

**RULES ~~AND REGULATIONS~~ OF THE ARKANSAS STATE BOARD OF
ACUPUNCTURE & RELATED TECHNIQUES****TITLE I**

A. DEFINITIONS: For the purpose of these rules the following definitions apply in addition to those in the Act.

1. **“Act”** is the Arkansas Acupuncture Practices Act, as found in Ark. Code Ann. § 17-102-101 et seq.
2. **“Acupuncture”** means the insertion, manipulation, and removal of acupuncture needles from the body, and the use of other modalities and procedures at specific locations on the body, for the prevention, cure, or correction of a malady, illness, injury, pain, or other condition or disorder by controlling and regulating the flow and balance of energy and functioning of the patient to restore and maintain health. Acupuncture shall not be considered surgery.
3. **“Acupuncturist”** means a person licensed under the Act to practice acupuncture and related techniques in the State of Arkansas, and includes the term licensed acupuncturist, and the abbreviation “L.Ac.”
4. **“Applicant”** is a person who has submitted to the Board an application for licensure.
5. **“Board”** is the Arkansas State Board of Acupuncture and Related Techniques.
6. **“Clinical Experience”** is the practice of acupuncture and related techniques as defined in the Act, after graduation from an educational program in acupuncture and related techniques as required herein. A year of clinical experience shall be consistent with the National Commission for the Certification of Acupuncture and Oriental Medicine’s (NCCAOM) requirements.
7. **“Institution”** is a school that teaches an educational program in acupuncture and related techniques, certified by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) and that has been approved by the Board, pursuant to Ark. Code Ann. § 17-102- 304(b).
8. **“Licensee”** is an individual licensed pursuant to the Act and defined as an acupuncturist under Title I. A.3. of these Rules. Those persons exempted under § 17-102-311 shall not be considered as licensed under the Act and shall not use the descriptive term “licensed” referring to an acupuncture practice in Arkansas.
9. **“Moxibustion”** means the use of heat on, or above, or on acupuncture needles, at specific locations on the body for the prevention, cure, or correction of a malady, illness, injury, pain, or other condition or disorder.
10. **“Office”** is the physical facility used for the practice of acupuncture and related techniques.
11. **“Related Techniques”** are the techniques used in the Chinese and Asian traditional healing arts in addition to acupuncture as set out in Title I, Section B, Scope of Practice herein, including Chinese herbs.
12. **“Rules”** are the rules ~~and regulations~~, promulgated pursuant to the Act, governing acupuncturists, applicants, educational programs, educational institutions, and all matters covered by the Act.
13. **“Supervised Clinical Practice”** is the observation and application of

acupuncture and related techniques in actual treatment situations under appropriate supervision, as defined by NCCAOM.

14. **“Supervision”** is the coordination, direction and continued evaluation at first hand of the person in training or engaged in obtaining clinical practice and shall be provided by a qualified instructor or tutor as set forth in a board-approved institute of acupuncture and related techniques.

B. SCOPE OF PRACTICE: The practice of acupuncture and related techniques in Arkansas is a distinct system of primary health care with the goal of prevention, cure, or correction of any illness, injury pain or other disorder or condition by controlling and regulating the flow and balance of energy and functioning of the person to restore and maintain health. Acupuncture and related techniques include all of the allied traditional and modern diagnostic, treatment, and therapeutic methods of the Chinese/Asian healing arts. The scope of practice of acupuncturists shall include but is not limited to:

1. Evaluation and management services.
2. Examination and diagnostic testing.
3. The ordering of radiological, laboratory or other diagnostic tests.
4. The stimulation of points or areas of the body using needles, moxabustion and other heating modalities, cold, light, lasers, sound, vibration, magnetism, electricity, cupping, bleeding, suction, pressure, ion pumping cords, or other devices or means.
5. Physical medicine modalities and techniques, including, tuina, gua sha, shiatsu, anmo, and other massage incidental to acupuncture and related techniques.
6. Therapeutic exercises, breathing techniques, meditation, and the use of biofeedback and other devices that utilize color, light, sound, electromagnetic energy and other means therapeutically.
7. Dietary and nutritional counseling and the administration of food, beverages and dietary supplements therapeutically.
8. The recommendation of any Chinese herbal medicine, Western herbal medicine, or substances such as vitamins, minerals, enzymes, amino acids, nutritional supplements, and glandulars, lawfully and commercially available in the United States.
9. Counseling regarding physical, emotional and spiritual lifestyle balance.

C. Provided, however, the practice of acupuncture in Arkansas shall not involve:

a. Manipulation, mobilization or adjustment to the spine or extra-spinal articulations;

b. The prescribing, dispensing, injection or administering of any substance or legend drug as defined under A.C.A. 20-64-503;

TITLE II

A.1 **BOARD COMPOSITION AND DUTIES:** In addition to its duties described in the Act, the Board shall:

1. Meet in special meetings at any time. Notice of special meetings shall be provided to Board members, the media which have requested notification, and all other interested parties who have requested notification of such meeting at least twenty-four (24) hours in advance of such special meetings.
2. Meet in regular meetings upon such a schedule as shall be set by the Board. Notice of regular meetings shall be provided to Board members, the media, and all interested parties who have requested notification of such meeting at least three (3) days in advance of such regular meetings.
- ~~3. Incur and pay expenses for the employ of personnel, legal counsel, independent contractors, or such assistants, as it may deem necessary for the functioning of and fulfilling the duties of the Board as prescribed in the Act.~~
- 4.3. Keep a file of all approved educational programs.
- 5.4. Keep a file of all licensees and provisional licensees.
- 6.5. Issue certificates of approval of educational programs and educational institutions.
- 7.6. Delegate its ministerial duties if it so chooses, as provided by the Act.
- 8.7. Notify the Governor when any board member has missed three consecutive ~~meetings~~ regular meetings without attending any inmediate special meeting, ~~whether special or regular meetings.~~
- 9.8. Elect a President, Secretary, and Treasurer at the first Board meeting held each May.
- 10.9. Perform such other duties and shall exercise such other powers as may be conferred upon it by statute, or as may be reasonably implied from such statutory powers and duties and as may be reasonably necessary in the performance of its responsibilities under the Act, pursuant to Ark. Code Ann. § 17-102-108.

A.2 **PUBLIC RECORDS:** All records kept by the Board shall be available for public inspection pursuant to the Arkansas Freedom of Information Act and the Arkansas Administrative Procedures Act.

B. MEETINGS OF THE BOARD

- (a) **Regular Meetings.** The Board shall meet at least once in every six (6) months, and may meet more often.

- (b) **Special Meetings.** The Board may meet in special meetings called at any time at the pleasure of the President or by the Secretary upon the request of any two (2) full members of the Board.
- (c) **Quorum.** A quorum of the Board shall consist of three (3) full members of the Board in attendance at any meeting. For purposes of determining a quorum, the ex officio member shall not be considered a full member.
- (d) **Voting.** Any and every official action taken by the Board shall require an affirmative vote of a majority of the full membership of the Board that is three (3) out of the five (5) full members. No vote on any official action shall include a vote by the ex officio member.

C. ADOPTION OF RULES ~~AND REGULATIONS~~

The Board may adopt such rules ~~and regulations~~ as are necessary to conduct its business and administer its duties as found in the Act. All rules ~~and regulations~~ shall be adopted pursuant to the provisions of the Arkansas Administrative Procedures Act. Prior to any proposed rule being submitted to the Administrative Rules and Regulations Committee of the Arkansas Legislative Council, said rule shall be approved in writing by the Arkansas State Medical Board.

In addition to rules ~~and regulations~~ proposed by the Board, interested parties may petition the Board for a change in or addition to the rules ~~and regulations~~ pursuant to the Arkansas Administrative Procedure Act. The Board shall consider such written request at its next regular meeting.

TITLE III

A.1 GENERAL

All agency action regarding licensure shall be governed by the Arkansas Acupuncture Practice Act, A.C.A. 17-102-101 and, when applicable, A.C.A. §§25-15-~~208 to 213~~201 et seq.

A.2 REQUIREMENT TO KEEP CURRENT ADDRESSES ON FILE

All persons holding a license issued by Arkansas State Board of Acupuncture and Related Techniques are required to provide the board with information so that the board can remain in contact and provide notice of complaints and/or hearings. The licensee is required to provide written notice to the board of any change in business and/or residence address within 10 working days of the change. Service of notices of hearing sent by mail will be addressed to the latest address on file with the board.

