upon written request and payment of the required fee.

(o) Formulate and enforce rules and regulations for schools that offer education in hypnosis and adjunct therapies and that are not exempted from licensure as provided in Section 5 of this act.

Section 8. Qualifications for Individual Licensure. Any person who meets and maintains the qualifications and standards provided herein is qualified to be licensed as a Licensed Hypnosis Practitioner and the Board shall issue a license authorizing the appropriate classification of hypnosis practitioner to an applicant who:

(a) has applied in writing on the prescribed form and has paid the required fee;

(b) is at least twenty-one (21) years of age, a legal resident of the State of Arkansas for the previous six (6) months and has not engaged in conduct of activities which would constitute grounds for discipline under this act. Exceptions: Residency is not required for Stage Hypnotists or for seminar instructors who are legal residents of another state and are not domiciled in Arkansas on a permanent basis;

(c) documents that he or she has received a minimum of the required hours of personal instruction in hypnosis or hypnotherapy that is either sanctioned by a national

professional organization as defined by this act or was from any school teaching hypnosis that is accredited by an agency authorized by any United States Department of Education (whether a board of higher education, a career enhancement school board or a vocational school board) or is otherwise licensed, registered, approved or sanctioned by any state of the United States, provided such organization or school teaches a curriculum that includes but is not limited to:

- (1) instruction in the history of hypnosis,
- (2) techniques of client assessment,
- (3) suggestibility testing,
- (4) induction and dehypnotization techniques,
- (5) deepening techniques,
- (6) principles of post-hypnotic suggestion,
- (7) contraindications for hypnosis,
- (8) treatment planning,
- (9) self-hypnosis training,
- (10) administration and record keeping,
- (11) law and ethics, and
- (12) an orientation to limits of practice specified in this act sufficient to

allow a reasonable person to make an informed decision if the client's problem reasonably falls within the scope of hypnotherapy or hypnosis;

(d) such educational facility is adjudged to be an approved educational institute as determined by the Board;

(e) classifications and minimal requirements are:

ADDITIONALADDITIONAL

CLASSIFICATIONCLASS HOURS EDUCATIONCOMMENTS

(1) Stage Hypnotist24None requiredMust use a disclaimer in all advertising and also must
inform the audience that stage
hypnosis is strictly for
entertainment purposes only
and is not hypnotherapy or
hypnosis used for therapeutic
use.

(2) Hypnotist (Hyp.)100High school
graduate or
G.E.D.

(3) Hypnotherapist (Ht.)200High school
graduate or
G.E.D.

(4) Clinical Hypnotherapist
(C.Ht.)250Bachelors or higher

degree from an approved
educational institution

(5) Doctor of Clinical

Hypnotherapy (D.CH) 360 Completion of a doctoral
program from an approved
educational institution;

(6) Instructor

Must meet the requirements for his/her

particular classification and be so

licensed in the State of Arkansas and meet the
requirements for Qualified Supervisor as defined in
Section 3-g.

(f) has completed a minimum number of required hours of supervised practice of
hypnosis/hypnotherapy with a person who is a qualified teacher or qualified supervisor as
defined by this act, with a ratio of not less than one (1) hour of personal supervision
for every fifteen (15) hours of supervised practice;

(g) for each year after the initial year of license, documents fifteen (15) hours of
continuing education (acceptable to the Board) in hypnosis or hypnotherapy during the
previous year (not applicable for stage hypnotists).

Section 9. Qualifications for school licensure.

(a) A school that meets and maintains the qualifications and standards provided for
herein, is qualified to be licensed as a Licensed Hypnosis School, and the Board shall
issue a license authorizing the appropriate classification of Hypnosis School to an
applicant who:

(1) Has applied in writing on the prescribed form and has paid the required
fees as provided for in Section 13;

(2) The owners, administrators, and teachers are at least twenty-one (21)
years of age, a legal resident of the State of Arkansas for the previous six (6) months,
and have not engaged in conduct of activities which would constitute grounds for
discipline under this act;

(3) Documents that the owners and administrators are licensed under Section 8
of this act, and all teachers of hypnosis and qualified supervisors as defined in Section
3(g); and

(4) Has provided to the board the curriculum of the program of studies
complete with the names and prices of all textbooks, workbooks, audio and video tapes, and
all other classroom or instructional materials needed by the student in order to
reasonably complete the course of study.

