

## Mark-up of Rules

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### Arkansas State Board of Chiropractic Examiners Rules



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Updated 9-18-19

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## PART ONE PRELIMINARY DEFINITIONS

- A. **BOARD.** The Arkansas State Board of Chiropractic Examiners.
- B. **RULES REGULATIONS.** Those acts, statements or definitions by which the Chiropractic profession is governed or regulated in conduct, actions or practice.
- C. **RULES.** Those procedures by which the Board exercises its authority and responsibility and conducts its affairs.

Commented [LM1]: Proposed update Per ACT 315 of 2019

## PART TWO REGULATIONS RULES

Commented [LM2]: Proposed update Per ACT 315 of 2019

### A. APPLICATIONS FOR STATE BOARD EXAMINATIONS AND LICENSURE.

#### 1. Pre-Professional Education Requirements.

- (a) Two year college requirements after July 1, 1971. This Board construes Arkansas Statute 17-81-305(2) to mean that the two (2) years of pre-professional college study in the field of science shall not be less than sixty (60) semester hour credits (or its equivalent in quarter hours) toward a degree and be successfully completed in a recognized Liberal Arts College or University, thirty (30) hour credits of which shall be in one or more of the pure science subjects such as biology, zoology, chemistry, mathematics or other like subjects. This Board shall not accept less than a "C" average in pre-professional college.

#### 2. Approved Chiropractic Education.

- (a) Approved colleges of chiropractic. All applicants for examination for licensure to practice chiropractic in the State of Arkansas, who has matriculated at a Chiropractic College after September 1, 1971, must present evidence of having been graduated from a chiropractic college having status with the accrediting commission of the Council of Chiropractic Education (CCE), or similar criteria as determined by, and at the discretion of, this Board.
- (b) This Board adopts clinical competency guidelines similar to CCE quantitative assessment delineations.
- (c) This Board may disapprove any college whose academic requirements appear to be deficient in the basic science or diagnostic fields.
- (d) This Board will not accept for examination any person who is not adequately trained in basic diagnostic methods and related fields, including the field of roentgenology.
- (e) An applicant must possess a valid National Board certificate to include Parts I, II and the Physiological Therapeutics elective section and, on and after January 1, 1990, possess a valid National Board certificate to include Parts I, II and III and the Physiological Therapeutics elective section and include one hundred twenty (120) classroom hours of physiological therapeutics. On or after July 1, 2016 an applicant must possess a valid National Board certificate to include Parts I, II, III, IV and Physiological Therapeutics elective section and include one hundred twenty (120) classroom hours of physiological therapeutics. The Board accepts the National Board ~~Part III~~-recommended passing score of 375.

Commented [LM3]: Need to add: NBCE Parts I, II, III, IV, and 120 hours of Physiological Therapeutics is required on or after July 1, 2016. / Bd approved 9/17/19

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- (f) An approved applicant will be permitted to sit for this Board's examination provided the applicant's date of graduation from chiropractic college precedes the date of the next regularly-scheduled examination by no more than six (6) months.
- (g) Nothing in this provision shall be construed to supersede the current Chiropractic Practices Act, which invests this Board with the responsibility for approval of any college, which is authorized by law to issue the doctorate degree in chiropractic.
- ~~(h) In lieu of the practical examination set out in statute 17-81-306, with the exception of (e)(1)(A) in that section, the applicant may present the board with evidence of passing the National Board Part IV with a minimum score of 375 which shall be accepted by the Board as a passing grade.~~

Commented [LM4]: Since 17-81-306 has been repealed, do we still need this? / Bd approved to strike this language on 9/17/19

### 3. Application to the Board for Examination or Licensure.

- (a) Applicants responsible for complete credentials. It shall be the responsibility of the applicant to furnish the necessary credentials as the Board deems necessary or as required by law. Submission of credentials does not mean automatic acceptance for examination.
- (b) All credentials other than the National Board Part IV score must be in the hands of the Executive Director, with a postmark and or electronic receipt from the National Board of Chiropractic Examiners no later than forty-five (45) days before the intended examination date. The National Board Part IV score must be in the hands of the Executive Director with the postmark and or electronic receipt from the National Board of Chiropractic Examiners no later than seven (7) days before the examination date. Incomplete applications will not be considered and will be returned by the Executive Director with the notation "Application Incomplete."
- (c) The Board's decision at the time of the credentials survey shall be final for that examination.
- (d) Effective January 1, 2008, every person applying for a license issued by the Board shall provide written authorization to the Board to allow the Identification Bureau of the Arkansas State Police to release the results of a criminal history background check to the Board. Each applicant shall complete a state fingerprint card in the presence of a law enforcement officer, and shall have that officer sign the card, giving his/her jurisdiction, the date, and his/her badge number. The applicant shall be responsible for payment of all fees associated with the background check.
- ~~(e) The Board reserves the right to take into consideration and pass upon the moral character or reputation of any applicant at any time prior to the delivery of a license. A history of narcotics violation, conviction of a crime involving moral turpitude, or of any felony, or the diagnosis of any psychiatric disorder, are among appropriate grounds for rejection.~~
- ~~(f)~~(e) Each applicant will be notified by the Board as to his/her acceptability for examination by notice mailed not more than fourteen (14) days after the Board has met to review and pass on said applicants.
- ~~(g)~~(f) Upon denial for cause, the applicant shall have the right to petition the Board for a hearing to prove his/her qualifications, with the burden of proof, at such hearing to rest with the applicant.

Commented [LM5]: Approved 4/14/16

Commented [LM6]: Should this be updated due to ACT 990? / Bd approved to strike this language on 9/17/19

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~~(h)~~(g) If this Board deems it necessary, it may, at any time prior to licensure, require applicant to supply to the Board's satisfaction such further information or documents necessary to establish the applicant's qualifications.

~~4. Allowance for Practice Experience. At the Board's option, on an individual basis and by a majority vote of the Board of Examiners, to allow for practice experience in examinations, as follows:~~

~~(a) Applicants with verifiable full-time practice experience in another state, who possess the National Board of Chiropractic Examiners certification, as outlined in Section A(2)(e) and two (2) years of pre-professional college may be permitted to examination, as indicated by this Board.~~

~~(b) Applicants graduating from Chiropractic College prior to July 1, 1971, and with verifiable full-time practice experience of five years or longer, in another state, may be permitted to examination as indicated by this Board.~~

Commented [LM7]: May need to be revised? Not sure this gets used? / Bd approved to strike this language on 9/17/19

5. Transfer of License. A Doctor of Chiropractic who has continuously held an active license in good standing in another state or jurisdiction for a period of five (5) years may apply for transfer of license and licensure in Arkansas at the Board's option on an individual basis and by a majority vote, provided, the Doctor:

- (a) submits an application to the Board;
- (b) has passed either (1) the National Board, Part IV Examination, ~~(2) the Practical Examination of the Arkansas State Board of Chiropractic Examiners, or~~ (3) the National Board SPEC Examination;
- (c) has passed the Board's Arkansas Jurisprudence Examination;
- (d) has attended the Board's New Doctor Orientation Session, or agrees to attend the next scheduled Session and does in fact attend the Session; and
- (e) complies with all other requirements for maintaining a license in Arkansas and no other reason exists that would warrant a suspension or revocation of licensure, including CIN-BAD review.

Commented [LM8]: Need to delete as we no longer give practical exam. / Bd approved to strike this language on 9/17/19

### B. PROCEDURES FOR STATE BOARD JURISPRUDENCE EXAMINATIONS.

1. All applicants for licensure, ~~except as provided in statute 17-81-306 herein,~~ shall be required to take and pass the Arkansas State Board of Chiropractic Examiners jurisprudence examination. The exam may be provided, online, through the National Board of Chiropractic Examiners. ~~examined in the following subjects:~~

Commented [LM9]: Reference to JP exam

#### (a) Examinations

- (1) Practice Management, Ethics and Jurisprudence
- (2) Physical/Clinical Diagnosis
- (3) Chiropractic Examination Procedures
- (4) Chiropractic Adjusting & Manipulation
- (5) X-Ray Interpretation
- (6) Chiropractic Philosophy



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- ~~2. Identity of Examinees Protected.~~ Where practical, and at the option of the Board, applicants shall be identified by number during examination and in grading. In this event, examinees shall place their identification number on each page of each test instead of their names.
- ~~3. Examination Time Limits.~~ If applicable, a time limit shall be announced prior to each test and all test data shall be returned promptly. Credit will not be granted for answers completed after time limit has expired. Illegibly written answers cannot be accepted.
- ~~4. Procedure during Examinations.~~ During a test, if clarification of a question is needed, all inquiries by the applicant shall be directed to a Board Member, privately.
- ~~5. Notification of Test Results.~~ Each applicant will be notified as soon as possible after the examination as to whether he/she "passed" or "failed." "Passed" shall mean an overall average of all subjects of seventy five percent (75%) or greater with no subject grade falling below sixty percent (60%). "Failed" shall mean either an overall average percentage of less than seventy five percent (75%) or any subject grade falling below sixty percent (60%). Notification of pass/fail is usually within fourteen (14) days.
- ~~6. Partial Failure of Examinations.~~
- (a) ~~If an applicant fails two (2) subjects or less, he/she may retake, at the next regular examination, provided the proper examination fee has been paid and subject to the Board's discretion, up to two (2), and no more than two (2) partial reexaminations.~~
- (b) ~~All applicants who either fail three (3) or more subjects in the initial examination, or who fail to pass, as defined in Sec. 5 (above), on reexamination shall be required to take the full examination at a later regular examination period. The proper examination fee must be paid prior to the second examination.~~
- (c) ~~In conformity with §17-81-305 and Board Rules & Regulations Part 2,B, (6), any applicant who fails the initial and retake examinations will be required to reapply for examination and to pay the full examination fee.~~
- ~~7. Assignment of License Numbers.~~ Immediately following the final grading of examinations, the license numbers awarded will be announced, written on the grade sheets and the grade sheets will be signed by each Board Member.
- ~~8. Cheating Penalty.~~ Any examinee using a book, paper, or other device, receiving or giving assistance to another examinee, or in any way caught cheating during the examination shall promptly be excused from the examinations. Said examinee shall forfeit all examination fees and shall not be readmitted for later examinations by this Board.

**Commented [LM10]:** Repeal State Practical exam due to accepting Part IV of NBCE

### C. PROFESSIONAL CONDUCT

#### 1. Aiding Unlicensed Practitioners.

- (a) It is considered unprofessional conduct as described in Arkansas Statute §72-441, paragraph (a)(6) for any licensee of this Board to aid or abet in the practice of chiropractic within the State of Arkansas, any person not licensed in this state or whose license to practice chiropractic is under suspension or revocation.