A.3 APPLICATION FOR ORIGINAL LICENSURE

- (a) The Board shall not cause a license to be issued to any person it has deemed to be unqualified pursuant to the provisions of the Act and these rules ~~and regulations~~.
- (b) All applicants are required to be at least 21 years of age, be a citizen of the United States and/or a legal resident, not have had a license to practice acupuncture and related techniques in any other state suspended or revoked nor have been placed on probation for any cause, not have been convicted of a felony listed in Ark. Code Ann. § 17-3-102, and not be a habitual user of intoxicants, drugs or hallucinatory preparations.
- (~~a~~c) Every Applicant must provide a statement signed by the Applicant and the signature verified by a Notary Public as to whether he or she:
- (1) Has had had a license to practice acupuncture and related techniques in any other state suspended or revoked or been placed on probation for any cause~~been subject to any disciplinary action in any jurisdiction related to the practice of acupuncture and related techniques, or related to any other health care professions for which the Applicant is licensed, certified, registered or legally recognized to practice;~~
 - (2) ~~Has been a defendant in litigation in any jurisdiction related to his or her practice of acupuncture, and related techniques, or related to any other health care professions for which the Applicant is licensed, certified, registered or legally recognized to practice; and~~
 - (3)(2) Has been convicted of a felony listed in Ark. Code Ann. § 17-3-102~~in any jurisdiction.~~
- (b) ~~Any Applicant who is licensed, certified, registered or legally recognized to practice any other health care professions, in any jurisdiction, pursuant to any authority other than the Arkansas Acupuncture Practices Act shall provide a certificate from each such jurisdiction stating the disciplinary record of the Applicant. A copy of the certificate may be substituted if verified as a true and correct copy by the keeper of the records in that jurisdiction.~~
- (c) ~~Any Applicant who has been subject to any disciplinary action or proceeding in another jurisdiction comprehended by this section may be denied a license by the Board.~~

A.4 **APPLICATION:** Every person seeking an original Arkansas license to practice acupuncture and related techniques shall file an application on the current form provided by the Board. All applications must be complete and in English.

- (a) **EXHIBITS REQUIRED:** Every application shall be accompanied by:
1. The fee for application for licensure specified in Title III, C.
 2. ~~A passport type photograph of the Applicant taken not more than six months prior to the submission of the application.~~
 3. ~~Two (2) affidavits certifying the Applicant's good moral character by acupuncturists not related to the Applicant, who have known the~~

~~Applicant not less than one year. These affidavits shall be on a form provided by the Board.~~

4.2. A notarized form signed by the Applicant authorizing the release to the Board of additional information regarding the Applicant and his or her qualifications for licensure, including but not limited to educational background, criminal background check, transcripts, credentials, and accreditation information on educational institutions.

(b) **VERIFICATION:** Verification of the Applicant's education shall include:

1. A certified copy of the Applicant's certificate or diploma from an accredited educational institution evidencing completion of the required program of study in acupuncture and related techniques. ~~This copy shall include on it an affidavit certifying that it is a true copy of the original.~~
2. An official copy of the Applicant's transcript that shall be sent directly to the Board by the approved educational institution from which the Applicant received the certificate or diploma, and that shall verify the Applicant's satisfactory completion of the required academic and clinical education and that shall designate the completed subjects and the hours of study completed in each subject; and

~~(c) **DOCUMENTS IN A FOREIGN LANGUAGE:** All documents submitted in a foreign language must be accompanied by a certified translation in English. Each translated document shall bear the affidavit of the translator certifying that he or she is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original. Each translated document shall also bear the affidavit of the Applicant certifying that the translation is a true and complete translation of the original. Each affidavit shall be signed before a notary public. The translation of any document relevant to an Applicant's application shall be at the expense of the Applicant.~~

~~(d)~~(c) **SUFFICIENCY OF DOCUMENT:** The Board shall determine the sufficiency of the documentation to support the application for licensure. The Board may, in its sole discretion, request further documentation, proof of qualifications and/or require a personal interview with any Applicant to establish his or her qualifications.

B. **AUTHORIZED FORMS**

The Board shall authorize such forms as are necessary from time to time for the application for licenses, and the renewal of licenses. The authorized forms may be reproduced without permission from the Board but shall not be altered or changed in any way by any prospective Licensee. Authorized forms shall be available from the Board to any member of the public or any prospective Licensee. Requests for forms may be made in writing or by telephone call to the Board at its offices, or to the Board Secretary.

C.1 **REQUIREMENTS FOR LICENSING**

(a) **EDUCATIONAL REQUIREMENTS:** Every Applicant shall provide satisfactory proof that he or she has completed and graduated from an approved four year academic educational program in acupuncture and related techniques and has received a certificate or diploma for completion of the approved educational program from an institute approved under C.1.(a)1. The program must include an ~~extensive~~ education in Chinese herbal medicine, as required by ACAOM.

(1) **APPROVED EDUCATIONAL INSTITUTION AND PROGRAM.**

For the Board to determine that an institution meets the standards of professional education, the institution must require a program of study of at least four (4) academic years which must meet Accreditation Commission for Acupuncture and Oriental Medicine's (ACAOM) level of education and standards or other criteria as found reasonable by the Board, require participation by students in a supervised clinical or internship program which includes a minimum of eight hundred (800) hours of supervised clinical practice, and confer a certificate, diploma, or degree only after personal attendance in classes and clinics. An applicant from a foreign institution shall provide documentation to show that the institution and program meets the same or higher standards.

(2) **PREREQUISITES:** Has successfully completed not fewer than sixty (60) semester credit hours of college education, to include a minimum of thirty (30) semester credit hours in a relevant field of science, including but not limited to biology, chemistry, anatomy, physiology, and psychology.

(b) EXAMINATION REQUIREMENT.

An applicant shall be required to pass a Board-approved nationally recognized examination on Oriental Medicine or on both acupuncture and Chinese herbal medicine.

C.2 FEES: The Board shall charge fees for the following, in compliance with A.C.A. Section 17-102-304(d)-(1)-(7):

- (a) Initial/reciprocal application for licensing, set at \$250.00;
- (b) Biennial licensing renewal or original and reciprocal licensees, set at \$400.00;
- (c) Late renewal (in addition to the application fee), set at \$100.00;
- (d) Continuing education provider one-time registration fee, set at \$200.00;
- (e) Administrative support fee (annual), set at \$100.00;

~~The board will set each of the above fees at its initial meeting of each fiscal year. A schedule of fees will be provided in writing to each licensee subsequent to that meeting.~~

D. RECIPROCAL LICENSING: ~~The Board may enter into reciprocal licensing agreements with other states or jurisdictions, provided the requirements and qualifications for licensure in that state or jurisdiction meet or exceed the requirements and qualifications for licensure in Arkansas.~~

(a) Required Qualifications. An applicant applying for reciprocal licensure shall hold a substantially similar license in another United States' jurisdiction.

(1) A license from another state is substantially similar to an Arkansas license if applicant has, or the other state's licensure qualifications require an applicant to have, passed an examination(s) given by NCCAOM in either:

i. Oriental Medicine; or

ii. Both acupuncture and Chinese herbal medicine.

(2) The applicant shall hold his or her occupational licensure in good standing;

(3) The applicant shall not have had a license revoked for:

i. An act of bad faith; or

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

(4) The applicant shall not hold a suspended or probationary license in a United States' jurisdiction.

(b) Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.

(1) As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas's, the applicant shall submit the following information:

i. Evidence of current and active licensure in that state. The Board may verify this information online or by telephone; and

ii. Evidence that the applicant has passed an examination(s) given by NCCAOM in either Oriental Medicine or both acupuncture and Chinese herbal medicine. The Board may verify this information online or by telephone.

(2) To demonstrate that the applicant has not had a license revoked for bad faith or a violation of law, rule, or ethics, as required by subsection III.D.(a)(3), and that the applicant does not hold a license on suspended or probationary status, as required by subsection III.D.(a)(4), the applicant shall provide the Board with:

i. The names of all states in which the applicant is currently licensed or has been previously licensed;

ii. Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for the reasons listed in subsection III.D.(a)(3) and does not hold a license on suspended or probationary status as described in subsection

III.D.(a)(4). The Board may verify this information online or by telephone.

(c) Temporary License

- (1) The Board shall issue a temporary license immediately upon receipt of the application, the required fee, and the documentation required under subsection III.D.(b)(1).i. and ii. to show that the applicant has a license in good standing from another jurisdiction that is substantially similar to an Arkansas license.
- (2) An applicant shall submit a completed the application with all required remaining documentation in order to receive a license.
- (3) The temporary license shall be effective for at least 90 days or until the Board makes a decision on the application, whichever occurs first.