(b) Application for a license shall be filed in the manner and upon the forms
prescribed by the Board. The application shall be signed by the applicant and properly
verified and shall contain such information as the Board may decide as it applies to the

type and kind of school for which a license is sought and all other required forms and fees should be received in the Board office at least forty-five (45) calendar days prior to submission to the Board for approval.

(c) The application shall set forth and be accompanied by the following documentation:

(1) the name and location of the school,
(2) information on the type of ownership,
(3) parent company information, if applicable,
(4) enrollment applications, student-school contract forms and any other legal form used between student and school,
(5) copy of a current catalogue, brochure and/or flyer,
(6) information to include but not be limited to type, length, and class hours at completion and cost of program. All catalogues, brochures, flyers and contracts must contain the wording Licensed by the Arkansas State Board of Hypnosis Practitioners and must direct any unresolved student problems or complaints to the Arkansas State Board of Hypnosis Practitioners with a complete mailing address and telephone number, included on the form.

(d) The expiration date and renewal period for each license issued under this act shall be set by rule. Hypnosis schools may renew their license during the sixty (60) day period preceding its expiration date by paying the required fee and demonstrating compliance with all rules and regulations contained herein.

(e) Schools shall publish and adhere to a cancellation and refund policy.

(f) Schools shall publish and adhere to a procedure for handling students complaints.

(g) Schools must notify the Board of any legal actions or complaints instituted against the school in the course of the instruction or practice of hypnosis.

(h) Any Arkansas State Board of Hypnosis Practitioners licensed school may issue certificates or diplomas.

(i) Any license issued shall be restricted to the program of study and location specifically indicated in the application for a license. The holder of a license shall present a supplementary application for approval of additional programs of study. The license shall remain the property of the State of Arkansas and shall be returned to the Board upon request and due cause.

(j) If the Board, after evaluating the school as to kind and type, is unable to make a determination regarding initial approval of a licensure application within sixty (60) days after receipt of the application and required documentation, it shall issue a temporary license valid for a period of not more than six (6) months pending further investigation. After such time, a regular license shall be issued or the application may be denied.

(k) After a license is issued to any school by the Board, it shall be the responsibility of the school to notify immediately the Board of any changes in the ownership, administration, location, faculty or programs of study on the forms and in the manner prescribed by the Board.

(l) In the event of the sale, sublease, or repossession, the license granted to the original owner or operators shall not be transferable to the new ownership or operators, but application for a new license must be made, fees paid, and license approved and given by the Board to the new owner or operator before the advertising and taking over operation of the school.

(m) Upon closure of any school licensed under the provisions of this act, it shall notify the Board immediately of the action by letter, give the name, address, and telephone number of the person responsible for closing arrangements, whether closure is for license revocation or any other cause. All student records, academic and financial aid, for the previous ten (10) years of the schools operation must be delivered to the Board. Delivered records shall be arranged in alphabetical order and stored in boxes. Should the school reopen, it is the responsibility of the school to retrieve these records. Until such time, it shall be the responsibility of the Board to maintain all such records in a safe, secure manner.

(n) The Board reserves the right to approve all content of the program before a license can be issued.

Section 10. Individual new applicants - renewals - restoration - person in military service - inactive status.

(a) The expiration date and renewal period for each license issued under this act shall be set by rule. Licensed Hypnosis Practitioners may renew their registration during the sixty (60) day period preceding its expiration date by paying the required fee and demonstrating compliance with any continuing education requirements.

(b) Application for a license shall be filed in the manner and upon the forms prescribed by the Board. The application shall be signed by the applicant and properly verified and shall contain such information as the Board may decide as it applies to the type and kind of license being sought.