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- (b) The practicing of chiropractic within the State of Arkansas as a partner, agent, or employee of, or in any other manner in joint venture with a person not licensed to practice chiropractic by this State, or any person whose license to practice chiropractic has been suspended or revoked shall be deemed unprofessional conduct.
  - (c) Nothing in this section is intended to prohibit or prevent professional affiliation in any legitimate manner with duly licensed or registered institutions, hospitals, or nursing homes, or the practicing of chiropractic in association with other health care professionals who are themselves duly licensed or registered by this State.
2. **Unprofessional acts.** The following acts or activities by a licensee of this Board are considered to constitute unprofessional conduct and grounds for disciplinary action.
- (a) Fraud in procuring a license.
  - (b) The performance of any action designed to, or likely to, deceive, defraud or harm the public.
  - (c) Violating any rule or law or being party to or aiding and abetting the violation of the ~~regulations-rules~~ of this Board or the laws of the State of Arkansas regulating the practice of chiropractic.
  - (d) The intentional or negligent use of any false, fraudulent or forged statement, writing or document, or the use of any fraudulent, deceitful, dishonest or immoral practice:
    - (i) in connection with any of the licensing requirements for the practice of chiropractic in Arkansas; or
    - (ii) in connection with any communication with the Board office.
  - (e) Conviction of a felony for violations of any law of the State of Arkansas, another State, or of the United States.
  - (f) Habitual intoxication or personal use of unprescribed controlled or habit-forming drugs.
  - (g) Practicing chiropractic while any impairment of judgment or ability exists due to the use of alcohol or other drugs which prevent the rendering of competent professional services.
  - (h) Violating any term of probation or suspension.
  - (i) Abandoning or neglecting a patient under and in need of immediate professional care without making suitable arrangements for the continuation of such care and, if need be, by another chiropractic physician, or the abandoning of a professional group or solo practice.
  - (j) Failing to exercise appropriate supervision over persons who are authorized to render certain services under the supervision of the licensed professional.
  - (k) Willfully making or filing a false report, whether it be an insurance report, death certificate, work excuse, or any other report dealing with public health, or willfully impeding or obstructing such filing of accurate data.

Commented [UM11]: Proposed update Per ACT 315 of 2019

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- (i) Using the word 'Doctor' in offering to perform professional services without also indicating the profession in which the licensee holds a doctorate.
- (m) Direct solicitation that is false, misleading or deceptive by agents of the licensee or knowingly soliciting a patient that is already a patient of another chiropractic physician. Nothing herein is intended to prohibit public relations or advertising by the chiropractic physician or by their use of public relations or advertising firms.
- (n) Negligent or reckless practice, or intentional misapplication of practice, regardless of the degree of injury to the patient.
- (o) Failure to keep accurate records which reflect the diagnosis and treatment of individual patients.
- (p) Sexual misconduct.
  - (1) Sexual Violation -- Comprises physician-patient sex, whether initiated by the patient or not, and engaging in any conduct with a patient that is sexual, or may be reasonably interpreted as sexual, including, but not limited to: sexual intercourse; oral to oral contact except CPR; touching breasts, genitals, or any sexualized body part for any purpose other than appropriate examination by treatment or where the patient has refused or has withdrawn consent; encouraging the patient to masturbate in the presence of the physician or masturbation by the physician while the patient is present.
  - (2) Sexual Impropriety -- Comprises any behavior, gestures, or expressions that are seductive or sexually- demeaning to a patient of normal sensibilities; inappropriate procedures, including, but not limited to, disrobing or draping practices that reflect a lack of respect for the patient's privacy, deliberately watching a patient dress or undress, instead of providing privacy for disrobing; subjecting a patient to an examination in the presence of students, chiropractic assistants, or other parties without the explicit consent of the patient or when touching of genitals without the use of gloves; inappropriate comments about or to the patient, including, but not limited to, making sexualized or sexually-demeaning comments to a patient, comments about potential sexual performance during an examination or consultation, except when the examination or consultation is pertinent to the issue of sexual history or sexual likes or dislikes when not clinically indicated for the type of consultation, and making a request to date; initiation by the physician of conversation regarding the sexual problems, preferences or fantasies of the physician; kissing of a sexual nature.
- (q) Repealed August 13, 2002.
- (r) Nothing herein is intended to prohibit public relations or advertising by chiropractic physicians or by their use of public relations advertising firms as provided for under Section C, Subparagraph 2(m) and Section D. (ADVERTISING BY CHIROPRACTIC PHYSICIANS.)
- (s) Paying or promising to pay, or leading any person to reasonably believe that they would receive any consideration or anything of value in an attempt to induce such person or minor under such person's guardianship or parental control to present to the office of a chiropractic physician as a new patient; or if already a patient, in connection with any incident of injury that is or may be

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the basis of an insurance claim. This provision explicitly includes inducements made through an agent, procurer, contractor, or employee; this provision does not prohibit informing members of the public that a chiropractic physician provides transportation for treating patients.

- (t) Failure to conform to the Universal precautions for preventing the transmission of Human Immuno-deficiency Virus and Hepatitis B Virus to patients during exposure prone invasive procedures.
- (u) Failure to respond as required to any communication duly served by the Board upon a licensee.

**3. Misrepresentation, Fraud, Deception.** Any of the following claims made by a doctor of chiropractic, either directly or indirectly, may constitute deception, fraud, misrepresentation, or be misleading:

- (a) Claims that a chiropractic physician's professional qualifications differ from his or her actual qualifications.
- (b) Claims that a chiropractic physician is affiliated with any institution, organization or individual, if the misrepresentation is not fact.
- (c) The use of any title, other than that designated by law or ~~regulation rule~~, to identify one as a chiropractic physician.
- (d) False, deceptive or misleading claims relating to professional qualifications or credentials.

Commented [LM12]: Proposed update Per ACT 315 of 2019

**4. Improper Charges, Fraud.** Improper charges constitute a form of fraudulent and deceptive practice. Without limiting the definition of improper charges, the following may be considered improper:

- (a) Increasing charges when a patient utilizes a third-party payment program.
- (b) Reporting incorrect treatment dates for the purpose of obtaining payments.
- (c) Reporting charges for services not rendered.
- (d) Incorrectly reporting services rendered for the purpose of obtaining payment, which is greater than that to which he/she is entitled.
- (e) Announcing to the public, individually or through advertising, marketing, or public relations efforts, prior to the rendition of services, that payment made by an insurance carrier or a third-party payer with co-payment or deductible features will be accepted by the licensee as payment in full, or reduced payment, unless if, at the time the billing is made, licensee discloses such agreement, services rendered and the amount billed for each service to both the patient and insurance carrier or third-party payer. This disclosure must be made on the face of the statement, or on a label affixed to the statement, by type printed or stamped in legible characters of at least ten (10) points in height. Provided, however, that this subsection shall not prohibit a discount, credit or reduction of charges provided under an agreement between the holder of a license and an insurance company, health service corporation or health maintenance organization licensed under the laws of this State; or governmental third-party payment program; or self-insurance program organized, managed or



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funded by a business entity for its own employees or labor organization for its members.

(f) Raising fees for the purpose of overcoming the deductible provision of an insurance contract.

(g) Overutilization of practice. This is construed to be treatment, which is excessive in quality or quantity to the needs of the patient, it being recognized that individual patients require varying and specifically individual treatment programs.

**D. ADVERTISING BY CHIROPRACTIC PHYSICIANS.** Advertising by chiropractic physicians should be dignified, ethical and professional, not necessarily limited to, but preferably of an educational or informative nature or as a statement of basic fees. Chiropractic physicians have the sole responsibility over the employees or agents hired, including those hired for advertising/marketing purposes.

1. Advertising/marketing by doctors of chiropractic should conform to professional standards, and shall be truthful and not misleading, deceptive, fraudulent or dishonest.

2. Advertising of x-ray services restricted. Unnecessary exposure to x-rays or other ionizing radiation is considered by all reputable health agencies and organizations to be potentially hazardous to the public. Lay persons generally lack the technical knowledge to determine the need for x-ray examination and must rely upon the training, knowledge and judgment of the attending physician. This Board therefore considers it to be unprofessional and not in the public interest for chiropractic physicians to over-utilize x-ray services. Advertising free x-ray services without explanation of need or otherwise implying indiscriminate use of x- radiation is prohibited.

3. Misleading the public by advertising/marketing or otherwise publicizing a list of various diseases as being universally curable is prohibited.

4. Limitations to advertising/marketing free or reduced charges. The offering by doctors of chiropractic in advertisements or other solicitations to the public of initial services at no charge or at reduced charges shall be considered misleading or untruthful if, at the time of such advertised no-charge or reduced-charge visit.

(a) Charges are made to the patient's account for services not specified in such advertisement or solicitation and which are provided on the same visit or same day and are hidden to the patient or not explained in advance to the patient.

(b) The patient and any other person responsible for payment has the right to refuse to pay or cancel payment or be reimbursed for payment for any service, examination or treatment which is performed as a result of and within 72 hours of responding to advertising for free service examination or treatment unless before any service, examination or treatment is provided that patient and any other person responsible, for payment enters into a written agreement consenting to be charged, for said service, examination or treatment.

(c) Nothing in this ~~regulation-rule~~ is meant to prohibit or restrict the rendering of emergency or acute care provided the above restrictions are observed.

Commented [LM13]: Proposed update Per ACT 315 of 2019

5. Any person licensed by this Board may not state or imply by media or printed matter that said licensee is practicing any procedures not included in the Chiropractic Practices Act.

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6. No person licensed by this Board may state or imply by any advertising or printed matter that said licensee is practicing any other licensed, regulated or recognized profession unless said licensee is actually qualified and, where required, licensed or registered to practice such other profession. (Example: A licensee may not list 'physical therapy' unless said individual is also licensed as a Registered Physical Therapist.)
7. Limitations to advertising series treatments. All health care professions recognize that treatment needs vary for different conditions and treatment plans must be individualized according to the specific needs of each patient. This Board therefore interprets it to be deceptive advertising for a chiropractic physician to advertise or otherwise solicit for patronage in any manner which states or implies a standardized approach for different conditions, or otherwise may be construed to imply that a standard of care is being offered which is either below or in excess of that actually required by the patient. (Example: An advertisement reading similar to "20 treatments for \$xx.xx" might be considered over-utilization of care for a simple muscle strain).
8. Testimonial advertising. The use of testimonials, whether single or in groups; summaries of type of treatment; or examples of treatment as used in the advertiser's office carry with them an implication that the conditions described in the advertisement have been or will be helped by the practitioner. Therefore, before an advertisement is produced, distributed, or displayed, a practitioner who requests from a patient a testimonial to the treatment or modalities used by the practitioner must obtain written consent and have a signed release form from the patient to be kept in the patient's file. The patient has the right to review the advertisements that use the patient's statements, likeness, or case summaries before the advertisements are released for production, distribution, or displaying. Statements made by patients that are untruthful or misleading may not be used even if the patient made the statements.
9. Telephone communication including advertising/marketing. Any agent, procurer, contractor, or employee communicating with a prospective patient on behalf of a chiropractic physician shall disclose how the agent, procurer, contractor, or employee obtained the prospective patient's information. The agent, procurer, contractor, or employee must communicate his or her legal name and the name of the particular chiropractic physician on whose behalf the communication is being made, that he or she is an agent, procurer, contractor, or employee of the particular chiropractic physician. Unless such communication of the agent, procurer, contractor, or employee is true and evidence of the same is on file with the Board, the agent, procurer, contractor, or employee shall not state that he or she practices or is employed as attorney, insurance adjuster, chiropractor, and is not employed in the fields of law, health care, law enforcement, private investigation, or insurance.
  - (a) When direct in-person solicitation is made by an agent, procurer, contractor, or employee of the chiropractor, in addition to the requirements set forth in paragraph 9, the agent, procurer, contractor, or employee shall show the person being solicited a photo ID with their legal name and the name of the chiropractic physician on whose behalf the solicitation is being made, and shall dispense a professional card bearing his or her legal name, and the name, address, and telephone number of the licensed chiropractic physician on whose behalf the solicitation is being made. Such professional card shall be provided to the person being solicited at the beginning of the encounter, and shall be left with the person regardless of whether the person being solicited accepts the solicitation request.
  - (b) The licensee employing an agent, procurer, contractor, or employee for purposes of soliciting new patients shall file, in a format approved by the board, a registration form and a copy of

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the procurers' driver's license or state issued photo ID before the procurer acts on the chiropractor's behalf. Each procurer registration shall terminate on December 31. The chiropractic physician shall register each procurer annually. The chiropractor is required to provide the board with updated procurer registration information, should any of it change during the year. All registered phone numbers and pictures of the procurers will be made public on the board's website to be as transparent as possible. The chiropractic physician is responsible to the Board for the content of the contact, including prohibited statements made or required statements not made, as well as for any action that is foreseeable in a telephone or in-person encounter.