~~E. EXAMINATIONS: The Board shall be authorized to give examinations to all Applicants for licensure, or to accept the scores of an Applicant on Board-approved nationally recognized examinations on acupuncture and Chinese herbal medicine.~~

- ~~(a) Examination topics to be covered shall be anatomy and physiology, pathology, diagnosis, hygiene, sanitation, sterilization techniques, acupuncture and related principles, practices and techniques, and Chinese herbal medicine.~~
- ~~(a) If the Board conducts its own examination of applicants for licensure, applicants for a license shall be notified in writing by the Board at least sixty (60) days in advance of the date set for the examination.~~
- ~~(b) Every applicant for a license pursuant to the Act shall achieve a score of not less than seventy percent (70%) on each topic on the examination administered by the Board, or a passing score on a Board-approved nationally recognized examination on acupuncture and Chinese herbal medicine.~~
- ~~(c) The Board shall maintain a list of every Board-approved nationally recognized examination at its offices.~~

F.E. ACUPUNCTURE DETOX SPECIALISTS.

(a) Detox specialists shall register with the Board by providing either:

- (1) ~~a~~A certified copy of documentation of the completion of the National Acupuncture Detoxification Association (NADA) certification course; or
- (2) Evidence of active certification (or registration or licensure) as an acupuncture detox specialist in another state.

(b) ~~They~~An acupuncture detox specialist shall be permitted to practice only under the supervision of an acupuncturist who is licensed by the Arkansas State Board of Acupuncture and Related Techniques.

- (c) ~~They~~An acupuncture detox specialist shall be permitted to use only the five (5) point ear protocol of NADA for substance abuse and shall not treat or offer treatment in any other capacity.

F. Acupuncture Applicants from States that Do Not License Acupuncturists

- (a) An applicant from a state that does not license acupuncturists shall be sufficiently competent in the field of acupuncture and related techniques.
- (b) Required documentation.
- (1) An applicant shall submit a fully-executed application and the required fee; and
- (2) As evidence that the applicant is sufficiently competent in the field of acupuncture and related techniques, the applicant shall provide evidence that the applicant has passed an examination(s) given by NCCAOM in either Oriental Medicine or both acupuncture and Chinese herbal medicine. The Board may verify this information online or by telephone.

G. Military Licensure

- (a) (1) “Automatic licensure” means the granting of occupational licensure without an individual's having met occupational licensure requirements provided under Title 17 of the Arkansas Code or by these Rules.
- (2) As used in this subsection, “returning military veteran” means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.
- (b) The Board shall grant automatic licensure to an individual who holds a substantially equivalent license in another U.S. jurisdiction and is:
- (1) An active duty military service member stationed in the State of Arkansas;
- (2) A returning military veteran applying for licensure within one (1) year of his or discharge from active duty; or
- (3) The spouse of a person under subsection III.G.(b)(1) or (2).
- (c) The Board shall grant such automatic licensure upon receipt of all of the below:
- (1) Payment of the initial licensure fee;
- (2) Evidence that the individual holds a substantially equivalent license in another state; and
- (3) Evidence that the applicant is a qualified applicant under subsection III.G.(b)(1), (2), or (3).

H. Pre-Licensure Criminal Background Check

- (a) Pursuant to Act 990 of 2019, an individual may petition for a pre-licensure determination of whether the individual’s criminal record will disqualify the individual from licensure.

- (b) The individual must obtain the pre-licensure criminal background check petition form from the Board.
- (c) The Board's staff will respond with a decision in writing to a completed petition within a reasonable time.
- (d) The Board staff's response will state the reasons for the decision.
- (e) All decisions of the Board's staff in response to the petition will be determined by the information provided by the individual.
- (f) A decision of the Board's staff in response to a pre-licensure criminal background check petition is not subject to appeal.
- (g) The Board will retain a copy of the petition and response and it will be reviewed during the formal application process.

I. Waiver Request

- (a) If an individual has been convicted of an offense listed in A.C.A. § 17-3-102(a), except those permanently disqualifying offenses found in subsection A.C.A. § 17-3-102 (e), the Board may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:
 - (1) An affected applicant for a license; or
 - (2) An individual holding a license subject to revocation.
- (b) The Board may grant a waiver upon consideration of the following, without limitation:
 - (1) The age at which the offense was committed;
 - (2) The circumstances surrounding the offense;
 - (3) The length of time since the offense was committed;
 - (4) Subsequent work history since the offense was committed;
 - (5) Employment references since the offense was committed;
 - (6) Character references since the offense was committed;
 - (7) Relevance of the offense to the occupational license; and
 - (8) Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.
- (c) A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees.
- (d) The Board will respond with a decision in writing and will state the reasons for the decision.
- (e) An appeal of a determination under this section will be subject to the Administrative Procedures Act § 25-15-201 *et seq.*

TITLE IV

A.1 **LICENSE RENEWAL:** Every Applicant for license renewal must provide a statement as

to whether he or she, since applying for licensure or since last applying for license renewal, which ever occurred most recently:

- (a) Has been subject to any disciplinary action in any jurisdiction related to the practice of acupuncture and related techniques, or related to any other health care professions for which the Applicant for license renewal is licensed, certified, registered or legally recognized to practice; and
- ~~(b) Has been a defendant in any litigation in any jurisdiction related to his or her practice of acupuncture and related techniques, or related to any other health care professions for which the Applicant for license renewal is licensed, certified, registered or legally recognized to practice; and~~
- ~~(e)(b)~~ Has been convicted of a felony listed under Ark. Code Ann. § 17-3-102 in any jurisdiction.

Any Applicant for license renewal who has been subject to any action or proceeding comprehended by Title III.A.1 may be subject to disciplinary action, including denial, suspension or revocation of licensure.

A.2 **LICENSING PERIOD:** The licensing period shall run from January 1 to the second consecutive December 31. A newly licensed acupuncturist shall be issued a license that shall be required to be renewed on the second December 31 following the initial date of licensure. If license is not renewed by this date, license shall expire and licensee shall not practice until such time that renewal requirements have been met. The Board shall send renewal notifications to licensees no later than December 1.

A.3 **LICENSE RENEWAL:** Except as provided otherwise in the Act, or in these Rules, or pursuant to other State law, each licensed acupuncturist shall be granted renewal of his or her license for two years upon receipt by the Board of his or her renewal application that shall include any continuing education documentation required by Ark. Code Ann. 17-102-308 and Title IV.B. of these Rules and the fee for the biennial license renewal specified in Title III.C.2.

A.4 **LATE LICENSE RENEWAL:**

- (a) Each licensee shall be required to pay biennial license renewal fees and meet continuing education requirements as specified in the Act and in these Rules. During a grace period of 30 days after the expiration of the license (December 31), no late fee will be required. However, if a license is expired for thirty (30) days to one (1) year, the late renewal fee shall be assessed and the licensee shall meet all of requirements of renewal. Practice of acupuncture and related techniques is not allowed during any period of expiration. ~~A licensee who fails to renew his or her license within one (1) year after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but that person may apply for and obtain a new license if he or she meets the following requirements:~~

~~(1) Meets all current standards of the Arkansas State Board of Acupuncture and Related Techniques; and~~

~~(2) Takes and passes the required examination(s) and pays all fees associated therewith as if seeking a license for the first time.~~

(b) An individual who meets the conditions established in A.C.A. § 17-1-107 and can demonstrate that the individual passed the applicable examination(s) with scores sufficient for licensure at the time the individual's initial license was issued shall, in order to be re-licensed furnish evidence of completion of the number of hours of acceptable continuing professional education (CPE) computed by multiplying twelve (12) times the number of years the licensee has held an inactive or invalid license, not to exceed 60 hours.

A.5 **EXPIRED LICENSE:** A licensee shall not practice acupuncture and related techniques following the expiration of the license, until such time that the expired license is renewed pursuant to Title IV.A.3 and Title IV.A.4.

B.1 **CONTINUING EDUCATION:** The Board shall not renew the license of any licensee unless the licensee presents to the Board evidence of attendance at a board- approved educational session or sessions of not less than twenty-four (24) hours of continuing education within the previous biennial period, which shall include a CPR course for healthcare professionals, to be considered as two (2) hours of the required twenty- four (24) hours of continuing education.

Approved continuing education courses may not be retaken for credit in consecutive biennial periods. Proof of teaching courses related to acupuncture or related techniques may be applied to a maximum of four (4) hours of continuing education, subject to approval by the board.

B.2 The Board may accept hours from Board approved courses or NCCAOM approved courses as valid continuing education hours, provided that documentation contains: provider contact information, course information (including any relevant NCCAOM reference), and official seal or signature.

(a) If the course has not been approved by NCCAOM or the Board for continuing education, the licensee shall submit information to the Board about the course, including the person or organization sponsoring or presenting the course, an outline of the subject matter covered by the course and the length of the course in hours.