(c) Any person who has permitted a license to expire or who has a license on inactive status may have it restored by submitting an application to the Board and filing proof of fitness to have the license restored, including, if appropriate, evidence which is satisfactory to the Board certifying the practice was licensed in another jurisdiction and by paying the required fee.

(d) If the person has not maintained an active practice in another jurisdiction which is satisfactory to the Board, the Board shall determine the person's fitness to

resume active status. The Board may also require the person to complete a specified period of evaluated hypnotherapy work experience.

(e) Any person whose license expired while on active duty with the armed forces of the United States, while called into service or training with the State Militia or in training or education under the supervision of the United States Government prior to induction into the military service may have his or her license restored without paying any renewal fees if, within five (5) years after the termination of such service, training, or education, except under condition other than honorable, the Board is furnished with satisfactory evidence that the person has been so engaged and that such service, training or education has been so terminated.

(f) A license shall not be denied any applicant because of the applicant's race, religion, creed, national origin, political beliefs or activities, age, sex, sexual orientation, marital status, or physical impairment.

Section 11. Implementation and transitional period. For a period of one (1) year after the effective date of this act the Board shall, on application, issue a license to any person for the practice of hypnotherapy who has not completed any internship, trainee or supervision period specified in Section 8 (d) of this act, but who otherwise meets the requirements of section 8 (c) of this act or who can document, using taxation or other records, the maintenance of a practice of hypnotherapy or a hypnosis school, for meaningful remuneration for a period of three (3) previous years. Persons receiving initial license under the provision of this section shall not be required to complete any internship, trainee or supervision period for renewal of license under this act.

Section 12. (a) Fees. The minimum fees for individual licenses issued under this act are as follows:

<u>Classification</u>	<u>Original Fee</u>	<u>Renewal Fee</u>	<u>Comments</u>
<u>Stage hypnotist</u>	<u>\$50.00</u>	<u>for 1-4 shows</u>	<u>No renewal requires</u>
		<u>per calendar year;</u>	<u>re-application</u>
	<u>\$30.00</u>	<u>for each additional</u>	
		<u>show in the same calendar year.</u>	
<u>Hypnotist</u>	<u>\$100.00</u>	<u>\$30.00</u>	<u>If expired, see</u>
	<u>if unexpired</u>	<u>reinstatement</u>	
<u>Hypnotherapist</u>	<u>\$100.00</u>	<u>\$30.00</u>	<u>If expired, see</u>
		<u>if unexpired</u>	<u>reinstatement</u>
<u>Clinical Hypnotherapist</u>	<u>\$100.00</u>		
<u>Doctor of Clinical Hypnotherapy</u>	<u>\$100.00</u>	<u>\$30.00</u>	<u>If expired, see</u>
		<u>if unexpired</u>	<u>reinstatement</u>

(b) License and application must list locations, dates and times. If additional shows are added and would result in more than four (4) shows in a calendar year, the additional fee must be included with the list of additional shows. License or copy of same must be displayed at show site. Non-profit organizations that use a stage hypnotist where there will be no remuneration either to the hypnotist or to the organization from the audience, in any way, whether through monetary payment, barter, discount, etc., shall be exempt from fees. However, a non-profit application must be filed and upon approval of the Board a permit may be issued.

(c) Reinstatement fee for a license that has been expired less than five (5) years is twenty dollars (\$20.00) plus payment of all unpaid fees for every year that has lapsed.

(d) Reinstatement fee for a license that has been expired more than five (5) years is two hundred fifty dollars (\$250.00).

(e) The initial fee for the issuance of a duplicate license, the issuance of a replacement for a license that has been lost or destroyed, or the issuance of a license with a change of name or address, other than during the renewal period, is cost of copying, plus postage. No fee is required for name and address changes on Board records when no duplicate license is issued.

(f) The fees for copies of a renewal license shall be the actual cost of producing such copies plus postage.