Commented [LM14]: Approved 10/4/16

Commented [LM15]: Approved 6/11/19

- (1) Telephone solicitation/marketing of victims of accidental injury and which are conducted on behalf of chiropractic physicians shall be made in substantial conformance to a written script which is considered by the Board to have been specifically approved by the chiropractic physician. The chiropractic physician shall be required to maintain such scripts for a period of two (2) years following their utilization. Scripts are to be made available for review upon request by this Board or its designee.
- (2) Agents, procurers, contractors, or employees of chiropractic physicians who solicit victims of accidental injury shall keep a log of all solicitation calls made, including at minimum the name and phone number of the person being solicited, the date and time of the phone call.

Commented [LM16]: Bd approved addition of terms "procurer, contractor, or employee" to this section on 9/17/19

### E. PROFESSIONAL PRACTICES.

#### 1. Temporary Licenses.

##### (a) Temporary Licensee Requirements and Privileges.

- (1) Credentials shall include a completed approved application, including all necessary validated documents, a final chiropractic college diploma from a chiropractic school or college holding status with the council on chiropractic education or similar standards as provided in section 2(a), Article A herein and such other information as this Board deems necessary. Applicant must complete a Jurisprudence Examination before approval for a temporary license will be granted.
- (2) The temporary license to practice shall expire at the next scheduled examination. The license is not to exceed six months, and is renewable by majority vote of the Board.
- (3) After a temporary license holder has received approval from the Board, he may perform any acts or practices that a licensed Arkansas Chiropractor may do, as long as it is under the supervision of the supervising Chiropractor who must remain on the premises when these acts or practices are being performed. (Act 1971 No. 706.P.1392) Statute 72-415 - 72-441.
- (4) Upon satisfactory evidence being submitted to the Board as to an applicant's ability and integrity and when no regular examination will be held within thirty (30) days from the date of an application for a temporary license, the board may, if approved by at least two-thirds (2/3rds) of the membership of the Board, issue to the applicant a permit to practice until the next regular meeting of the Board.



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- (5) If any temporary license holder is found practicing outside the scope of this certification, the sponsoring doctor, and the temporary license holder will be subject to application of Arkansas Statute 72-441.

(b) **Supervising Doctor's Requirements.**

- (1) The supervising doctor must have an active Chiropractic license of 3 years or longer.
- (2) The supervising doctor must not have had any disciplinary action levied against him by any Board in the past 5 years.
- (3) This supervising doctor may have no more than two (2) temporary license holders under his direct supervision at one time.
- (c) The Board may, at its discretion, issue a temporary license to a Doctor of Chiropractic who holds a current license in another state, to practice in Arkansas until his next scheduled examination and exempt him/her from any supervisory requirement, pursuant to section E(1)(c).

**2. Chiropractic Aides.**

- (a) The chiropractic aide may not render any diagnosis, submit treatment plans to patients, or in any other way assume responsibility for the management of patient care.
- (b) The chiropractic aide may not render any manipulative adjustment treatment or spinal mobilization.
- (c) The chiropractic aide may perform specific testing procedures and/or adjunctive therapeutics under the order, direction and responsibility of the supervising doctor.
- (d) Chiropractic aides must obtain a Radiologic Technology License through the Arkansas Department of Health to perform x-rays. The Consumer-Patient Radiation Health and Safety Act, Act 1071 of 1999, requires that individuals who use radioactive materials or medical equipment emitting or detecting ionizing radiation on human beings for diagnostic or therapeutic purposes, be licensed to do so.
- (e) In lieu of obtaining a Radiologic Technology License under subpart (d), chiropractic aides may obtain certification through the American Chiropractic Registry of Radiological Technologists (ACRRT) program upon successfully completing a course of instruction consisting of didactic classroom hours and examination. The course must be recommended by the Board. ACRRT recertification requires a minimum of 6 hours of continuing education administered by a state or national organization approved by the Board for this purpose.

**3. Continuing Education.** In compliance with provisions of the Arkansas Chiropractic Practices Act, each licensed Doctor of Chiropractic, practicing in this state, must submit to this Board each year evidence of having satisfactorily completed not less than twenty-four (24) hours of continuing education, acquired during the preceding twelve (12) months, at some approved college of chiropractic or at some approved educational seminar. This may include specific courses of instruction, including up to twelve (12) hours of preapproved videotaped education, with on-site Board member supervision, pertinent to the practice of chiropractic, or courses



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conducted by the Board.

- (a) Courses or seminars conducted by colleges holding status with the Council on Chiropractic Education (CCE), or those courses or seminars sponsored by state or national associations will generally be approved, provided that both the course content and the instructional staff are in compliance with CCE and this Board's criteria.
- (b) Courses or seminars taught in conjunction with, or in association with, and not sponsored and managed by an approved college or association, with their regular faculty and post-graduate instructors, will not be approved.
- (c) Itinerant or for-profit courses or those conducted by commercial enterprises will not be approved unless conducted by an association approved by the Board for the teaching of scientific courses pertaining to the profession.
- (d) Approval of continuing education programs which are not approved by the Council on Chiropractic Education nor conducted by approved Chiropractic Colleges, State or National Organizations, shall meet the following criteria:
  - (1) To allow for a maximum of twelve (12) credit hours.
  - (2) Courses or programs must be approved by the Board in advance.
  - (3) The course, program, or seminar must be conducted by a recognized and reputable school, university, hospital, organization or interdisciplinary organization.
  - (4) Speakers or lecturers must be recognized as having expertise in the field of study.
  - (5) Course work must be at the physician level.
  - (6) Content of the program must be scientific, recognized by reputable authorities as having validity, and related to the practice of Chiropractic.
  - (7) Program or seminar must not be offered by a group or commercial enterprise, which primarily promotes specific products, services or equipment. A commercial enterprise may request approval of a seminar but the course contents and lecturer's expertise would be carefully scrutinized.
  - (8) Approval of a course is for a one-year period and re-application must be made each year. Approval may be withdrawn at any time if intent of the law and ~~regulations-rule~~ of this Board are not complied with.
  - (9) If a commercial enterprise requests approval by this Board, it must consent to permit attendance at the seminar by an investigative committee of this Board at no cost to the Board, including travel and other necessary expenses.
- (e) All continuing education courses must have prior approval by this Board before credit can be given.
- (f) Continuing Education Sponsor Processing Fee. In addition to meeting the requirement set forth for approval of continuing education programs, sponsors shall remit a five dollar (\$5)

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## Mark-up of Rules

processing fee per every credit hour of instruction for each seminar per subject material, per calendar year to be submitted with the information required for program approval.

- (g) Distance-based learning courses offered by electronic media in audio and/or visual format, such as through the Internet, which otherwise comply with these rules may be approved by the Board if the course meets the following criteria:

- (1) The sponsor, organization or participant must have preapproval through the regular continuing education process for the State of Arkansas.
- (2) The course must be test and time monitored to insure active participation by the licensee. The Internet education provider should provide a mechanism for verifying participation in the course.
- (3) A maximum of twelve (12) distance-based learning credit hours may be submitted by a licensee during each licensing period.

#### 4. Interpretation of Terminology.

- (a) Examination. This term is understood by this Board to be the act or process of examining the body to determine the presence or absence of disease or injury or to arrive at a diagnosis. It encompasses, but is not limited to, historical, physical, clinical, chemical, electrical or roentgenological means necessary to arrive at a diagnosis or analysis of any malady or abnormality of human beings. It does not include incisive surgery.
- (b) Analysis. This term is construed by this Board to mean and encompass the gathering and sorting out of certain physiological data, whether of a whole or a material substance, or any matter of thought, whether from history gathering to help determine the nature of disease, injury, deformity or any other abnormality whatsoever, an examination of symptoms, lesions, of body fluids and tissues for the purpose of diagnosis of any disease process, injury or abnormality of human beings.
- (c) Diagnosis. This term is understood by this Board to mean the use of scientific and skillful methods to establish the cause and nature of a sick person's disease, malady, injury or deformity. It encompasses the evaluation of the history, the signs and symptoms present, laboratory data, and the use of special tests such as x-rays or other analytical instruments.
- (d) Supportive Procedures. Those procedures that do not conflict with the Arkansas Chiropractic Practices Act and which aid the chiropractic physician in removing interference with the transmission or expression of nerve force in the human body for the purpose of restoration and maintenance of health. The option to use supportive procedures shall be left to the judgment of the individual chiropractic physician and shall not be required.
- (e) Ownership of x-rays, photographs and medical records. This Board confirms judicial decisions that x-rays, photographs and medical records belong to the doctor, clinic or institution originating such records. (McGarry v. J.A. Mercier Co., 272 Mich. 501, 262 N.W. 296 MLC 1936-40, P. 46 (1935).)

#### 5. Acupuncture.

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(a) A chiropractic physician licensed to practice chiropractic pursuant to the Arkansas Chiropractic Practices Act shall be entitled to practice acupuncture as part of chiropractic practice upon completion of one hundred (100) onsite hours training in acupuncture/meridian therapy from a college accredited by the Council on Chiropractic Education.

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(b) Prior to any chiropractic physician engaging in the practice of acupuncture/meridian therapy, said physician shall be required to submit to the Board of Examiners a certificate of completion of one-hundred (100) hour's instruction in acupuncture/meridian therapy.

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~~(b)(c)~~ Each holder of an acupuncture certification under the provisions of this chapter shall be privileged to use the following titles: certified in acupuncture or certified acupuncturist.