(b) It is the Board's intention to respond to all submissions of continuing education courses for approval in a timely manner. If the submission is not specifically denied in writing by the Board within 60 days after the postmark of the applicant's submission, the submission shall be approved.

(c) Applications for approval of providers of continuing education shall be on an individual course basis. ~~p~~Provider applicants shall be responsible for obtaining and submitting the proper information and fees to the Board.

(d) If the Board denies approval for any course or courses upon application for license renewal, the applicant shall have an additional 90 days to obtain the required hours during which time the applicant can continue to practice. Failure to acquire the proper hours within said 90 days shall result in non-renewal of the license.

TITLE V

A. HEARING PROCEDURES ON DENIED APPLICATIONS

- (a) If a preliminary determination is made by the board that an application for license should be denied the board will inform the applicant of the grounds or basis of the proposed denial in writing. Any Applicant who is denied the issuance of a license by the Board may appeal such decision and request a hearing before the full Board on the application. The Applicant shall file the appeal in writing with the Board within thirty (30) days of receipt of the notice of denial.
- (b) Within thirty (30) days of the filing of the appeal on the denial of a license, the Board shall hold a hearing on the application. The Applicant shall be notified in writing of the date, time, and location of the hearing at least twenty (20) days in advance of the hearing on the appeal.
- (c) The Board and the Applicant shall disclose no later than ten (10) days before the hearing on the merits the names, addresses and telephone numbers of all persons who they intend to call as witnesses at the hearing, and shall provide a list of exhibits which will be offered for introduction into evidence.
- (d) The Applicant shall not engage in communications with any member of the Board on any matter related to the application or the appeal prior to the date set for the hearing, nor shall the Board members engage in communications in violation of the Arkansas Administrative Procedures Act or the Arkansas Freedom of Information Act.
- (e) At the hearing, the Applicant shall be provided the opportunity to present evidence, by testimony or by documents, cross examine all witnesses, and call witnesses for the Board to consider with respect to the grant or denial of the license sought by the Applicant.
- (f) Hearings before the Board are governed by the Arkansas Administrative Procedures Act, and the Board shall not be bound by the Arkansas Rules of Evidence or the Arkansas Rules of Civil Procedure in its proceedings. However, the Rules may serve as a guide to the presiding officer for the conduct of the hearing. The President of the Board shall rule on all motions as well as all evidentiary and procedural matters that arise during the hearing. The Board may appoint an impartial hearing officer to preside at or assist the Board.
- (g) The Board shall not cause a license to be issued to a person it has deemed to be unqualified until and unless the Board has been satisfied that the Applicant has complied with all the terms, conditions, and requirements set forth in the Act and these rules ~~and regulations~~, and that the Applicant is capable of safely and ethically engaging in the practice of acupuncture and related techniques.

- (h) When an Applicant has been denied a license, he or she may not reapply for a license until one of the following has taken place: (1) one full year has passed since the date the license was denied; or
(2) there has been a significant change in circumstances or facts with respect to the applicant's credentials and/or qualifications.

B.1 COMPLAINT AND DISCIPLINARY PROCEDURES

- (a) A complaint may be initiated by any person by a telephone call, a written complaint, or a walk-in complaint presented to any Board Member or the Board's representative. The Board shall prepare a complaint form. This form shall be available at the office of the Board or from the Secretary of the Board. A written complaint form shall be submitted to the Board to initiate the review process. If a complaint is made by telephone, a complaint form shall be mailed to the complainant.
- (b) The Secretary of the Board shall maintain a written log of all complaints received which records the date of the complaint, the name, address and telephone number of the Complainant, the name of the subject of the complaint (Respondent), the method by which the complaint was made (e.g., telephone, letter, sworn written complaint, etc.), and other pertinent data as the Board may direct.
- (c) Acupuncturists shall have every patient sign a form that contains the following information: "All licensed acupuncturists are governed by Arkansas statutes A.C.A. §17-102-101 et seq, and the Rules ~~and Regulations~~ of the Arkansas State Board of Acupuncture and Related Techniques (ASBART). Patients may contact ASBART for information or complaints."

B.2 PROCEDURES FOR RECEIPT OF A COMPLAINT

- (a) Upon receipt of a written, signed complaint, or upon the Board's own action as initiated by a vote of the majority of the members of the Board acting at a duly convened meeting of the Board, and as then reduced to a written complaint, if the Board has reasonable cause to believe that the Act or the Rules promulgated pursuant thereto have been or are being violated, the Board Secretary shall:
 1. Log in the date of receipt of any complaint initiated by the Board or any other party.
 2. Determine whether the Respondent is licensed by the Board to practice acupuncture and related techniques in the State of Arkansas, or is an Applicant for licensure.
 3. Assign a complaint number and create an individual file. Complaint numbering shall begin with the last two digits of the year in which the complaint is filed and shall then continue sequentially (e.g. 11-001).
 4. Within seven (7) working days of the date of receipt of the complaint, send written acknowledgment of receipt of the complaint to the Complainant.

- (b) Furnish the Respondent with a copy of the complaint and all documents filed in relation to the complaint by certified mail within seven (7) working days of the receipt of the complaint by the Board. The Respondent shall also be informed in writing at this time that the Board has initiated an investigation into the complaint, and that the Respondent may furnish the Board documents relevant to the complaint.
- (c) Both parties shall refrain from contacting any member of the Board while the complaint is under investigation, and until the matter has been resolved.

B.3 REVIEW OF THE COMPLAINT

- (a) The Board will review all written, signed complaints filed against a Licensee or Applicant.
- (b) The Respondent shall be provided at least twenty (20) calendar days in which to file a written response to the complaint, and shall be advised that he or she is required to provide all documents and exhibits in support of his or her position.
- (c) If the Board determines that further information is needed, it may issue subpoenas, or employ an investigator, or experts, or other persons whose services are determined to be necessary, in order to assist in the processing and investigation of the complaint.
- (d) Upon completion of the investigation, the Board will prepare a written summary of its initial findings. The summary shall not identify any of the parties by name, but by case number only until the issue has been set for a hearing. The Board shall provide a copy of its findings to the Complainant and Respondent prior to the matter being set for a hearing.
- (e) If the Board determines that it does not have jurisdiction, or if it does have jurisdiction but finds that no violation exists, both the Complainant and Respondent will be notified in writing. The letter will explain why the case cannot be accepted for investigation and/or action (e.g. due to the statute of limitations, or the nature of the complaint being a fee dispute, or there being no violation of the Act or the Rules), or it may note that the complaint can be referred to another agency. A letter from the Board will be sent within thirty (30) days of the date of the Board's decision to both the Complainant and Respondent. The letter will state the Board's action and the reasons for its decision. The letter will be signed by the President.

B.4 HEARING BY THE BOARD

- (a) Unless the Board dismisses the complaint pursuant to Title V. B.3(e), above, the complaint shall be set for a hearing before the full Board. The matter shall be referred to only by the assigned case number, and shall be brought pursuant to the provisions of the Arkansas Administrative Procedure Act.

- (b) The Respondent shall be notified of the hearing at least thirty (30) days in advance of the date set for the hearing. The Complainant shall also receive a copy of the notice of hearing. The notice of hearing shall set forth the charges and allegations against Respondent in sufficient detail so as to provide full disclosure and notice of all violations of the Act and rulesregulations.
- (c) The Respondent may file a response to the notice of hearing, but is not required to do so. Any written response to the charges must be filed with the Board ten (10) days in advance of the date set for the hearing on the complaint.
- (d) The Respondent may waive a hearing on the notice and complaint. Such waiver of the right to a hearing must be in writing, signed by the Respondent, and filed with the Board.
- (e) At any time the Board may enter into a settlement agreement with the Licensee as a means of resolving a complaint. Any proposed settlement agreement must be approved by the Board upon a majority vote of those qualified to vote, and must be approved further by the Licensee or Applicant, upon a knowing and intentional waiver by the Licensee or Applicant of his or her right to a hearing.
- (f) The Board is empowered to issue subpoenas pursuant to the Ark. Code Ann. § 17-102-206(c) and Ark. Code Ann. § 17-80-102.
- (g) The Board may appoint an impartial hearing officer to preside at or assist the Board in any hearing.