(g) The fee for a roster of persons and schools licensed by the Board or a roster of schools whose licenses have been denied renewal, revoked or suspended, shall be the actual cost of producing such a roster plus postage.

Section 13. School minimum licensing fees. The minimum fees for school licenses issued under the act are as follows:

<u>Classification</u>	<u>Initial license</u>	<u>Regular renewal</u>	<u>Reinstatement of license which has expired</u>
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<u>Correspondence school</u>	<u>\$300</u>	<u>\$150</u>	<u>All schools</u>
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<u>Combination school</u>	<u>\$300</u>	<u>\$150</u>	<u>must re-license</u>
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<u>Extension course</u>	<u>Initial license</u>	<u>Regular renewal</u>	<u>as if a new school</u>
<u>for parent school</u>	<u>for parent school</u>		
	<u>plus \$75 per</u>	<u>plus \$50 per</u>	
	<u>program per year</u>		

<u>Resident School</u>	<u>\$300</u>	<u>\$100</u>	
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<u>Satellite School</u>	<u>Initial license for</u>	<u>Same as extension</u>	
	<u>parent school plus</u>		
	<u>\$75 per program per</u>		
	<u>year</u>		

<u>Seminar license</u>	<u>1-4 seminars</u>	<u>\$360 per</u>	<u>Seminar must be re-licensed</u>
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calendar year;as if a new license

5-9 seminars \$600 per;

calendar year;

10+ seminars \$800 per;

calendar year

Locations, dates, instructors, and subject of seminars must be listed on the application.

If additional locations are added and moves the license to the next level, the additional fee must be included with the list of new locations. License or a copy thereof must be prominently displayed at the location of the seminar.

Section 14. Miscellaneous fees.

(a) Fees for the services provided by the Board specified in this act may, from time to time, be adjusted by the Board for licensing qualified persons who have applied for licenses as Licensed Hypnosis Practitioners. For a period of one (1) year after the enactment of this act, ninety percent (90%) of all the fees collected under this act shall be disposed of as provided in subsection (c), and ten percent (10%) shall be deposited into the General Revenue Fund. In all years thereafter all of the fees collected under this act shall be disposed of as provided in subsection (c).

(b) All fees and fines authorized by this act are the property of the Board and shall be provided to its treasurer to be disposed of as provided in this act. Any surplus in the treasury of the Board at the end of the fiscal year shall remain in the treasury and may be expended in succeeding years for the purposes herein set out.

(c) All funds received by the Board shall be deposited into a financial institution designated by the Board and expended in the furtherance of the purpose of this act and the Boards duties. Funds received by the Board may be invested and reinvested, with all earnings received from investments to be deposited into a financial institution and used by the Board to perform its duties under this act.

(d) No license fee shall be refunded in the event the individual or school license is revoked, suspended, denied, or requested for withdrawal of application by the applicant.

(e) Minimum fees for other form or file copies are as follows:

<u>Cost</u>	<u>Description</u>
<u>\$50</u>	<u>All applicants must purchase an application notebook which contains the laws and regulations and a complete set of forms (which may be duplicated if needed);</u>
<u>\$2</u>	<u>For each page of an original form requested and mailed;</u>
<u>\$5</u>	<u>For each page of an original form requested and faxed;</u>
<u>\$50</u>	<u>For a complete set of original forms mailed (not available to be faxed);</u>
<u>60¢</u>	<u>Per page (copy fee plus postage) for copies of information in a personal or school file that is open to the public under the _ Freedom of Information Act;</u>

§25 Per school file for records from a closed school.