Commented [LM19]: Approved 12/7/17

### 6. License Renewal, Continuing Education and Forfeiture.

(a) Each Arkansas chiropractic license expires on December 31 of each year. If the license renewal fee is not postmarked by December 31 with a completed Renewal License Application and attachment of proof of continuing education, the license shall automatically expire and be forfeited.

(b) The renewal fee must accompany all Renewal License Applications. License renewal will not occur without receipt of the prescribed fees. Beginning with the renewal fee for the December 2014 renewals for In-State Active licensees shall be \$250.00. Renewals for In-State Inactive licensees shall be \$100.00. Renewals for Out-of-State Active licensees shall be \$125.00

(c) An individual who submits a Renewal License Application more than sixty (60) days after the license expiration date is subject to all requirements governing new applicants under the Arkansas Chiropractic Practices Act. The Board may grant extensions for the continuing education requirement and/or late license renewal based upon the Board's opinion that extreme circumstances prevented timely license renewal. It is illegal to practice in Arkansas with a forfeited license.

(d) Beginning September 1, 2014, the license renewal period will begin annually on September 1 and will be open until December 31 of the same year.

## PART THREE RULES OF PROCEDURE

A. **BOARD MAY INVESTIGATE COMPLAINTS.** This Board shall have the right and responsibility, as provided by law, to investigate complaints, allegations or suspicions of violations of the Arkansas Chiropractic Practices Act or of these ~~Regulations~~ Rules.

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B. **METHOD FOR HEARINGS.** All hearings before the Board shall be conducted according to the Arkansas Administrative Procedure Act, Ark. Stat. Ann. #5-701, et seq., with the following additions:

#### (1) Notice.

(a) Except as provided in Section 2, whenever the Board contemplates taking disciplinary action, it shall serve a written notice upon the licensee at least thirty (30) days before the action is taken. This thirty (30) day requirement may be waived upon agreement of both

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parties.

- (b) The notice shall include a Statement of the Facts or conduct upon which disciplinary action is contemplated and shall inform the licensee of his right to a hearing and state the time and place where the hearing is scheduled. The notice shall also inform the licensee that continuances will be granted only for good cause and that if the licensee fails to appear at the hearing and has not obtained a continuance, then the Board may conduct the hearing in the licensee's absence.
  - (c) The notice shall be issued in the Board's name and shall be signed by the President, Executive Director, or the Board's Attorney.
  - (d) The notice shall be served either personally by registered or certified mail addressed to the licensee's current business address on file with the Board. If personal service is used, it may be proven by affidavit or testimony of the server and shall be deemed served on the date delivered. When service is by mail, it shall be deemed served on the date borne by the return receipt showing delivery, refusal, or inability to deliver.
- (2) **Emergency Action.** Notwithstanding Section 1, if the Board finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.
- (3) **Continuances.** A continuance shall be granted only for good cause.
- (4) **Failure to Appear.** If a licensee, after being served notice, fails to appear at the time and place where the hearing is scheduled and has not obtained a continuance, then the Board may conduct the proceedings without the licensee being present.
- (5) **Presiding Officer.** The President shall be the Presiding Officer at all hearings, except if the President is unavailable, then a majority of the Board members present shall select a Presiding Officer from among themselves present. A Hearing Officer may be appointed by the Executive Director of the Chiropractic Board to act as an impartial Hearing Officer at any disciplinary hearing. The Presiding Officer shall have power to:
- (a) issue subpoenas;
  - (b) administer oaths and affirmations;
  - (c) maintain order;
  - (d) rule on all questions arising during the proceedings;
  - (e) permit discovery by deposition or otherwise;
  - (f) hold conferences for the settlement or simplification of issues;
  - (g) make or recommend decisions;
  - (h) generally regulate and guide the course of the pending proceeding.
- (6) **Decisions.** A final decision shall be in writing or stated in the record. It shall include findings of fact and conclusions of law, separately stated. Parties shall be served either personally or by mail with a copy of any decision or order within a reasonable time.
- (7) **Authority of Board.** If the information contained in the Complaint states matters that are not under the authority of the board, or which would not constitute a violation if proven, the



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board may take no action. Notice shall be given to the complainant and the licensee that the complaint has been reviewed with the determination that no action is warranted by the board.

### C. INFORMAL DISPOSITION OF COMPLAINTS.

As provided by the Arkansas Administrative Procedures Act, nothing contained herein shall prohibit informal disposition of complaints or allegations by settlement, consent or agreement of parties.

### D. COMPLAINT HANDLING PROCEDURES.

- (1) Complaints against Chiropractic physicians may be made by letter, in person, or by telephone call to the President, Secretary or Executive Director of the Board of Examiners.
- (2) All complaints shall be logged in a special record, which shall be updated as necessary to indicate the current status of all complaints.
  - (a) The subject of the complaint will receive notification and a copy of the complaint. He/she will be given ten (10) days to submit a response in writing to the Board office.
  - (b) Failure of the (subject) of any and all complaints to cooperate may be considered unprofessional conduct and will be taken into consideration by the Board investigator and Board attorney.
- (3) Said complaints may be investigated by one or more of the Board members or agents of the Board. Informal disposition may be attempted by settlement, consent, agreement, or for lack of sufficient probable cause if, in the opinion of the Board, such disposition is warranted by the circumstances.
- (4) Any and every complaint making out a prima facie case shall be presented to and reasonably disposed of by the Board, giving due consideration to sufficient and necessary time to investigate and consider the complaint. Upon completion of an investigation, the designated Board investigator and Board's Attorney together shall determine whether a disciplinary hearing shall be scheduled to resolve the issue.
- (5) Disciplinary hearings may be conducted either on the Board's own motion or based on a written complaint if a violation of the Chiropractic Practices Act has been discovered.
- (6) All complaints not investigated and all complaints investigated but determined to not substantiate the charges shall be reported to the Board quarterly.
- (7) If the information contained in the complaint states matters that are not under the authority of the board, or which would not constitute a violation if proven, the board may take no action. Notice shall be given to the complainant and the licensee that the complaint has been reviewed with the determination that no action is warranted by the board.
- (8) Notwithstanding any of the foregoing, any complaint received by the Board that involves a procurer as defined in A.C.A. 17-81-107(a)(1)(A) and (B), imperatively requires immediate action and special handling; for all such complaints, the following provisions shall apply:

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- (a) If the complaint is not received in writing, as set forth in Part III(D)(1), the person receiving the complaint shall without delay reduce the complaint to writing, stating at minimum, the date, the name, address and phone number of the person making the complaint; the name of the allegedly offending licensee and/or procurer; a fair summary of the facts upon which the complaint is based; and, any demand for relief or specific request for an act of the Board. A complaint reduced to writing is for all purposes the equivalent of a complaint received in writing.
- (b) Each written complaint shall be signed by the person receiving the complaint and distributed without delay to the president of the Board, the secretary or executive secretary, the investigating officer, and the attorney for the board.
- (c) Within three business days of the distribution of such complaint, the Board shall initiate the service of notice upon the licensee in accordance with Part III, (B)(1)(a)-(d); a copy of the complaint and any additional information in custody of the Board may, in the discretion of the Board, be provided to the appropriate law enforcement agency for investigation and possible prosecution pursuant to A.C.A. 5-37-505 and 506.
- (d) The notice of complaint shall provide the licensee with a copy of the written complaint as distributed, and shall advise the licensee that (a) the complaint that has been made against the licensee involves a procurer; (b) his or her response to the complaint is due within 10 business days of service; and (c) that a copy of the notice of complaint and any supporting documents may be provided to the appropriate law-enforcement agency for investigation and appropriate action.
- (e) Upon receipt of the response of the licensee, the date of the response is noted, and the response shall be distributed without delay to the president of the Board, the secretary or executive secretary, the investigating officer, and the attorney for the board.

### E. AMENDMENTS TO RULES ~~AND REGULATIONS~~.

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These rules, ~~regulations~~ and definitions may be modified, added to or deleted as deemed appropriate by the Board of Examiners in the method prescribed for such changes by the laws of the State of Arkansas.

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### F. ANNUAL/RENEWAL-FEE.

- (1) The annual renewal fee for a license issued by the Board shall be \$250.00.
- (2) If a license automatically expires and becomes forfeited pursuant to Ark. Code Ann. Sec. 17-81-311 for failure to timely pay the annual renewal fee, the license may be reinstated by the Board upon payment of the delinquent fee due and a penalty of \$200.00 for reinstatement, in addition to satisfying the Board in compliance with the education requirements.

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

SENATE BILL 451

By: Senator J. Cooper  
By: Representative Dalby

## For An Act To Be Entitled

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

## Subtitle

TO AMEND THE LAWS REGARDING CRIMINAL  
BACKGROUND CHECKS FOR PROFESSIONS AND  
OCCUPATIONS TO OBTAIN CONSISTENCY  
REGARDING CRIMINAL BACKGROUND CHECKS AND  
DISQUALIFYING OFFENSES FOR LICENSURE.

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

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

(a) The General Assembly finds that:

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

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

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



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

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

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

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

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

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

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

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

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

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

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

27 CHAPTER 2

28 OCCUPATIONAL CRIMINAL BACKGROUND CHECKS

29  
30 17-2-101. Definitions.

31 As used in this subchapter:

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (B) The circumstances surrounding the offense;

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

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

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

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

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

22 and

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

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

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

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

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

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

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

2 (2) Consider arrests without a subsequent conviction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1  
2 17-2-103. Prelicensure criminal background checks.

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

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

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

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

14  
15 17-2-104. Rules.

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

18 (b)(1) When adopting or amending rules to implement this chapter, the  
19 final rule shall be filed with the Secretary of State for adoption under §  
20 25-15-204(f):

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

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

24 (2) A licensing entity shall file the proposed rule with the  
25 Legislative Council under § 10-3-309(c) sufficiently in advance of January 1,  
26 2020, so that the Legislative Council may consider the rule for approval  
27 before January 1, 2020.

28  
29 SECTION 3. Arkansas Code § 17-11-302(b), concerning application and  
30 certificate of registration to become a registered abstractor, is amended to  
31 read as follows:

32 (b) The application shall be in a form prepared by the board and  
33 shall contain such information as may be necessary to assist the board in  
34 registration ~~and to determine if the applicant is of good moral character.~~  
35

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

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

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

9  
10 SECTION 5. Arkansas Code § 17-11-340(a), concerning the revocation of  
11 certificates authorized by the Arkansas Abstracters' Board, is amended to  
12 read as follows:

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

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

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

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

22  
23 SECTION 6. Arkansas Code § 17-11-341(a)(1), concerning the procedure  
24 of appeal for revocation of certificates authorized by the Arkansas  
25 Abstracters' Board, is amended to read as follows:

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

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

SECTION 7. Arkansas Code § 17-12-301 is amended to read as follows:

17-12-301. Requirements generally – Definition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 accountant.