B.5 DISCIPLINARY PROCEEDINGS

- (a) The parties shall disclose to each other no later than ten (10) days before the hearing on the merits the names, addresses and telephone numbers of all persons who they intend to call as witnesses at the hearing, and shall provide a list of exhibits which each intends to offer for introduction into evidence. If the opposing party is not in possession of a copy of any of the listed exhibits, the party which intends to offer the exhibits shall provide copies of all such exhibits at the time the written exhibit list is provided.
- (b) The Respondent shall not engage in communications with any member of the Board on any matter after a notice of hearing has been issued by the Board, nor shall the Board members engage in ex- parte communications in violation of the Arkansas Administrative Procedures Act or the Arkansas Freedom of Information Act.
- (c) At the hearing, each party shall be provided the opportunity to present evidence, by testimony or by documents, cross examine witnesses and call witnesses.
- (d) Hearings before the Board are governed by the Arkansas Administrative Procedures Act and shall not be bound by the Arkansas Rules of Evidence or the Arkansas Rules of Civil Procedure in its proceedings. However, the Rules may

serve as a guide to the presiding officer for the conduct of the hearing. The President of the Board or its duly appointed hearing officer shall rule on all motions as well as all evidentiary and procedural matters that arise during the hearing.

- (e) When a Licensee is found guilty of any of the acts set forth in the Act or a violation of any Order of the Board, or of a violation of these rules ~~and regulations~~, the Board may impose the following sanctions:
1. Refuse to issue a license to the Applicant;
 2. Revoke or suspend the license of the Licensee;
 3. Restrict the practice of the Licensee;
 4. Impose an administrative fine not to exceed five thousand dollars (\$5,000.00) for each count or separate offense of which the Licensee is found guilty;
 5. Reprimand the Licensee; or
 6. Place the Licensee on probation for such period of time as the Board deems is appropriate and impose such conditions as the Board may specify for the conduct of the Licensee's practice.

In the event that the Board revokes or suspends the license of an acupuncturist, the license shall not be reinstated until such time as the Board is satisfied that the Licensee has complied with all the terms and conditions set forth in the final disciplinary order of the Board, and that the Licensee is capable of safely and ethically engaging in the practice of acupuncture and related techniques. Upon written request by the Licensee for reinstatement, the Board shall review the case to determine whether a license should be reissued.

TITLE VI

- A. **PROHIBITED ACTS AND CONDUCT OF LICENSED PROFESSIONALS:** Any Applicant for license renewal who provides the Board with false information or makes a false statement to the Board with regard to any action or proceeding comprehended by the Act or these rules ~~and regulations~~ may be subject to disciplinary action, including denial, suspension or revocation of licensure. Prior to the entry of a final order to suspend or revoke a license, or to impose other sanctions upon a licensee, the Board will serve the licensee a complaint and notice hearing in writing. The licensee shall be afforded the opportunity for a hearing and the Board has the burden of proving the alleged facts and violations of law stated in the complaint.

The following acts or omissions may be considered as grounds for disciplinary action by the Board, following notice and hearing, or for the denial of application for licensure:

- (1) **PROFESSIONAL INCOMPETENCE:** Failure to possess or apply the knowledge, or to use the skill and care ordinarily used by reasonably well-qualified acupuncturists practicing under similar circumstances, giving due consideration to the locality involved.

- (2) **FAILURE TO FOLLOW PROPER INSTRUMENT STERILIZATION PROCEDURE:** Failure to use sterile instruments or failure to follow proper instrument sterilization procedures including the use of biological monitors and the keeping of accurate records of sterilization cycles and equipment service maintenance as described in the manufacturer's instruction manual, and the current edition of "Clean Needle Technique For Acupuncturists--A Manual" published by the National Commission For The Certification Of Acupuncturists. This provision shall not apply to needles, which may not be re-used or sterilized for a subsequent use on more than one patient under any circumstances.
- (3) **FAILURE TO FOLLOW CLEAN NEEDLE TECHNIQUE:** Failure to follow clean needle technique as defined in the current edition of "Clean Needle Technique For Acupuncturist--A Manual" published by the National Commission For The Certification Of Acupuncturists.
- (4) **FALSE REPORTING:** Willfully making or filing false reports or records in his or her practice as an acupuncturist, or filing false statements for collection of fees for services that were not rendered.
- (5) **OUT OF STATE DISCIPLINARY ACTION:** Committing any act or omission which has resulted in disciplinary action against the acupuncturist or applicant by the acupuncture licensing or disciplinary authority or court in another state, territory, or country.
- (6) **PROCURING LICENSE BY BRIBERY, FRAUD, OR DECEIT:** Committing fraud or deceit in procuring or attempting to procure or renew a license or a provisional license to practice in the profession of acupuncture and related techniques by making false statements, or providing false information the application for licensure. An acupuncturist or an applicant shall be guilty of bribery if he or she attempts to pay money or provide anything of value to a member of the licensing Board in return for having a license issued.
- (7) **MISREPRESENTATION:** Advertising, practicing, or attempting to practice under a name other than one's own.
- (8) **FALSE ADVERTISING:** Soliciting or advertising for patronage by any means which is misleading, fraudulent, deceptive, or dishonest. It also constitutes false advertising for an acupuncturist to identify himself or herself as a doctor or physician.
- (9) **EDUCATIONAL FRAUD:** Practicing fraud, deceit, gross negligence, or misconduct in the operation of an educational program in acupuncture and related techniques.
- (10) **FAILURE TO KEEP RECORDS:** Failure to keep written records reflecting the course of treatment of the patient. Records shall be kept for a period of no less than five (5) years, and shall be subject to review by the Board.

- (11) **FAILURE TO PROVIDE RECORDS TO PATIENT:** Failure to make available to a patient or client, upon request, copies of documents in the possession or under the control of the Licensee that have been prepared for and paid for by the patient or client.
- (12) **BREACH OF CONFIDENTIALITY:** Revealing personally identifiable facts, data or information obtained in a professional capacity, without the prior consent of the patient or client, except as authorized or required by law.
- (13) **DELEGATING RESPONSIBILITIES TO UNQUALIFIED PERSONS:**
- a. Delegating professional responsibilities to a person when the acupuncturist delegating such responsibilities knows or has reason to know that the person is not qualified by education, by experience or by licensure or certification to perform the responsibilities; or
 - b. Failure to exercise appropriate supervision over Provisional Licensees or students who are authorized to practice only under the supervision of the acupuncturist.
- (14) **EXERCISING INFLUENCE WITHIN A PATIENT-DOCTOR RELATIONSHIP FOR PURPOSES OF ENGAGING A PATIENT IN SEXUAL ACTIVITY:** Exercising influence within a patient-doctor relationship for the purpose of engaging in sexual activity with a patient.
- (15) **LACK OF FITNESS TO PRACTICE:** Continuing to practice and provide treatment for patients when the Licensee:
- a. Has become mentally incompetent or unfit, or has become incompetent by reason of negligence, habits, or other related causes; or
 - b. Has become habitually intemperate or addicted to the use of habit-forming drugs, illegal drugs, and/or alcohol.
- (16) **INSURANCE FRAUD:** Knowingly committing fraud or deceit in the filing of insurance forms, documents, or information pertaining to the health or welfare of a patient, or knowingly allows an employee to file insurance forms, documents, or information pertaining to health or welfare benefits which are false.
- (17) **WILLFUL VIOLATIONS:** Willfully or repeatedly violating any of the provisions of the Act or any of the provisions of these rules ~~and regulations~~, or any lawful order of the Board.
- (18) **POSTING OF LICENSE:** An acupuncturist who has been licensed by this Board shall post his or her license in a conspicuous location at his or her office or place of practice; failure to post the license may be considered unprofessional conduct.
- (19) **PUBLIC HEALTH AND SANITATION:**

- a. Failure to use only pre-sterilized, disposable needles in the administration of acupuncture;
 - b. Using staples in the practice of acupuncture;
 - c. Failing to wash hands with soap and water or other disinfectants before handling needles and between treatments of different patients;
 - d. Re-using the same needles on more than one patient in the administration of acupuncture.
- (20) **CRIMES ~~RELATING TO ACUPUNCTURE~~ LISTED UNDER A.C.A. § 17-3-102:** Having pled guilty or nolo contendere to, or having been found guilty of, a crime ~~in any jurisdiction which directly relates to the practice of acupuncture and related techniques or to the ability to practice same~~ listed in A.C.A. § 17-3-102.
- (21) **INCOMPETENCE AND UNPROFESSIONAL CONDUCT:** The foregoing specifications of unprofessional conduct shall not be exclusive of the types of acts and omissions that may be found by the Board to constitute incompetence or unprofessional conduct.

B. EMERGENCY ACTION

- (1) If the Board finds that the public health, safety, or welfare imperatively requires emergency action and incorporates that finding in its order, the Board can summarily suspend, limit, or restrict a license. The notice requirement in Title V. B.4 does not apply and must not be construed to prevent a hearing at the earliest time practicable.
- (2) Emergency Order:
An emergency adjudicative order must contain findings that the public health, safety, and welfare imperatively require emergency action to be taken by the Board. The written order must include notification of the date on which Board proceedings are scheduled for completion.