Section 15. Checks or orders dishonored. Any person who issues or delivers a check or other order to the Board which is not honored on two (2) occasions by the financial institution upon which it is drawn because of insufficient funds on account, the account is closed, or a stop payment has been placed on the account shall pay to the Board in addition to the amount owing upon such check or other order, a minimum fee of fifty dollars (\$50). If the check or other order was issued or delivered in payment of a renewal fee and the person whose license as a Licensed Hypnosis Practitioner has lapsed continues to practice without paying the renewal fee and the fee required under this section, an additional penalty of one hundred dollars (\$100) minimum shall be imposed for practicing without a current license. The fees and penalties imposed by this section are in addition to any other penalty for practicing hypnotherapy without a license as a Licensed Hypnosis Practitioner. The Board shall notify the person whose license has lapsed that the person is engaged in the unauthorized practice of hypnotherapy and the amount due the Board, which shall include the lapsed renewal fee and the other required fees. If after the expiration of thirty (30) days after the date of the notification the person whose license as a Licensed Hypnosis Practitioner has lapsed seeks a current license, the person shall thereafter apply to the Board for reinstatement of license and shall pay all fees due to the Board. The Board may establish a fee for the processing of an application for reinstatement of a license that allows the Board to pay all costs and expenses incident to the processing of this application. However, the Director may waive or reduce the fees in individual cases where he or she finds they would be unnecessarily burdensome.

Section 16. Endorsement. The Board may at its discretion, issue a license for the practice of hypnotherapy to a person who has not completely fulfilled all of the qualifications for the practice of hypnotherapy specified by this act, but who is already licensed to practice hypnotherapy under the laws of another state, if the requirements for license in that state are, on the date of licensing, substantially equal to the requirements of this act in the opinion of the Board. Such applicant shall pay all of the required fees and complete the applications as directed by the Board.

Section 17. Privileged communications and exceptions.

(a) No Licensed Hypnosis Practitioner shall disclose any information acquired from persons consulting the Licensed Hypnosis Practitioner in his or her capacity as a Licensed Hypnosis Practitioner, except that which may be voluntarily disclosed under the following circumstances:

(1) in the course of formally reporting, conferring, or consulting with administrative superiors, colleagues, or consultants who share professional responsibilities, in which instance all recipients of the information are similarly bound

to regard the communication as privileged;

(2) with the written consent of the person who provided the information;

(3) in the case of death or disability, with the written consent of a personal representative, other person authorized to sue, or the beneficiary of an insurance policy on the person's life, health, or physical condition;

(4) when a communication reveals the intended commission of a crime or harmful act and such disclosure is judged necessary the Licensed Hypnosis Practitioner to protect any person from a clear, imminent risk of serious mental or physical harm or injury, or to forestall a serious threat to the public safety; or

(5) when the person waives the privilege by bringing any public charges against the Licensed Hypnosis Practitioner.

(b) When the person is a minor under the laws of the State of Arkansas and the information acquired by the Licensed Hypnosis Practitioner indicates the minor was the victim or subject of a crime, the Licensed Hypnosis Practitioner may be required to testify in any judicial proceedings in which the commission of that crime is the subject of inquiry when, after in camera review of the information that the Licensed Hypnosis Practitioner acquired, the court determines that the interests of the minor in having the information held privileged are outweighed by the requirements of justice, the need to protect the public safety or the need to protect the minor, except as required by law.

(c) Any person having access to records or anyone who participates in providing hypnotherapy, or, in providing any human services, is supervised by a Licensed Hypnosis Practitioner, is similarly bound to regard all information and communications as privileged in accord with this section.

(d) Nothing in this act shall be construed to prohibit a Licensed Hypnosis Practitioner from voluntarily testifying in court hearings concerning matters of adoption, child abuse, child neglect or other matters pertaining to children except as otherwise prohibited by law.

(e) This act does not repeal any other law regarding confidentiality which would otherwise apply to persons licensed under this act.

Section 18. Grounds for discipline.