2

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

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

11

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

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

18

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

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

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

27

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

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

36



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

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

~~(a) Moral turpitude;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4  
5 SECTION 14. Arkansas Code § 17-14-405(b)(3), concerning requirements  
6 for registration under the Appraisal Management Company Registration Act, is  
7 amended to read as follows:

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

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

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

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

18  
19 SECTION 15. Arkansas Code § 17-14-410(a)(3), concerning the  
20 disciplinary authority, enforcement, and hearings under the Appraisal  
21 Management Company Registration Act, is amended to read as follows:

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

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

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

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

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

30  
31 SECTION 16. Arkansas Code § 17-15-102(3), concerning the definition of  
32 "good moral character" related to architects, is repealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 17-20-302. Qualifications of applicants.

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

13 (1) Is qualified under this chapter;

14 ~~(2) Is of good moral character and temperate habits;~~

15 ~~(3)~~ (2) Has passed a satisfactory examination conducted by the  
16 State Board of Barber Examiners to determine his or her fitness to practice  
17 barbering;

18 ~~(4)~~ (3) Is at least sixteen and one-half (16 ½) years of age; and

19 ~~(5)~~ (4) Has received training approved by the appropriate  
20 licensing authorities.

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

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

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

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

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

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



- 1 (1) Experience;
- 2 (2) Ability;
- 3 ~~(3) Character;~~
- 4 ~~(4)~~(3) The manner of performance of previous contracts;
- 5 ~~(5)~~(4) Financial condition;
- 6 ~~(6)~~(5) Equipment;
- 7 ~~(7)~~(6) Any other fact tending to show ability and willingness to
- 8 conserve the public health and safety; and
- 9 ~~(8)~~(7) Default in complying with the provisions of this chapter
- 10 or ~~any other~~ another law of the state.
- 11

12 SECTION 27. Arkansas Code § 17-25-305, concerning the qualifications  
13 for a contractors license, is amended to add an additional subsection to read  
14 as follows:

15 (c) In addition to the offenses listed in § 17-2-102, the board may  
16 consider the following offenses when determining fitness for licensure or  
17 registration of a contractor under this chapter:

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

20 (2) Conviction of voyeurism as prohibited in § 5-16-101 and § 5-  
21 16-102;

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

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

26 (B) A crime or act may be deemed substantially related to  
27 the qualifications, functions, or duties of a contractor if, to a substantial  
28 degree, the crime or act evidences present or potential unfitness of a person  
29 applying for or holding a contractors license or registration to perform the  
30 functions authorized by the license or registration.

31  
32 SECTION 28. Arkansas Code § 17-25-507, concerning the qualifications  
33 for a contractors license through the Residential Contractors Committee, is  
34 amended to add an additional subsection to read as follows:

35 (c) In addition to the offenses listed in § 17-2-102, the committee  
36 may consider the following offenses when determining fitness for licensure or

1 registration of a contractor under this subchapter:

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

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

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

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

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

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

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

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

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

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

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

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

1 the time of appointment;

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

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

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

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

9  
10 SECTION 31. Arkansas Code § 17-27-301(2), concerning qualifications  
11 for a licensed professional counselor, is amended to read as follows:

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

14  
15 SECTION 32. Arkansas Code § 17-27-303(2), concerning qualifications  
16 for a licensed marriage and family therapist before January 1, 1998, is  
17 amended to read as follows:

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

20  
21 SECTION 33. Arkansas Code § 17-27-313 is amended to read as follows:  
22 17-27-313. Criminal background checks.

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

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

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

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

1 applicant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(f)(1)(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.

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

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

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

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

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

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

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

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

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

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

10 ~~(E) Employment references;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (2) The board shall investigate such charges.

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

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

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

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

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

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

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

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

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

9 (a) An applicant for licensure shall:

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

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

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

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

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

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

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

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

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

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

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

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

1 the imposition of sentence has been deferred or suspended;

2 (4) Making any substantial misrepresentation;

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 17-47-311. Disciplinary actions – Grounds.

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

1 of:

- 2 (1) Fraud or deceit in obtaining a certificate of registration;  
3 (2) Gross negligence, incompetence, or misconduct in the  
4 practice of soil classifying;  
5 (3) A felony listed under § 17-2-102 ~~or crime involving moral~~  
6 ~~turpitude~~; or  
7 (4) A violation of the code of ethics adopted and promulgated by  
8 the board.

9

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

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

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

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

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

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

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

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

9  
10 SECTION 54. Arkansas Code § 17-48-203(c), concerning the  
11 qualifications for licensure as a surveyor intern, is amended to read as  
12 follows:

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

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

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

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

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

1 two (2) years.

2

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

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

7

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

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

12

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

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

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

20

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

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

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

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

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

35

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

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

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

7  
8 SECTION 60. Arkansas Code § 17-81-305(a)(6), concerning the  
9 qualifications of applicants for licensure as a chiropractor, is repealed.

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

11  
12 SECTION 61. Arkansas Code § 17-81-318(e), concerning the criminal  
13 background check required for a chiropractor, is amended to read as follows:

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

20  
21 SECTION 62. Arkansas Code § 17-82-304(b), concerning the licensing  
22 procedure for dentists, is amended to read as follows:

23 (b) An applicant:

24 (1) ~~Must~~ Shall:

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

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

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

32 (2) ~~Must~~ Shall:

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

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



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

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

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

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

10  
11 SECTION 63. Arkansas Code § 17-82-306(b), concerning the licensing  
12 procedures for dental hygienists, is amended to read as follows:

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

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

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

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

21  
22 SECTION 64. Arkansas Code § 17-82-308(b)(3), concerning the  
23 credentials for dentists and dental hygienists licensed in other states, is  
24 amended to read as follows:

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

29  
30 SECTION 65. Arkansas Code § 17-82-316(c)(3), concerning the revocation  
31 or suspension of a license for a dentist, dental hygienist, or dental  
32 assistant, is amended to read as follows:

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

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

7  
8 SECTION 66. Arkansas Code § 17-82-802 is amended to read as follows:

9 17-82-802. License eligibility.

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

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

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

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

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

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

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

29 ~~(4) Conviction of a felony in a federal court.~~  
30

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

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

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

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

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

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

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

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

12  
13 SECTION 70. Arkansas Code § 17-86-203(e)-(h), concerning the powers  
14 and duties of the State Board of Health regarding massage therapy licenses,  
15 are amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (2) Malpractice or gross incompetency;

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

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

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

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

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

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

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

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

24  
25 SECTION 73. Arkansas Code § 17-87-301(a), concerning the  
26 qualifications for an applicant for licensure as a registered nurse, is  
27 amended to read as follows:

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

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

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

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

1 education program.

2  
3 SECTION 74. Arkansas Code § 17-87-304(a), concerning the  
4 qualifications of an applicant for licensure as a licensed practical nurse,  
5 is amended to read as follows:

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

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

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

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

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

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

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

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

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

32  
33 SECTION 76. Arkansas Code § 17-87-312(d)-(1), concerning criminal  
34 background checks for nurses, are amended to read as follows:

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 months.

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

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

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

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

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

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

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

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

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

18 ~~(E) Employment references;~~

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

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

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

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

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

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

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

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

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

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

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

- 11               ~~(A)~~ Capital murder as prohibited in § 5-10-101;
- 12               ~~(B)~~ Murder in the first degree as prohibited in § 5-10-102  
13 and murder in the second degree as prohibited in § 5-10-103;
- 14               ~~(C)~~ Kidnapping as prohibited in § 5-11-102;
- 15               ~~(D)~~ Aggravated assault upon a law enforcement officer or  
16 an employee of a correctional facility, § 5-13-211, if a Class Y felony;
- 17               ~~(E)~~ Rape as prohibited in § 5-14-103;
- 18               ~~(F)~~ Sexual extortion, § 5-14-113;
- 19               ~~(G)~~ Sexual assault in the first degree as prohibited in §  
20 5-14-124 and sexual assault in the second degree as prohibited in § 5-14-125;
- 21               ~~(H)~~ Incest as prohibited in § 5-26-202;
- 22               ~~(I)~~ Endangering the welfare of an incompetent person in  
23 the first degree as prohibited in § 5-27-201;
- 24               ~~(J)~~ Endangering the welfare of a minor in the first degree  
25 as prohibited in § 5-27-205;
- 26               ~~(K)~~ Adult abuse that constitutes a felony as prohibited in  
27 § 5-28-103; and
- 28               ~~(L)~~ Arson as prohibited in § 5-38-301.

29  
30       SECTION 77. Arkansas Code § 17-87-707(a)(1), concerning disciplinary  
31 actions for nurses, is amended to read as follows:

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

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

36                       (B) Providing services as a medication assistive person

1 without a valid certificate; or

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

3  
4 SECTION 78. Arkansas Code § 17-88-302(2), concerning the  
5 qualifications of an applicant for licensure as an occupational therapist, is  
6 repealed.

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

8  
9 SECTION 79. Arkansas Code § 17-88-309(b)(4), concerning the denial,  
10 revocation, or suspension of an occupational therapist license, is amended to  
11 read as follows:

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

18  
19 SECTION 80. Arkansas Code § 17-89-302(a), concerning the  
20 qualifications of an applicant for licensure as a licensed dispensing  
21 optician, is amended to read as follows:

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

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

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

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

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

36 (ii) Providing ophthalmic dispensing services under

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

4  
5 SECTION 81. Arkansas Code § 17-89-303 is amended to read as follows:

6 17-89-303. Qualifications – Registered dispensing opticians.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) ~~Over~~ At least twenty-one (21) years of age;

(2) A successful candidate having passed all parts of the National Board of Examiners in Optometry examination since January 1, 1997; and

~~(3) Of good moral character; and~~

~~(4)~~ (3) A graduate of a college of optometry that has been accredited by the Accreditation Council on Optometric Education of the American Optometric Association.

SECTION 86. Arkansas Code § 17-90-302(c)(3), concerning licensure by endorsement for optometrists, is amended to read as follows:

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

SECTION 87. Arkansas Code § 17-90-305(a)(3), concerning the grounds for denial, revocation, or suspension of an optometrist license, is amended to read as follows:

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

SECTION 88. Arkansas Code § 17-91-101(a), concerning the licensing requirements for an osteopathic physician, is amended to read as follows:

(a) The Arkansas State Medical Board shall accept for licensure by examination any person who:

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

(2) Is a citizen of the United States;

~~(3) Is of good moral character;~~

~~(4)~~ (3) Has not been guilty of acts constituting unprofessional conduct as defined in the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.;

~~(5)~~ (4) Is a graduate of an osteopathic college of medicine whose course of study has been recognized by the Department of Education of the

1 American Osteopathic Association; and

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

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

8 (a) Each applicant for examination as a pharmacist shall:

9 (1) ~~Shall be~~ Be not less than twenty-one (21) years of age; and

10 ~~(2) Shall be of good moral character and temperate habits; and~~

11 ~~(3)~~(2) ~~Shall have~~ Have:

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

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

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

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

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

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

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

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

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

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

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

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

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

19  
20 SECTION 92. Arkansas Code § 17-93-303(b), concerning qualification of  
21 applicants for licensure as a physical therapist, is amended to read as  
22 follows:

23 (b) Each physical therapist applicant shall:

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

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

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

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

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

31  
32 SECTION 93. Arkansas Code § 17-93-304(b), concerning qualification of  
33 applicants for licensure as a physical therapist assistant, is amended to  
34 read as follows:

35 (b) Each physical therapist assistant applicant shall:

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

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

2           ~~(3)~~(2) Have graduated from a school of physical therapy  
3 accredited by a national accreditation agency approved by the Arkansas State  
4 Board of Physical Therapy;

5           ~~(4)~~(3) Have passed examinations selected and approved by the  
6 Arkansas State Board of Physical Therapy; and

7           ~~(5)~~(4) Submit fees as determined by the Arkansas State Board of  
8 Physical Therapy.