Written Notice:

The written emergency adjudicative order will be immediately delivered to persons who are required to comply with the order. One or more of the following procedures will be used:

- a. Personal delivery;
- b. Certified mail, return receipt requested, to the last address on file with the Board;
- c. First class mail to the last address on file with the Board
- d. Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that Board orders be sent by fax and has provided a fax number for that

- e. Oral Notice. Unless the written emergency order is served by personal delivery on the same day that the order issues, the Board shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.
 - f. Electronic mail (email) to the last known email address, with a request for an immediate acknowledgement of receipt by the persons.
- (3) Unless otherwise provided by law, within 10 days after emergency action taken pursuant to paragraph B.(1) of this rule, the Board must initiate a formal suspension or revocation proceeding.

C. VOLUNTARY SURRENDER OF LICENSE

The licensee, in lieu of formal disciplinary proceedings, may offer to surrender his or her license, subject to the Board's determination to accept the proffered surrender, rather than conducting a formal disciplinary proceeding.

D. REINSTATEMENT AFTER SUSPENSION

- (1) An order suspending a license may provide that a person desiring reinstatement may file with the Board a verified petition requesting reinstatement.
- (2) The petition for reinstatement must set out the following:
- a. That the individual has fully and promptly complied with the requirements of Title V.B.5(e) of these rules pertaining to the duty of a sanctioned professional;
 - b. That the individual has refrained from practicing in this profession during the period of suspension;
 - c. That the individual's license fee is current or has been tendered to the Board; and
 - d. That the individual has fully complied with the requirements imposed as conditions for reinstatement.
- (3) Any knowing misstatement of fact may constitute grounds for denial or revocation of reinstatement.
- (4) Failure to comply with the provisions of these Rules precludes consideration for reinstatement.
- (5) No individual will be reinstated unless the Arkansas State Board of Acupuncture and Related Techniques approves reinstatement by majority vote.

E. RE-LICENSURE FOR REVOKED OR SURRENDERED LICENSE

- (1) No individual who has had his or her license revoked or who has surrendered

his or her license will be licensed, except on petition made to the Board. The petition for re-licensure is not allowed until at least two years after the revocation or surrender of license took effect.

- (2) The applicant bears the burden of proof that he or she is rehabilitated following the revocation or surrender of his or her license, that he or she can engage in the conduct authorized by the license without undue risk to the public health, safety, and welfare, and that he or she is otherwise qualified for the license pursuant to §17-102-101 et seq.
- (3) The Board may impose any appropriate conditions or limitations on a license to protect the public health, safety, and welfare.
- (4) The Board may require that the person seeking re-licensure take the licensing examination.

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

As Engrossed: S3/28/19

A Bill

SENATE BILL 564

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

For An Act To Be Entitled

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

Subtitle

16
17
18 TO AMEND THE LAW CONCERNING THE
19 OCCUPATIONAL LICENSURE OF ACTIVE DUTY
20 SERVICE MEMBERS, RETURNING MILITARY
21 VETERANS, AND THEIR SPOUSES; TO PROVIDE
22 AUTOMATIC LICENSURE; TO REQUIRE REVIEW
23 AND APPROVAL OF RULES SUBMITTED.
24
25

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

28 SECTION 1. DO NOT CODIFY. Legislative Intent.

29 The General Assembly finds that:

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

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



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

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

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

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

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

13 (a) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 licensure; and

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

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

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

9 (2) Assign information filed with the Administrative Rules and
10 Regulations Subcommittee of the Legislative Council under this section to one
11 (1) or more subcommittee of the Legislative Council, including without
12 limitation a subcommittee created under subdivision (e)(1) of this section;
13 or

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

18 (f) An occupational licensing entity shall:

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

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

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

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

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

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

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

/s/Irvin

APPROVED: 4/9/19

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

As Engrossed: S3/18/19 H4/3/19

A Bill

SENATE BILL 451

5 By: Senator J. Cooper
6 By: Representative Dalby
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAWS REGARDING CRIMINAL
10 BACKGROUND CHECKS FOR PROFESSIONS AND OCCUPATIONS TO
11 OBTAIN CONSISTENCY REGARDING CRIMINAL BACKGROUND
12 CHECKS AND DISQUALIFYING OFFENSES FOR LICENSURE; AND
13 FOR OTHER PURPOSES.
14
15

Subtitle

17 TO AMEND THE LAWS REGARDING CRIMINAL
18 BACKGROUND CHECKS FOR PROFESSIONS AND
19 OCCUPATIONS TO OBTAIN CONSISTENCY
20 REGARDING CRIMINAL BACKGROUND CHECKS AND
21 DISQUALIFYING OFFENSES FOR LICENSURE.
22
23

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

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

27 (a) The General Assembly finds that:

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

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

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



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

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

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

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

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

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

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

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

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

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

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

27 CHAPTER 2

28 OCCUPATIONAL CRIMINAL BACKGROUND CHECKS

29
30 17-2-101. Definitions.

31 As used in this subchapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (B) The circumstances surrounding the offense;

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

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

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

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

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

22 and

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

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

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

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

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

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

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

2 (2) Consider arrests without a subsequent conviction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3
4 SECTION 7. Arkansas Code § 17-12-301 is amended to read as follows:

5 17-12-301. Requirements generally – Definition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 accountant.

2

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

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

11

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

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

18

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

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

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

27

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

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

36

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

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

9 ~~(a) Moral turpitude;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36

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

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

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

10 17-20-302. Qualifications of applicants.

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

13 (1) Is qualified under this chapter;

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

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

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

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

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

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

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

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

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

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

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

11
12 SECTION 27. Arkansas Code § 17-25-305, concerning the qualifications
13 for a contractors license, is amended to add an additional subsection to read
14 as follows:

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

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

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

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

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

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

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

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

1 registration of a contractor under this subchapter:

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

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

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

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

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

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

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

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

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

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

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

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

1 the time of appointment;

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

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

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

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

9

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

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

14

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

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

20

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

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

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

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

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

1 applicant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 ~~(E) Employment references;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (2) The board shall investigate such charges.

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

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

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

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

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

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

36

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

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

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

9 (a) An applicant for licensure shall:

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

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

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

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

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

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

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

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

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

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

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

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

1 the imposition of sentence has been deferred or suspended;

2 (4) Making any substantial misrepresentation;

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (3) The person or entity has pleaded guilty or nolo contendere
10 to or been found guilty of a felony listed under § 17-2-102 or a misdemeanor
11 involving violence, *fraud*, misrepresentation, or dishonest or dishonorable
12 dealing in a court of competent jurisdiction; or
13

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

17 (3) Committing an act, a felony listed under § 17-2-102, or a
18 crime involving ~~moral turpitude~~ violence, *fraud*, dishonesty, untruthfulness,
19 or untrustworthiness regardless of whether the imposition of the sentence has
20 been deferred or suspended;
21

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 of:

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

9

10 SECTION 53. Arkansas Code § 17-48-203(a), concerning the

11 qualifications for certification as a surveyor, is amended to read as

12 follows:

13 (a) A person who shows to the satisfaction of the State Board of

14 Licensure for Professional Engineers and Professional Surveyors that he or

15 she is a person ~~of good character and reputation and~~ over twenty-one (21)

16 years of age ~~shall be~~ is eligible for licensure as a professional surveyor if

17 he or she qualifies under one (1) of the following provisions:

18 (1) A person holding a certificate of licensure to engage in the

19 practice of land surveying issued to him or her on the basis of a written

20 examination by proper authority of a state, territory, possession of the

21 United States, the District of Columbia, or any foreign country, based on

22 requirements and qualifications as shown on his or her application that in

23 the opinion of the board are equal to or higher than the requirements of this

24 chapter may be licensed at the discretion of the board;

25 (2)(A) A graduate from an approved engineering curriculum with

26 sufficient surveying courses or a surveying technology curriculum of two (2)

27 years or more approved by the board, followed by at least two (2) years of

28 land surveying that must be surveying experience of a character satisfactory

29 to the board, who has passed a written examination designed to show that he

30 or she is qualified to practice land surveying in this state, may be licensed

31 if he or she is otherwise qualified.

32 (B) Each year of teaching land surveying in an approved

33 engineering or surveying curriculum may be considered as equivalent to one

34 (1) year of land surveying experience; or

35 (3)(A) An applicant who cannot qualify under subdivision (a)(2)

36 of this section and who has six (6) years or more of active experience in

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

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

9

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

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

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

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

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

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

1 two (2) years.