(a) The Board may refuse to issue, renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary action as the Board deems appropriate, including the issuance of civil penalties of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) for each violation, with regard to any one or more of the following with each day constituting a separate event:

(1) material misstatement in furnishing information to the Board or other State agency;

(2) violations or negligent or intentional disregard of this act, or any of Board rules;

- (3) fails or refuses to permit the Board or its representatives to inspect any and all premises where hypnosis and hypnosis instruction take place;
- (4) making any misrepresentation for the purpose of obtaining a license as a Licensed Hypnosis Practitioner, or violating any provisions of this act or Board rules;
- (5) incompetence or gross negligence in the rendering of hypnotherapy;
- (6) malpractice;
- (7) advising or assisting another person in violating any provision of this act or any of its rules;
- (8) failing or refusing to provide information within sixty (60) days in response to a written request made by the Board;
- (9) engaging in dishonorable, unethical, or conduct likely to deceive, defraud, or harm the public and violating any rules of conduct established by the Board as part of a reasonable effort to regulate the practice of hypnotherapy with reasonable skill, judgment, or safety;
- (10) habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug which results in the inability to practice hypnotherapy with reasonable skill, judgment, or safety;
- (11) discipline by another jurisdiction, if a least one of the grounds is the same or substantially equivalent to those set forth in this section;
- (12) opens, advertises, or conducts a school, satellite school, or extension course site or an out-of-state school which offers to sell a program of study in Arkansas without first having obtained a license as herein required;
- (13) directly or indirectly giving to or receiving from any person, firm, corporation, partnership or association, any fee, commission, rebate, or other form of compensation for any service not actually rendered;
- (14) a finding by the Board that the person licensed as a Licensed Hypnosis Practitioner, after having had the license placed on probationary status, has violated the terms of probation;
- (15) abandonment of a client;
- (16) willfully failing to report an instance of suspected child abuse or neglect as required by law;
- (17) willfully filing false reports relating to the practice of a Licensed Hypnosis Practitioner, including but not limited to false records filed with federal or state agencies or departments;
- (18) upon proof by clear and convincing evidence that the Licensed Hypnosis Practitioner has caused a child to be an abused child or neglected child;
- (19) physical or mental disability, including deterioration through the aging process or loss of abilities and skills which results in the inability to practice hypnotherapy with reasonable judgment, skill, or safety;
- (20) solicitation of professional services by using or presenting false or

misleading advertising or information relating to the use of hypnosis, programs of study, employment opportunities or success rates;

(21) failure to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any act administered by the Arkansas Department of Finance and Administration;

(22) fails or refuses to display or produce the proper license when requested to do so by prospective clients, or students, designated officials of the Board or officials of another governmental agency;

(23) fails or refuses to make tuition refunds to students or their lenders in compliance with current regulations; and

(24) Stage Hypnotist fails or refuses to use a disclaimer in their advertising and fail or refuse to inform their audience of this disclaimer as provided in Section 8 (e).

(b) Involuntary commitment to a mental health or drug abuse treatment facility will result in an automatic suspension of his or her license. The suspension will end upon release from the facility, if the Board determines that the Licensed Hypnosis Practitioner should be allowed to resume the practice of hypnotherapy.

Section 19. Violations - injunction, cease and desist order.

(a) If any person violates the provisions of the act, the Director may, in the name of the People of the State of Arkansas, through the Attorney General, petition for an order enjoining the violation or for an order enforcing compliance with this act. Upon the filing of a verified petition, the court with appropriate jurisdiction may issue a temporary restraining order without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this section are in addition to all other remedies and penalties provided by this act.

(b) If any person hold himself or herself out as being a Licensed Hypnosis Practitioner or hypnosis school, under this act, then any Licensed Hypnosis Practitioner, interested party, or any person injured thereby may petition for relief as provided in subsection (a) of this section.

(c) Whenever, in the opinion of the Board, a person violates any provision of this act, the Board may issue a ruling to show cause why an order to cease and desist should not be entered against that person. The ruling shall clearly set forth the grounds relied upon by the Board and shall allow at least seven (7) days after the date of the ruling to file an answer satisfactory to the Board. Failure to answer to the satisfaction of the Board shall cause an order to cease and desist to be issued.

