

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 1416

5 By: Representative Shepherd
6 By: Senator Rapert
7

For An Act To Be Entitled

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 17 OF
10 THE ARKANSAS CODE CONCERNING PROFESSIONS,
11 OCCUPATIONS, AND BUSINESSES; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO MAKE TECHNICAL CORRECTIONS TO TITLE 17
16 OF THE ARKANSAS CODE CONCERNING
17 PROFESSIONS, OCCUPATIONS, AND BUSINESSES.
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19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 17-14-201(a)(1), concerning composition of
23 the Arkansas Appraiser Licensing and Certification Board, is amended to read
24 as follows:

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

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

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

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

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



1 the appraisal profession, including without limitation residential appraisal,
 2 commercial and industrial appraisal, forestry and timberland appraisal, rural
 3 appraisal, and any other appraisal discipline that may be affected by the
 4 Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., §
 5 17-14-201 et seq., and § 17-14-301 et seq.;

6
 7 SECTION 2. The introductory language of Arkansas Code § 17-22-101,
 8 concerning the definitions relating to boxing and wrestling, is amended to
 9 read as follows:

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

11
 12 SECTION 3. Arkansas Code § 17-25-401(a) is amended to read as follows:

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

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

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

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

31
 32 SECTION 4. The introductory language of Arkansas Code § 17-25-502,
 33 concerning the definitions relating to the Residential Contractors Committee,
 34 is amended to read as follows:

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

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

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

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

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

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

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

21
 22 SECTION 7. Arkansas Code § 17-42-306(b), concerning the application
 23 procedure and licensing examination by the Arkansas Real Estate Commission,
 24 is amended to read as follows:

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

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

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

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

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

5
 6 SECTION 8. Arkansas Code § 17-42-315(a), concerning the criminal
 7 background checks by the Arkansas Real Estate Commission, is amended to read
 8 as follows:

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

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

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

21
 22 SECTION 9. Arkansas Code § 17-80-114(b), concerning scope of practice
 23 complaints in the healing arts professions, is amended to read as follows:

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

27
 28 SECTION 10. Arkansas Code § 17-80-114(c)(3)(B), concerning scope of
 29 practice complaints in the healing arts professions, is amended to read as
 30 follows:

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

35
 36 SECTION 11. Arkansas Code § 17-80-114(d)(1)(B), concerning scope of

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

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

5
 6 SECTION 12. The introductory language of Arkansas Code § 17-80-203,
 7 concerning the definitions relating to the Impaired Physician and Dentist
 8 Treatment Act, is amended to read as follows:

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

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 11 SECTION 13. Arkansas Code § 17-86-303 is amended to read as follows:
 12 17-86-303. Massage therapist.

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

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

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

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

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

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

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

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

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

1 Department of Health.

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

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

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

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

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

15 (b) Fees are as follows:

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

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

24 (d) A person who attempts to procure or does procure a license in
25 violation of this section shall be subject to the penalties provided for in §
26 17-86-103.

27
28 SECTION 14. Arkansas Code § 17-92-1003(4), concerning the definition
29 of "electronic mail" in the Arkansas Internet Prescription Consumer
30 Protection Act, is amended to read as follows:

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

36

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

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

10
11 SECTION 16. Arkansas Code § 17-97-102 is amended to read as follows:
12 17-97-102. Definitions – Levels of practice of psychology.

13 (a) As used in this chapter:

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

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

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

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

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

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

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

1 need.

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

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

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

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

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

27 (i) to individuals, families, groups,
 28 organizations, institutions, and the public; and

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

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

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

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

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

7 (B)(i) A psychological examiner licensed before December
8 31, 1997, shall be granted independent practice except in neuropsychological
9 assessment and projective personality assessment upon the Arkansas Psychology
10 Board's receiving a letter requesting independent practice and a revised
11 statement of intent.

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

15 (C) A psychological examiner licensed after December 31,
16 1997, is privileged to practice independently except in neuropsychological
17 assessment and projective personality assessment, if the person:

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

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

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

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

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

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

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

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

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

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

12 ~~(D)(i) A psychological examiner licensed before December~~
13 ~~31, 1997, shall be granted independent practice except in neuropsychological~~
14 ~~assessment and projective personality assessment upon the Arkansas Psychology~~
15 ~~Board receiving a letter requesting independent practice and a revised~~
16 ~~statement of intent.~~

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

20 ~~(E) A psychological examiner licensed after December 31,~~
21 ~~1997, shall be privileged to practice independently except in~~
22 ~~neuropsychological assessment and projective personality assessment, if the~~
23 ~~person:~~

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

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

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

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

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

1 ~~involving the practice of psychology.~~

2 (c) ~~Nothing in this section shall be construed as permitting~~ This
 3 section does not permit the practice of psychology to infringe on the
 4 practice of medicine as defined by the Arkansas Medical Practices Act, § 17-
 5 95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

6
 7 SECTION 17. DO NOT CODIFY. CONSTRUCTION AND LEGISLATIVE INTENT.

8 It is the intent of the General Assembly that:

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

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

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

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

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

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

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

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