9

10           SECTION 94. Arkansas Code § 17-93-308(a)(4), concerning the  
11 revocation, suspension, or denial of licensure for physical therapists, is  
12 repealed.

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

14

15           SECTION 95. Arkansas Code § 17-93-412(a)(1), concerning the  
16 revocation, suspension, or denial of a license for an athletic trainer, is  
17 amended to read as follows:

18           (1) Been convicted of a felony ~~or misdemeanor involving moral~~  
19 ~~turpitude, the record of conviction being conclusive evidence of conviction~~  
20 ~~if the board determines after investigation that the person has not been~~  
21 ~~sufficiently rehabilitated to warrant the public trust listed under § 17-2-~~  
22 ~~102;~~

23

24           SECTION 96. Arkansas Code § 17-95-104(a)(2), concerning a hospital's  
25 duty to report physician misconduct, is amended to read as follows:

26           (2) The hospital shall also report any other formal disciplinary  
27 action concerning any such physician taken by the hospital upon  
28 recommendation of the medical staff relating to professional ethics, medical  
29 incompetence, ~~moral turpitude~~, or drug or alcohol abuse.

30

31           SECTION 97. Arkansas Code § 17-95-307 is amended to read as follows:  
32           17-95-307. License eligibility.

33           ~~No~~ A person ~~shall be~~ is not eligible to receive or hold a license to  
34 practice medicine or another healthcare profession issued by the Arkansas  
35 State Medical Board if the person has pleaded guilty or nolo contendere to or  
36 has been found guilty of ~~either an infamous crime that would impact his or~~

1 ~~her ability to practice medicine in the State of Arkansas or a felony listed~~  
2 ~~under § 17-2-102, regardless of whether the conviction has been sealed,~~  
3 ~~expunged, or pardoned.~~  
4

5 SECTION 98. Arkansas Code § 17-95-403(b)(2), concerning qualification  
6 of applicants for licensure as a physician, is amended to read as follows:

7 (2) ~~Is of good moral character and has~~ Has not been guilty of  
8 acts constituting unprofessional conduct as defined in § 17-95-409;  
9

10 SECTION 99. Arkansas Code § 17-95-408(d)(2), concerning annual  
11 registration for licensure as a physician, is amended to read as follows:

12 (2) If application for reinstatement is made, the board shall  
13 consider the ~~moral character and~~ professional qualifications of the applicant  
14 upon notice and hearing before ordering reinstatement. Unless such a showing  
15 shall thereupon be made to the board as would entitle the applicant to the  
16 issuance of an original license, reinstatement shall be denied.  
17

18 SECTION 100. Arkansas Code § 17-95-409(a)(2)(A), concerning the  
19 grounds for denial, suspension, or revocation of a physician license, is  
20 amended to read as follows:

21 (A)(i) Conviction of ~~any crime involving moral turpitude~~  
22 ~~or conviction of a felony listed under § 17-2-102.~~

23 (ii) The judgment of any such conviction, unless  
24 pending upon appeal, shall be conclusive evidence of unprofessional conduct;  
25

26 SECTION 101. Arkansas Code § 17-95-903(b)(7), concerning  
27 qualifications of an applicant for licensure as a graduate registered  
28 physician, is repealed.

29 ~~(7) Is of good moral character; and~~  
30

31 SECTION 102. Arkansas Code § 17-95-910 is amended to read as follows:  
32 17-95-910. Violation.

33 Following the exercise of due process, the Arkansas State Medical Board  
34 may discipline a graduate registered physician who:

35 (1) Fraudulently or deceptively obtains or attempts to obtain a  
36 license;



- 1 (2) Fraudulently or deceptively uses a license;  
2 (3) Violates any provision of this subchapter or any rules  
3 adopted by the board pertaining to this chapter;  
4 (4) Is convicted of a felony listed under § 17-2-102;  
5 (5) Is a habitual user of intoxicants or drugs to the extent  
6 that he or she is unable to safely perform as a graduate registered  
7 physician; or  
8 (6) Has been adjudicated as mentally incompetent or has a mental  
9 condition that renders him or her unable to safely perform as a graduate  
10 registered physician; ~~or~~  
11 ~~(7) Has committed an act of moral turpitude.~~  
12

13 SECTION 103. Arkansas Code § 17-96-303(a), concerning qualifications  
14 of an applicant for licensure as a podiatrist, is amended to read as follows:

15 (a) ~~No person shall be entitled to~~ A person shall not take any  
16 examination for such registration unless that person shall furnish the  
17 Arkansas Board of Podiatric Medicine with satisfactory proof that he or she:

- 18 (1) Is twenty-one (21) years of age or over; and  
19 ~~(2) Is of good moral character; and~~  
20 ~~(3)~~ (2) Has received a license or certificate of graduation from  
21 a legally incorporated, regularly established school of podiatric medicine  
22 recognized by the Council on Podiatric Medical Education of the American  
23 Podiatric Medical Association within the states, territories, districts, and  
24 provinces of the United States or within any foreign country.  
25

26 SECTION 104. Arkansas Code § 17-96-308(c)(2)(C), concerning the  
27 definition of "unprofessional and dishonest conduct" regarding podiatric  
28 medicine licensure, is repealed.

29 ~~(C) Being guilty of an offense involving moral turpitude;~~  
30

31 SECTION 105. Arkansas Code § 17-97-201(a)(5)(B), concerning the  
32 membership of the Arkansas Psychology Board, is amended to read as follows:

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

- 35 (i) Ceases to be qualified;  
36 (ii) Fails to attend three (3) successive board

1 meetings without just cause as determined by the board;

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

3 (iv) Pleads guilty or nolo contendere to or is found  
4 guilty of a felony ~~or an unlawful act involving moral turpitude~~ listed under  
5 § 17-2-102 by a court of competent jurisdiction; or

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

9  
10 SECTION 106. Arkansas Code § 17-97-302(b)(1), concerning  
11 qualifications of an applicant for licensure as a psychologist, is amended to  
12 read as follows:

13 (b)(1) A candidate for a license shall furnish the board with  
14 satisfactory evidence that he or she:

15 ~~(A)~~ (A) ~~Is of good moral character;~~

16 ~~(B)~~ (A) Has received a doctoral degree in psychology from  
17 an accredited institution recognized by the board as maintaining satisfactory  
18 standards at the time the degree was granted or, in lieu of a degree, a  
19 doctoral degree in a closely allied field if it is the opinion of the board  
20 that the training required therefor is substantially similar;

21 ~~(C)~~ (B) Has had at least two (2) years of experience in  
22 psychology of a type considered by the board to be qualifying in nature with  
23 at least one (1) of those years being postdoctoral work;

24 ~~(D)~~ (C) Is competent in psychology, as shown by passing  
25 examinations, written or oral, or both, as the board deems necessary;

26 ~~(E)~~ (D) Is not considered by the board to be engaged in  
27 unethical practice;

28 ~~(F)~~ (E) Has applied for a criminal background check and has  
29 not been found guilty of or pleaded guilty or nolo contendere to any of the  
30 offenses listed in § 17-97-312(f); and

31 ~~(G)~~ (F) Has not failed an examination given by the board  
32 within the preceding six (6) months.

33  
34 SECTION 107. Arkansas Code § 17-97-303(b)(1), concerning  
35 qualifications of an applicant for licensure as a psychological examiner, is  
36 amended to read as follows:

1 (b)(1) A candidate for a license shall furnish the board with  
2 satisfactory evidence that he or she:

3 ~~(A) Is of good moral character;~~

4 ~~(B)~~(A) Has a master's degree in psychology or a closely  
5 related field from an accredited educational institution recognized by the  
6 board as maintaining satisfactory standards;

7 ~~(C)~~(B) Is competent as a psychological examiner as shown  
8 by passing examinations, written or oral, or both, as the board deems  
9 necessary;

10 ~~(D)~~(C) Is not considered by the board to be engaged in  
11 unethical practice;

12 ~~(E)~~(D) Has applied for a criminal background check and has  
13 not been found guilty of or pleaded guilty or nolo contendere to any of the  
14 offenses listed in § 17-97-312(f); and

15 ~~(F)~~(E) Has not failed an examination given by the board  
16 within the preceding six (6) months.

17  
18 SECTION 108. Arkansas Code § 17-97-305(d)(1)(C), concerning the  
19 qualifications for examination for a provisional license as a psychologist,  
20 is repealed.

21 ~~(C) Has good moral character;~~

22  
23 SECTION 109. Arkansas Code § 17-97-305(d)(1)(F), concerning the  
24 qualifications for a provisional license for psychologists and psychological  
25 examiners, is amended to read as follows:

26 (F) Has not been convicted of ~~a crime involving moral turpitude~~  
27 ~~or~~ a felony listed under § 17-2-102;

28  
29 SECTION 110. Arkansas Code § 17-97-308(f)(2), concerning annual  
30 registration for licensure as a psychologist, is amended to read as follows:

31 (2) If application for reinstatement is made, the board shall  
32 consider the ~~moral character and~~ professional qualifications of the applicant  
33 as in the case of an original application.

34  
35 SECTION 111. Arkansas Code § 17-97-312(d)-(m), concerning criminal  
36 background checks for psychologists and psychological examiners, are amended

1 to read as follows:

2 (d) Upon completion of the criminal background check, the  
3 Identification Bureau of the Department of Arkansas State Police shall  
4 forward to the board all releasable information obtained concerning the  
5 applicant ~~in the commission of any offense listed in subsection (f) of this~~  
6 ~~section.~~

7 (e) At the conclusion of any background check required by this  
8 section, the Identification Bureau of the Department of Arkansas State Police  
9 shall promptly destroy the fingerprint card of the applicant.

10 (f) For purposes of this section, the board shall follow the licensing  
11 restrictions based on criminal records under § 17-2-102. ~~Except as provided~~  
12 ~~in subdivision (m)(1) of this section, no person shall be eligible to receive~~  
13 ~~or hold a license issued by the board if that person has pleaded guilty or~~  
14 ~~nolo contendere to or been found guilty of any of the following offenses by~~  
15 ~~any court in the State of Arkansas or of any similar offense by a court in~~  
16 ~~another state or of any similar offense by a federal court:~~

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

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

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

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

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

23 (6) ~~False imprisonment in the first degree as prohibited in § 5-~~  
24 ~~11-103;~~

25 (7) ~~Permanent detention or restraint as prohibited in § 5-11-~~  
26 ~~106;~~

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

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

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

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

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

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

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

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

~~3-301, and 5-3-401, to commit any of the offenses listed in this subsection.~~

(g)(1) 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.