Section 20. Investigation of charges - due notice and hearings. The Board may investigate the actions of any applicant or any person holding or claiming to hold a

license to practice or teach hypnotherapy, hypnosis, or is a hypnosis school. The Board shall, before revoking, suspending, placing on probation, reprimanding, or taking any other disciplinary action under Section 18 of this act, at least ten (10) days prior to the date set for the hearing, notify, in writing, the applicant for, or holder of, a license to practice hypnotherapy or hypnosis of the nature of the charges and that a hearing will be held on the date designated. The written notice may be served by personal delivery or certified or registered mail to the applicant or person licensed to practice hypnotherapy or hypnosis at the address of the last notification to the Board. The Board shall also direct the person licensed as a Licensed Hypnosis Practitioner to file a written answer with the Board, under oath, within twenty (20) days after the service of the notice, and inform the person that if he or she fails to file an answer, his or her registration may be revoked, suspended, placed on probation, reprimanded, or the Board may take any other disciplinary action including the issuance of civil penalties not to exceed five thousand dollars (\$5,000) for each violation, as the Board may deem necessary, without hearing. At the time and place fixed in the notice, representatives of the Board shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence, and argument as may be pertinent to the charges or to their defense. The Board may continue the hearing from time to time.

Section 21. Record of proceedings and transcripts. The Board, at its expense, shall preserve a record of all proceedings at the formal hearing of any case involving the refusal to issue or to renew a license to practice hypnotherapy or hypnosis. The notice of hearing, complaint, all other documents in the nature of pleadings, written motions filed in the proceedings, the transcript of testimony, and orders of the Board shall be in the record of such proceeding.

Section 22. Subpoenas - depositions - oaths. The Board has the power to subpoena and to bring before it any person and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this state. The Director or the designated hearing officer has the power to administer oaths to witnesses at any hearing which the Board is authorized to conduct, and any other oaths authorized in any act administered by the Board. All subpoenas issued by the Board shall be served in the manner prescribed by law for the service of subpoenas issuing from the courts, and all persons so served shall obey the subpoenas or be subject to the penalties provided by law for the disobedience of subpoenas issuing from the courts.

Section 23. Compelling testimony. Any court, upon application of the Board, designated hearing officer, or the applicant or licensee against whom proceedings under

Section 18 of this act are pending, may enter an order requiring the attendance of witnesses and their testimony and the production of documents, papers, files, recordings, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceeding for contempt.

Section 24. Findings and recommendations. At the conclusion of the hearing, the designated hearing officer shall present to the Director a written report of his or her findings of fact, conclusions of law, and recommendations. The report shall contain a finding whether the person licensed to practice hypnotherapy or hypnosis violated this act or any other law or Board regulation. The designated hearing officer shall specify the nature of the violation or failure to comply, and shall make his or her recommendations to the Director. The report of findings of fact, conclusions of law, recommendations of the hearing officer shall be the basis for the Board's order for refusal or for the granting of the license to practice hypnotherapy or hypnosis. If the Director disagrees with the recommendations of the hearing officer, the Director may issue an order in contravention of the recommendation of the hearing officer. The Director shall provide a written report to the designated hearing officer on any disagreement and shall specify the reasons for the action in the final order. The finding is not admissible in evidence against the person in a criminal prosecution brought for the violation of this act.

Section 25. Rehearings. At the conclusion of the hearing, a copy of the designated hearing officer's report shall be served by the Board upon the applicant or person licensed to practice hypnotherapy or hypnosis, either personally or as provided in this act for the service of the notice of hearing. Within twenty (20) days after such service, the applicant or person licensed to practice hypnotherapy or hypnosis may present to the Board a motion in writing for a rehearing which shall specify the particular grounds for rehearing. If no motion for a rehearing is filed, then upon such denial, the Director may enter any order in accordance with recommendations of the hearing officer, except as provided in Section 26 of this act. If the applicant or person licensed to practice hypnotherapy or hypnosis requests and pays for a transcript of the record within the time for filing a motion for rehearing, the twenty (20) day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or person licensed to practice hypnotherapy or hypnosis.