2

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

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

7

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

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

12

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

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

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

20

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

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

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

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

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

35

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

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

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

7

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

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

11

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

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

20

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

23 (b) An applicant:

24 (1) ~~Must~~ Shall:

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

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

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

32 (2) ~~Must~~ Shall:

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

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

- 1 Medicine, or an equivalent degree approved by the board;
- 2 (C) Have passed an examination approved by the board and
- 3 authorized under § 17-82-303;
- 4 (D) Be a resident of the State of Arkansas and the United
- 5 States and be in compliance with federal laws of immigration; and
- 6 (E) Serve a period of at least one (1) year under a
- 7 provisional license issued by the board to foreign graduates and successfully
- 8 complete the monitoring requirements as ordered by the board at the time the
- 9 provisional license is issued.

10

11 SECTION 63. Arkansas Code § 17-82-306(b), concerning the licensing

12 procedures for dental hygienists, is amended to read as follows:

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

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

15 ~~(2)(1)~~ (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)~~ (2) Submit upon request ~~such~~ proof as required by the board

20 may require touching upon ~~character and~~ fitness.

21

22 SECTION 64. Arkansas Code § 17-82-308(b)(3), concerning the

23 credentials for dentists and dental hygienists licensed in other states, is

24 amended to read as follows:

25 (3) A certificate from the authority which issued the license,

26 setting forth the applicant's ~~moral reputation and character~~, history with

27 the board, professional ability, and such other information or data as the

28 board may deem necessary or expedient.

29

30 SECTION 65. Arkansas Code § 17-82-316(c)(3), concerning the revocation

31 or suspension of a license for a dentist, dental hygienist, or dental

32 assistant, is amended to read as follows:

33 (3) The commission of any criminal operation; habitual

34 drunkenness for a period of three (3) months; insanity; adjudication of

35 insanity or mental incompetency if deemed detrimental to patients; conviction

36 of ~~an infamous crime or a felony~~ listed under § 17-2-102; addiction to

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

7
8 SECTION 66. Arkansas Code § 17-82-802 is amended to read as follows:
9 17-82-802. License eligibility.

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

17
18 SECTION 67. Arkansas Code § 17-83-307 is amended to read as follows:
19 17-83-307. Grounds for denial, revocation, or suspension.

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

- 23 (1) Violation of a provision of this chapter;
24 (2) Engaging in unprofessional conduct or gross incompetence as
25 defined by the rules of the board or violating the standards of professional
26 responsibility adopted and published by the board; or
27 (3) ~~Conviction in this or any other state of any crime that is a~~
28 ~~felony in this state~~ of a felony listed under § 17-2-102; ~~or~~
29 (4) ~~Conviction of a felony in a federal court.~~

30
31 SECTION 68. Arkansas Code § 17-84-304(a)(3), concerning the
32 qualifications for licensure and internship for hearing instrument
33 dispensers, is amended to read as follows:

- 34 (3) Show to the satisfaction of the board that he or she:
35 (A) Is twenty (20) years of age or older; and
36 (B) Has an education equivalent of two (2) or more years

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 ~~(1) The nature and severity of the crime;~~

10 ~~(2) The consequences of the crime;~~

11 ~~(3) The number and frequency of crimes;~~

12 ~~(4) The relationship between the crime and the health, safety,~~
13 ~~and welfare of persons served by the Department of Health, such as:~~

14 ~~(A) The age and vulnerability of victims of the crime;~~

15 ~~(B) The harm suffered by the victim; and~~

16 ~~(C) The similarity between the victim and persons served~~
17 ~~by the Department of Health;~~

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

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

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

24 ~~(h) If the Department of Health waives the provisions of subsection~~
25 ~~(e) of this section, the Department of Health shall submit the reasons for~~
26 ~~waiving this provision in writing, and the determination and reasons shall be~~
27 ~~made available to the members of the Department of Health for review.~~
28

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

31 (1) Furnish to the Department of Health satisfactory proof that
32 he or she is eighteen (18) years of age or older ~~and of good moral character;~~
33

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

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

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

- 3 (1) ~~Conviction of, finding of guilt, or entry of a plea of~~
4 ~~guilty or nolo contendere to a felony, Class A misdemeanor, or prostitution~~ A
5 felony listed under § 17-2-102;
6 (2) Malpractice or gross incompetency;
7 (3) The use in advertisements of untruthful or improbable
8 statements or flamboyant, exaggerated, or extravagant claims concerning the
9 licensee's professional excellence or abilities;
10 (4) Habitual drunkenness or habitual use of any illegal drugs;
11 (5) Serving alcoholic beverages at the clinic or school in a
12 room where massage therapy is being performed or in a massage therapy school;
13 (6) ~~Moral turpitude or immoral or unprofessional~~ Unprofessional
14 conduct;
15 (7) Failure to comply with the Department of Health's Massage
16 Therapy Code of Ethics or any valid regulation or order of the committee;
17 (8) Invasion of the field of practice of any profession for
18 which a license is required, the diagnosis of ailments, diseases, or injuries
19 of human beings, the performance of osseous adjustments, prescription of
20 medications, or other breaches of the scope of practice of massage therapy;
21 (9) Failure of any licensee to comply with this chapter; or
22 (10) Failure to have licensed personnel to perform massage
23 therapy techniques in his or her clinic or school.

24

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

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

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

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

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

1 education program.

2

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

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

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

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

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

17

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

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

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

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

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

32

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

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

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

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

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

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

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

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

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

17 (6) ~~False imprisonment in the first degree as prohibited in § 5-~~
18 ~~11-103;~~

19 (7) ~~Permanent detention or restraint as prohibited in § 5-11-~~
20 ~~106;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 months.

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

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

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

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

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

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

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

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

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

18 ~~(E) Employment references;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (B) Providing services as a medication assistive person

1 without a valid certificate; ~~or~~

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

3

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

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

8

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

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

18

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

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

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

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

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

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

36 (ii) Providing ophthalmic dispensing services under

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9

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

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

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

17

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

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

20 to read as follows:

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

24

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

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

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

28 examination any person who:

- 29 (1) Is at least twenty-one (21) years of age;
- 30 (2) Is a citizen of the United States;
- 31 ~~(3) Is of good moral character;~~
- 32 ~~(4)~~(3) Has not been guilty of acts constituting unprofessional
- 33 conduct as defined in the Arkansas Medical Practices Act, § 17-95-201 et
- 34 seq., § 17-95-301 et seq., and § 17-95-401 et seq.;
- 35 ~~(5)~~(4) Is a graduate of an osteopathic college of medicine whose
- 36 course of study has been recognized by the Department of Education of the

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

5

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

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

- 9 (1) ~~Shall be~~ Be not less than twenty-one (21) years of age; and
10 ~~(2) Shall be of good moral character and temperate habits; and~~
11 ~~(3)~~(2) ~~Shall have~~ Have:

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

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

20

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

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

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

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

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

35

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

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

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

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

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

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

19

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

23 (b) Each physical therapist applicant shall:

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

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

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

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

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

31

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

35 (b) Each physical therapist assistant applicant shall:

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

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

9
10 SECTION 94. Arkansas Code § 17-93-308(a)(4), concerning the
11 revocation, suspension, or denial of licensure for physical therapists, is
12 repealed.

13 ~~(4) Has been convicted of a crime involving moral turpitude;~~
14

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

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

23
24 SECTION 96. Arkansas Code § 17-95-104(a)(2), concerning a hospital's
25 duty to report physician misconduct, is amended to read as follows:

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

30
31 SECTION 97. Arkansas Code § 17-95-307 is amended to read as follows:
32 17-95-307. License eligibility.

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

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

4
5 SECTION 98. Arkansas Code § 17-95-403(b)(2), concerning qualification
6 of applicants for licensure as a physician, is amended to read as follows:

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

9
10 SECTION 99. Arkansas Code § 17-95-408(d)(2), concerning annual
11 registration for licensure as a physician, is amended to read as follows:

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

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

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

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

25
26 SECTION 101. Arkansas Code § 17-95-903(b)(7), concerning
27 qualifications of an applicant for licensure as a graduate registered
28 physician, is repealed.

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

30
31 SECTION 102. Arkansas Code § 17-95-910 is amended to read as follows:
32 17-95-910. Violation.

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

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

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

13 SECTION 103. Arkansas Code § 17-96-303(a), concerning qualifications

14 of an applicant for licensure as a podiatrist, is amended to read as follows:

15 (a) ~~No person shall be entitled to~~ A person shall not take any

16 examination for such registration unless that person shall furnish the

17 Arkansas Board of Podiatric Medicine with satisfactory proof that he or she:

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

26 SECTION 104. Arkansas Code § 17-96-308(c)(2)(C), concerning the

27 definition of "unprofessional and dishonest conduct" regarding podiatric

28 medicine licensure, is repealed.