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

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

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

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

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

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

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

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

~~(D) Subsequent work history;~~

~~(E) Employment references;~~

~~(F) Character references; and~~

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

~~(i)(1)(h)(1)~~ Any information received by the board from the Identification Bureau of the Department of Arkansas State Police pursuant to under this section shall not be available for examination except by the affected applicant for licensure or his or her authorized representative or 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 department.

~~(j)(i)~~ 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.

~~(k)(j)~~ Rights of privilege and confidentiality established in this

1 section shall not extend to any document created for purposes other than this  
2 background check.

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

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

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

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

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

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

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

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

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

21 ~~(G)~~ Sexual assault in the first degree as prohibited in §  
22 5-14-124 and sexual assault in the second degree as prohibited in § 5-14-125;

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

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

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

29 ~~(K)~~ Adult abuse that constitutes a felony as prohibited in  
30 § 5-28-103; and

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

32  
33 SECTION 112. Arkansas Code § 17-98-302(a), concerning admission to  
34 examination for licensure as a disease intervention specialist, is amended to  
35 read as follows:

36 (a) The State Board of Disease Intervention Specialists shall admit to

1 examination any person who makes application to the Secretary of the State  
2 Board of Disease Intervention Specialists on forms prescribed and furnished  
3 by the board, pays an application fee set by the board to defray the expense  
4 of examination, and submits satisfactory proof to the board that he or she:

5 ~~(1) Is a person of good moral character;~~

6 ~~(2)~~(1) Meets the minimum educational requirements;

7 ~~(3)~~(2) Meets the minimum specialized training requirements, as  
8 determined by the board;

9 ~~(4)~~(3) Has had two (2) years of field experience in human  
10 immunodeficiency virus/sexually transmitted disease intervention; and

11 ~~(5)~~(4) Is actively engaged in the field of human  
12 immunodeficiency virus/sexually transmitted disease intervention at the time  
13 he or she makes application.  
14

15 SECTION 113. Arkansas Code § 17-98-303 is amended to read as follows:

16 17-98-303. Issuance of certificate without examination.

17 The State Board of Disease Intervention Specialists shall issue a  
18 certificate of registration without examination to any person who makes  
19 application on forms prescribed and furnished by the board, pays a  
20 registration fee set by the board, and submits satisfactory proof that he or  
21 she:

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

23 ~~(2)~~(1) Has had at least two (2) years' experience in the field  
24 of human immunodeficiency virus/sexually transmitted disease intervention;  
25 and

26 ~~(3)~~(2) Is registered as a disease intervention specialist in a  
27 state in which the qualifications for registration are not lower than the  
28 qualifications for registration in this state at the time he or she applies  
29 for registration.  
30

31 SECTION 114. Arkansas Code §§ 17-98-305 and 17-98-306 are amended to  
32 read as follows:

33 17-98-305. Application for reinstatement.

34 (a) A former registered disease intervention specialist whose  
35 certificate has expired or has been suspended or revoked may make application  
36 for reinstatement by paying a renewal fee and submitting satisfactory proof



1 to the State Board of Disease Intervention Specialists that he or she has  
2 complied with the continuing education requirements.

3 (b) The board shall consider the ~~moral character~~ and professional  
4 qualifications of the applicant as in the case of an original application.

5  
6 17-98-306. Refusal to renew – Suspension or revocation.

7 The State Board of Disease Intervention Specialists may refuse to renew  
8 or may suspend or revoke a certificate upon proof that the applicant+

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

10 ~~(2) Is~~ is guilty of fraud, deceit, gross negligence,  
11 incompetency, or misconduct relative to his or her duties as a disease  
12 intervention specialist.

13  
14 SECTION 115. Arkansas Code § 17-99-302(b), concerning qualifications  
15 of an applicant for licensure as a respiratory care practitioner, is amended  
16 to read as follows:

17 (b) Each applicant ~~must~~ shall:

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

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

20 ~~(3)~~ (2) Have been awarded a high school diploma or its  
21 equivalent;

22 ~~(4)~~ (3) Have satisfactorily completed training in a respiratory  
23 care program which has been approved by the Arkansas State Respiratory Care  
24 Examining Committee, to include adequate instruction in basic medical  
25 science, clinical science, and respiratory care theory and procedures; and

26 ~~(5)~~ (4) Have passed an examination approved by the Arkansas State  
27 Medical Board and the committee, unless exempted by other provisions of this  
28 chapter.

29  
30 SECTION 116. Arkansas Code § 17-99-307(3), concerning the grounds for  
31 denial, suspension, or revocation of a respiratory care practitioner license,  
32 is repealed.

33 ~~(3) Has been convicted of any crime involving moral turpitude;~~

34  
35 SECTION 117. Arkansas Code § 17-100-302(b), concerning qualifications  
36 of an applicant for licensure as a speech-language pathologist or

1 audiologist, is amended to read as follows:

2 (b) To be eligible for licensure by the board as a speech-language  
3 pathologist or audiologist, a person shall:

4 ~~(1) Be of good moral character;~~

5 ~~(2)(1)~~ Possess at least a master's degree in the area of speech-  
6 language pathology or a master's degree in audiology obtained on or before  
7 December 30, 2006, or a doctoral degree obtained after January 1, 2007, from  
8 an educational institution recognized by the board;

9 ~~(3)(2)~~ Submit evidence of the completion of the educational,  
10 clinical experience, and employment requirements, which shall be based on  
11 appropriate national standards and prescribed by the rules adopted under this  
12 chapter; and

13 ~~(4)(3)~~ Pass an examination approved by the board before the  
14 board approves a license.

15  
16 SECTION 118. Arkansas Code § 17-100-302(d), concerning qualifications  
17 of an applicant for provisional licensure as a speech-language pathologist or  
18 audiologist, is amended to read as follows:

19 (d) To be eligible for provisional licensure by the board as a speech-  
20 language pathologist or audiologist, a person shall:

21 ~~(1) Be of good moral character;~~

22 ~~(2)(1)~~ Possess at least a master's degree in the area of speech-  
23 language pathology or audiology, as the case may be, from an educational  
24 institution recognized by the board;

25 ~~(3)(2)~~ Be in the process of completing the postgraduate  
26 professional experience requirement; and

27 ~~(4)(3)~~ Pass an examination approved by the board.

28  
29 SECTION 119. Arkansas Code § 17-100-307(a)(3), concerning the grounds  
30 for denial, suspension, or revocation of a license, or other disciplinary  
31 action for speech-language pathologists and audiologists, is amended to read  
32 as follows:

33 (3)(A) Being convicted of a felony listed under § 17-2-102 ~~in~~  
34 ~~any court of the United States if the acts for which the licensee or~~  
35 ~~applicant is convicted are found by the board to have a direct bearing on~~  
36 ~~whether he or she should be entrusted to serve the public in the capacity of~~

1 ~~a speech language pathologist or audiologist.~~

2 ~~(B) A plea or verdict of guilty made to a charge of a~~  
3 ~~felony or of any offense involving moral turpitude is a conviction within the~~  
4 ~~meaning of this section.~~

5 ~~(C)(B)~~ At the direction of the board, and after due notice  
6 and an administrative hearing in accordance with the provisions of applicable  
7 Arkansas laws, the license of the person so convicted shall be suspended or  
8 revoked or the board shall decline to issue a license when:

9 (i) The time for appeal has elapsed;  
10 (ii) The judgment of conviction has been affirmed on  
11 appeal; or

12 (iii) An order granting probation has been made  
13 suspending the imposition of sentence, without regard to a subsequent order  
14 under the provisions of state law allowing the withdrawal of a guilty plea  
15 and the substitution of a not guilty plea, or the setting aside of a guilty  
16 verdict, or the dismissal of the acquisition, information, or indictment;

17  
18 SECTION 120. Arkansas Code § 17-101-305(a)(4)(A), concerning the  
19 grounds for denial, suspension, or revocation of a veterinarian license, is  
20 amended to read as follows:

21 (4)(A) Conviction of a felony ~~or other crime involving moral~~  
22 ~~turpitude listed under § 17-2-102.~~

23  
24 SECTION 121. Arkansas Code § 17-102-304(a)(3), concerning  
25 qualifications of an applicant for provisional licensure as an acupuncturist,  
26 is amended to read as follows:

27 (3) Before any applicant shall be eligible for an examination,  
28 the applicant shall furnish satisfactory proof to the board that he or she:

29 ~~(A) Is of good moral character by filing with his or her~~  
30 ~~application the affidavits of at least two (2) reputable acupuncturists who~~  
31 ~~attest to his or her character;~~

32 ~~(B)(A)~~ Has successfully completed not fewer than sixty  
33 (60) semester credit hours of college education, to include a minimum of  
34 thirty (30) semester credit hours in the field of science; and

35 ~~(C)(B)~~ Has completed a program in acupuncture and related  
36 techniques and has received a certificate or diploma from an institute

1 approved by the board as described in this section. The training received in  
2 the program shall be for a period of no fewer than four (4) academic years  
3 and shall include a minimum of eight hundred (800) hours of supervised  
4 clinical practice.

5  
6 SECTION 122. Arkansas Code § 17-102-304(c)(4), concerning  
7 qualifications of an applicant for provisional licensure as an acupuncturist,  
8 is amended to read as follows:

9 (4) Not have been convicted of a felony listed under § 17-2-102;  
10 and

11  
12 SECTION 123. Arkansas Code § 17-103-305(b), concerning the grounds for  
13 renewal, revocation, or suspension of a social worker license, is amended to  
14 read as follows:

15 (b) The board shall refuse to issue or shall revoke the license of a  
16 person who has been found guilty of a felony, ~~any crime involving moral~~  
17 ~~turpitude,~~ listed under § 17-2-102 or criminal offense involving violence,  
18 dishonesty, fraud, deceit, breach of client trust, or abuse of the vulnerable  
19 unless the person requests and the board grants a waiver under § 17-103-  
20 307(f).

21  
22 SECTION 124. Arkansas Code § 17-103-306(a)(1)(D), concerning  
23 qualifications of an applicant for licensure as a licensed social worker, is  
24 repealed.