Section 26. Director rehearings. Whenever the Director believes justice has not been done in the revocation, suspension or refusal to issue or renew a license to practice hypnotherapy or hypnosis, or discipline a licensee, he or she may order a rehearing.

Section 27. Appointment of a hearing officer. The Director has the authority to appoint any attorney licensed to practice law in the State of Arkansas to serve as the

hearing officer in any action for refusal to issue or renew a license to practice hypnotherapy or hypnosis. The hearing officer has full authority to conduct the hearing and may appoint an advisory committee of persons who practice hypnotherapy or hypnosis for remuneration, and who are licensed to practice hypnotherapy or hypnosis by this act. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Director. If the Director disagrees with the recommendation of the hearing officer, the Director may issue an order in contravention of the recommendation. The Director shall promptly provide a written explanation to the hearing officer on any such disagreement.

Section 28. Order or certified copy - prima facie proof. An order or certified copy thereof, over the seal of the Board and purporting to be signed by the Director, is prima facie proof that the signature is the genuine signature of the Director, and that the Director is properly appointed and qualified.

Section 29. Restoration of suspended or revoked license. At any time after the suspension or revocation of any license to practice hypnotherapy or hypnosis or operate a hypnosis school, the Board may restore it to the person licensed upon the written recommendation of the Director, unless after an investigation and hearing the Director determines that restoration is not in the public interest. Should restoration not be in the public interest and unless directed to do so by a court order, the Board shall not for a period of five (5) years following revocation, reinstate a license or allow an owner of a school to seek licensure of another school. Upon expiration of the five (5) years, the applicant must apply for a new license in accordance with the provisions of this act.

Section 30. Surrender of License. Upon the revocation or suspension of a license to practice hypnotherapy or hypnosis, the person licensed shall immediately surrender his or her license to the Board. If the person so licensed fails to do so, the Board has the right to seize the license.

Section 31. Summary suspension of license. The Director may summarily suspend the license to practice hypnotherapy or hypnosis without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 17 of this act, if the Director finds that evidence in the possession of the Director indicates that the continuation of practice by the Licensed Hypnosis Practitioner would constitute an imminent danger to the public. In the event that the Director summarily suspends the license of an individual without a hearing, a hearing must be held within thirty (30) days after the suspension has occurred.

Section 32. Administrative review - venue.

All final administrative decisions of the Board are subject to judicial review pursuant to the Administrative Procedure Act.

Section 33. Certification of record - costs. The Board shall not be required to certify any record to the court, to file an answer in court, or to otherwise appear in any court in a judicial review proceeding, unless there is filed in the court, with the complaint, a receipt from the Board acknowledging payment of the costs of furnishing and certifying the record. Failure on the part of the plaintiff to file the receipt in court is grounds for dismissal of the action.

Section 34. Violations. Unless otherwise specified, any person found to have violated any provision of this act is guilty of a Class A misdemeanor.

Section 35. Rights of consumers.

(a) All contracts entered into with clients or students by hypnosis practitioners or hypnosis schools as defined in the act, and all promissory notes or other evidence of indebtedness taken in lieu of cash payments by such practitioners or schools shall be null and void unless the practitioners or schools are licensed at the time such evidence of indebtedness is incurred as required by this act.

(b) Any person shall have the right to recover moneys paid for services or enrollment in such unlicensed situations by petition to the chancery court of the county in which such person resides, provided that, upon recommendation of the Board, the Attorney General may file, on behalf of Arkansas residents contracting with an unlicensed Hypnosis Practitioner or school, an action to recover any moneys paid by Arkansas residents to any unlicensed practitioner or school, which recovery after costs of litigation, shall be held for the use and benefit of persons having paid such moneys.

Section 36. Home rule. The regulation and license of the practice of hypnotherapy or hypnosis are exclusive powers and functions of the State. No city or county may regulate or license Licensed Hypnosis Practitioners. This section is a denial and limitation of home rule power."

and

by appropriately renumbering the subsequent sections of the bill

and

by deleting "this ct would" from line 5 on page 29 and substituting "this act would"