25 ~~(D) Has good moral character;~~

26  
27 SECTION 125. Arkansas Code § 17-103-306(a)(1)(G), concerning  
28 qualifications for a Licensed Social Worker license, is amended to read as  
29 follows:

30 (G) Has not pleaded guilty or nolo contendere to or been  
31 found guilty of a felony, ~~any crime involving moral turpitude,~~ listed under §  
32 17-2-102 or criminal offense involving violence, dishonesty, fraud, deceit,  
33 breach of client trust, or abuse of the vulnerable;

34  
35 SECTION 126. Arkansas Code § 17-103-306(b)(1)(G), concerning the  
36 qualifications for a Licensed Master Social Worker license, is amended to

1 read as follows:

2 (G) Has not pleaded guilty or nolo contendere to or been  
3 found guilty of a felony, ~~any crime involving moral turpitude, listed under §~~  
4 ~~17-2-102~~ or criminal offense involving violence, dishonesty, fraud, deceit,  
5 breach of client trust, or abuse of the vulnerable;

6

7 SECTION 127. Arkansas Code § 17-103-306(c)(1)(H), concerning the  
8 qualifications for a Licensed Certified Social Worker license, is amended to  
9 read as follows:

10 (H) Has not pleaded guilty or nolo contendere to or been found  
11 guilty of a felony, ~~any crime involving moral turpitude, listed under § 17-2-~~  
12 ~~102~~ or criminal offense involving violence, dishonesty, fraud, deceit, breach  
13 of client trust, or abuse of the vulnerable;

14

15 SECTION 128. Arkansas Code § 17-103-307(d)-(k), concerning criminal  
16 background check requirements for social workers, are amended to read as  
17 follows:

18 (d) Upon completion of the criminal background check, the  
19 Identification Bureau of the Department of Arkansas State Police shall  
20 forward to the board all releasable information obtained concerning the  
21 applicant ~~in the commission of any offense listed in subsection (e) of this~~  
22 ~~section.~~

23 (e) For purposes of this section, the board shall follow the licensing  
24 restrictions based on criminal records under § 17-2-102. Except as provided  
25 ~~in subdivision (k)(1) of this section, a person is not eligible to receive or~~  
26 ~~hold a license issued by the board if that person has pleaded guilty or nolo~~  
27 ~~contendere to or been found guilty of a felony, any crime involving moral~~  
28 ~~turpitude, or criminal offense involving violence, dishonesty, fraud, deceit,~~  
29 ~~breach of client trust, or abuse of the vulnerable, including without~~  
30 ~~limitation:~~

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

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

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

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

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

- 1           ~~(6) False imprisonment in the first degree as prohibited in § 5-~~  
2   ~~11-103;~~
- 3           ~~(7) Permanent detention or restraint as prohibited in § 5-11-~~  
4   ~~106;~~
- 5           ~~(8) Robbery as prohibited in § 5-12-102;~~
- 6           ~~(9) Aggravated robbery as prohibited in § 5-12-103;~~
- 7           ~~(10) Battery in the first degree as prohibited in § 5-13-201;~~
- 8           ~~(11) Aggravated assault as prohibited in § 5-13-204;~~
- 9           ~~(12) Introduction of a controlled substance into the body of~~  
10 ~~another person as prohibited in § 5-13-210;~~
- 11           ~~(13) Aggravated assault upon a law enforcement officer or an~~  
12 ~~employee of a correctional facility, § 5-13-211, if a Class Y felony;~~
- 13           ~~(14) Terroristic threatening in the first degree as prohibited~~  
14 ~~in § 5-13-301;~~
- 15           ~~(15) Rape as prohibited in § 5-14-103;~~
- 16           ~~(16) Sexual indecency with a child as prohibited in § 5-14-110;~~
- 17           ~~(17) Sexual extortion, § 5-14-113;~~
- 18           ~~(18) Sexual assault in the first degree, second degree, third~~  
19 ~~degree, and fourth degree as prohibited in §§ 5-14-124 — 5-14-127;~~
- 20           ~~(19) Incest as prohibited in § 5-26-202;~~
- 21           ~~(20) Offenses against the family as prohibited in §§ 5-26-303 —~~  
22 ~~5-26-306;~~
- 23           ~~(21) Endangering the welfare of an incompetent person in the~~  
24 ~~first degree as prohibited in § 5-27-201;~~
- 25           ~~(22) Endangering the welfare of a minor in the first degree as~~  
26 ~~prohibited in § 5-27-205;~~
- 27           ~~(23) Permitting abuse of a minor as prohibited in § 5-27-221(a);~~
- 28           ~~(24) Engaging children in sexually explicit conduct for use in~~  
29 ~~visual or print media, transportation of minors for prohibited sexual~~  
30 ~~conduct, pandering or possessing a visual or print medium depicting sexually~~  
31 ~~explicit conduct involving a child, or use of a child or consent to use of a~~  
32 ~~child in a sexual performance by producing, directing, or promoting a sexual~~  
33 ~~performance by a child as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and~~  
34 ~~5-27-403;~~
- 35           ~~(25) Computer child pornography as prohibited in § 5-27-603;~~
- 36           ~~(26) Computer exploitation of a child in the first degree as~~

1 ~~prohibited in § 5-27-605;~~

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

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

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

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

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

7 ~~(32) Felony violation of the Uniform Controlled Substances Act,~~  
8 ~~§ 5-64-101 et seq., as prohibited in the former § 5-64-401 and §§ 5-64-419—~~  
9 ~~5-64-442;~~

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

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

13 ~~(35) Criminal attempt, criminal complicity, criminal~~  
14 ~~solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-~~  
15 ~~3-301, and 5-3-401, to commit any of the offenses listed in this subsection.~~

16 ~~(f)(1) The provisions of subsection (e) of this section may be waived~~  
17 ~~by the board upon the request of:~~

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

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

20 ~~(2) Circumstances for which a waiver may be granted include, but~~  
21 ~~are not limited to, the following:~~

22 ~~(A) The applicant's age at the time the crime was~~  
23 ~~committed;~~

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

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

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

27 ~~(E) Employment references;~~

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

29 ~~(G) Other evidence demonstrating that the applicant does~~  
30 ~~not pose a threat to the health or safety of children or endangered adults.~~

31 ~~(g)(1)(f)(1)~~ Information received by the board from the Identification  
32 Bureau of the Department of Arkansas State Police under this section shall  
33 not be available for examination except by the affected applicant for  
34 licensure or his or her authorized representative or the person whose license  
35 is subject to revocation or his or her authorized representative.

36 (2) No record, file, or document shall be removed from the

1 custody of the department.

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

5 ~~(i)~~(h) Rights of privilege and confidentiality established in this  
6 section do not extend to any document created for purposes other than the  
7 criminal background check.

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

10 ~~(k)(1) As used in this section, an expunged record of a conviction or~~  
11 ~~plea of guilty or nolo contendere to an offense listed in subsection (e) of~~  
12 ~~this section shall not be a felony, any crime involving moral turpitude, or a~~  
13 ~~criminal offense involving violence, dishonesty, fraud, deceit, breach of~~  
14 ~~client trust, or abuse of the vulnerable unless the offense is also listed in~~  
15 ~~subdivision (k)(2) of this section.~~

16 ~~(2) Because of the serious nature of the offenses and the close~~  
17 ~~relationship to the type of work that is to be performed, a conviction,~~  
18 ~~guilty plea, or nolo contendere plea to any of the following offenses shall~~  
19 ~~result in permanent disqualification for licensure:~~

- 20 ~~(A) Capital murder as prohibited in § 5-10-101;~~  
21 ~~(B) Murder in the first degree as prohibited in § 5-10-102~~  
22 ~~and murder in the second degree as prohibited in § 5-10-103;~~  
23 ~~(C) Kidnapping as prohibited in § 5-11-102;~~  
24 ~~(D) Aggravated assault upon a law enforcement officer or~~  
25 ~~an employee of a correctional facility, § 5-13-211, if a Class Y felony;~~  
26 ~~(E) Rape as prohibited in § 5-14-103;~~  
27 ~~(F) Sexual extortion, § 5-14-113;~~  
28 ~~(G) Sexual assault in the first degree as prohibited in §~~  
29 ~~5-14-124 and sexual assault in the second degree as prohibited in § 5-14-125;~~  
30 ~~(H) Endangering the welfare of an incompetent person in~~  
31 ~~the first degree as prohibited in § 5-27-201;~~  
32 ~~(I) Endangering the welfare of a minor in the first degree~~  
33 ~~as prohibited in § 5-27-205 and endangering the welfare of a minor in the~~  
34 ~~second degree as prohibited in § 5-27-206;~~  
35 ~~(J) Engaging children in sexually explicit conduct for use~~  
36 ~~in visual or print media, transportation of minors for prohibited sexual~~



~~conduct, or pandering or possessing a visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in §§ 5-27-303—5-27-305, 5-27-402, and 5-27-403;~~

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

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

SECTION 129. Arkansas Code § 17-104-312(3)(F), concerning violations of the Perfusionist Licensure Act, is amended to read as follows:

(F) A plea of guilty, nolo contendere, or a finding of guilt of a felony listed under § 17-2-102 or any offense substantially related to the qualifications, functions, or duties of a perfusionist, in which event the record shall be conclusive evidence; or

SECTION 130. Arkansas Code § 17-105-102(b)(6), concerning qualifications of an applicant for licensure as a physician assistant, is repealed.

~~(6) Is of good moral character;~~

SECTION 131. Arkansas Code § 17-105-113 is amended to read as follows:  
17-105-113. Violation.

Following the exercise of due process, the Arkansas State Medical Board may discipline any physician assistant who:

(1) Fraudulently or deceptively obtains or attempts to obtain a license;

(2) Fraudulently or deceptively uses a license;

(3) Violates any provision of this chapter or any regulations adopted by the board pertaining to this chapter;

(4) Is convicted of a felony listed under § 17-2-102;

(5) Is a habitual user of intoxicants or drugs to such an extent that he or she is unable to safely perform as a physician assistant;

(6) Has been adjudicated as mentally incompetent or has a mental condition that renders him or her unable to safely perform as a physician assistant; or

~~(7) Has committed an act of moral turpitude; or~~

~~(8)~~(7) Represents himself or herself as a physician.

SECTION 132. Arkansas Code § 17-106-107(a)(2), concerning the licensing requirements for healthcare professionals who use radioactive materials or medical equipment emitting or detecting ionizing radiation on human beings for diagnostic or therapeutic purposes, is amended to read as follows:

(2) Submit satisfactory evidence verified by oath or affirmation that the applicant:

(A) Is qualified to administer radioactive materials or operate medical equipment emitting or detecting ionizing radiation upon human beings;

~~(B) Is of good moral character;~~

~~(C)~~(B) Is at least eighteen (18) years of age at the time of application; and

~~(D)~~(C) Has been awarded a high school diploma or has passed the General Educational Development Test or the equivalent.

SECTION 133. Arkansas Code § 17-106-110(a)(2), concerning discipline for healthcare professionals who use radioactive materials or medical equipment emitting or detecting ionizing radiation on human beings for diagnostic or therapeutic purposes, is amended to read as follows:

(2) Has been convicted of a felony listed under § 17-2-102 ~~in a court of competent jurisdiction either within or outside of this state unless the conviction has been reversed and the holder of the license has been discharged or acquitted or if the holder has been pardoned with full restoration of civil rights, in which case the license shall be restored;~~

SECTION 134. Arkansas Code § 17-107-310(1), concerning disciplinary action for orthotists, prosthetists, and pedorthists, is amended to read as follows:

(1) Has pleaded guilty or nolo contendere to or has been found guilty of a felony listed under § 17-2-102;

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*/s/J. Cooper*

**APPROVED: 4/15/19**