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

30

31 SECTION 105. Arkansas Code § 17-97-201(a)(5)(B), concerning the

32 membership of the Arkansas Psychology Board, is amended to read as follows:

- 33 (B) The Governor shall remove any member from the board if
- 34 he or she:
- 35 (i) Ceases to be qualified;
- 36 (ii) Fails to attend three (3) successive board

1 meetings without just cause as determined by the board;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~3-301, and 5-3-401, to commit any of the offenses listed in this subsection.~~

2 (g)(1) The board may issue a six-month nonrenewable letter of
3 provisional eligibility for licensure to a first-time applicant pending the
4 results of the criminal background check.

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

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

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

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

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

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

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

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

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

21 ~~(E) Employment references;~~

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

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

25 ~~(i)(1)(h)(1)~~ Any information received by the board from the
26 Identification Bureau of the Department of Arkansas State Police ~~pursuant to~~
27 under this section shall not be available for examination except by the
28 affected applicant for licensure or his or her authorized representative or
29 the person whose license is subject to revocation or his or her authorized
30 representative.

31 (2) No record, file, or document shall be removed from the
32 custody of the department.

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

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

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

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

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

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

- 13 ~~(A)~~ Capital murder as prohibited in § 5-10-101;
14 ~~(B)~~ Murder in the first degree as prohibited in § 5-10-102
15 and murder in the second degree as prohibited in § 5-10-103;
16 ~~(C)~~ Kidnapping as prohibited in § 5-11-102;
17 ~~(D)~~ Aggravated assault upon a law enforcement officer or
18 an employee of a correctional facility, § 5-13-211, if a Class Y felony;
19 ~~(E)~~ Rape as prohibited in § 5-14-103;
20 ~~(F)~~ Sexual extortion, § 5-14-113;
21 ~~(G)~~ Sexual assault in the first degree as prohibited in §
22 5-14-124 and sexual assault in the second degree as prohibited in § 5-14-125;
23 ~~(H)~~ Incest as prohibited in § 5-26-202;
24 ~~(I)~~ Endangering the welfare of an incompetent person in
25 the first degree as prohibited in § 5-27-201;
26 ~~(J)~~ Endangering the welfare of a minor in the first degree
27 as prohibited in § 5-27-205 and endangering the welfare of a minor in the
28 second degree as prohibited in § 5-27-206;
29 ~~(K)~~ Adult abuse that constitutes a felony as prohibited in
30 § 5-28-103; and
31 ~~(L)~~ Arson as prohibited in § 5-38-301.

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

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

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

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

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

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

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

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

15 SECTION 113. Arkansas Code § 17-98-303 is amended to read as follows:
16 17-98-303. Issuance of certificate without examination.

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

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

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

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

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

33 17-98-305. Application for reinstatement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 ~~(3) Has been convicted of any crime involving moral turpitude;~~

34
35 SECTION 117. Arkansas Code § 17-100-302(b), concerning qualifications
36 of an applicant for licensure as a speech-language pathologist or

1 audiologist, is amended to read as follows:

2 (b) To be eligible for licensure by the board as a speech-language
3 pathologist or audiologist, a person shall:

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

5 ~~(2)~~(1) Possess at least a master's degree in the area of speech-
6 language pathology or a master's degree in audiology obtained on or before
7 December 30, 2006, or a doctoral degree obtained after January 1, 2007, from
8 an educational institution recognized by the board;

9 ~~(3)~~(2) Submit evidence of the completion of the educational,
10 clinical experience, and employment requirements, which shall be based on
11 appropriate national standards and prescribed by the rules adopted under this
12 chapter; and

13 ~~(4)~~(3) Pass an examination approved by the board before the
14 board approves a license.

15

16 SECTION 118. Arkansas Code § 17-100-302(d), concerning qualifications
17 of an applicant for provisional licensure as a speech-language pathologist or
18 audiologist, is amended to read as follows:

19 (d) To be eligible for provisional licensure by the board as a speech-
20 language pathologist or audiologist, a person shall:

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

22 ~~(2)~~(1) Possess at least a master's degree in the area of speech-
23 language pathology or audiology, as the case may be, from an educational
24 institution recognized by the board;

25 ~~(3)~~(2) Be in the process of completing the postgraduate
26 professional experience requirement; and

27 ~~(4)~~(3) Pass an examination approved by the board.

28

29 SECTION 119. Arkansas Code § 17-100-307(a)(3), concerning the grounds
30 for denial, suspension, or revocation of a license, or other disciplinary
31 action for speech-language pathologists and audiologists, is amended to read
32 as follows:

33 (3)(A) Being convicted of a felony listed under § 17-2-102 ~~in~~
34 ~~any court of the United States if the acts for which the licensee or~~
35 ~~applicant is convicted are found by the board to have a direct bearing on~~
36 ~~whether he or she should be entrusted to serve the public in the capacity of~~

1 ~~a speech language pathologist or audiologist.~~

2 ~~(B) A plea or verdict of guilty made to a charge of a~~
3 ~~felony or of any offense involving moral turpitude is a conviction within the~~
4 ~~meaning of this section.~~

5 ~~(C)(B)~~ At the direction of the board, and after due notice
6 and an administrative hearing in accordance with the provisions of applicable
7 Arkansas laws, the license of the person so convicted shall be suspended or
8 revoked or the board shall decline to issue a license when:

9 (i) The time for appeal has elapsed;

10 (ii) The judgment of conviction has been affirmed on
11 appeal; or

12 (iii) An order granting probation has been made
13 suspending the imposition of sentence, without regard to a subsequent order
14 under the provisions of state law allowing the withdrawal of a guilty plea
15 and the substitution of a not guilty plea, or the setting aside of a guilty
16 verdict, or the dismissal of the acquisition, information, or indictment;

17
18 SECTION 120. Arkansas Code § 17-101-305(a)(4)(A), concerning the
19 grounds for denial, suspension, or revocation of a veterinarian license, is
20 amended to read as follows:

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

23
24 SECTION 121. Arkansas Code § 17-102-304(a)(3), concerning
25 qualifications of an applicant for provisional licensure as an acupuncturist,
26 is amended to read as follows:

27 (3) Before any applicant shall be eligible for an examination,
28 the applicant shall furnish satisfactory proof to the board that he or she:

29 ~~(A) Is of good moral character by filing with his or her~~
30 ~~application the affidavits of at least two (2) reputable acupuncturists who~~
31 ~~attest to his or her character;~~

32 ~~(B)(A)~~ Has successfully completed not fewer than sixty
33 (60) semester credit hours of college education, to include a minimum of
34 thirty (30) semester credit hours in the field of science; and

35 ~~(C)(B)~~ Has completed a program in acupuncture and related
36 techniques and has received a certificate or diploma from an institute

1 approved by the board as described in this section. The training received in
2 the program shall be for a period of no fewer than four (4) academic years
3 and shall include a minimum of eight hundred (800) hours of supervised
4 clinical practice.

5
6 SECTION 122. Arkansas Code § 17-102-304(c)(4), concerning
7 qualifications of an applicant for provisional licensure as an acupuncturist,
8 is amended to read as follows:

9 (4) Not have been convicted of a felony listed under § 17-2-102;
10 and

11
12 SECTION 123. Arkansas Code § 17-103-305(b), concerning the grounds for
13 renewal, revocation, or suspension of a social worker license, is amended to
14 read as follows:

15 (b) The board shall refuse to issue or shall revoke the license of a
16 person who has been found guilty of a felony, ~~any crime involving moral~~
17 ~~turpitude,~~ listed under § 17-2-102 or criminal offense involving violence,
18 dishonesty, fraud, deceit, breach of client trust, or abuse of the vulnerable
19 unless the person requests and the board grants a waiver under § 17-103-
20 307(f).

21
22 SECTION 124. Arkansas Code § 17-103-306(a)(1)(D), concerning
23 qualifications of an applicant for licensure as a licensed social worker, is
24 repealed.

25 ~~(D) Has good moral character;~~

26
27 SECTION 125. Arkansas Code § 17-103-306(a)(1)(G), concerning
28 qualifications for a Licensed Social Worker license, is amended to read as
29 follows:

30 (G) Has not pleaded guilty or nolo contendere to or been
31 found guilty of a felony, ~~any crime involving moral turpitude,~~ listed under §
32 17-2-102 or criminal offense involving violence, dishonesty, fraud, deceit,
33 breach of client trust, or abuse of the vulnerable;

34
35 SECTION 126. Arkansas Code § 17-103-306(b)(1)(G), concerning the
36 qualifications for a Licensed Master Social Worker license, is amended to

1 read as follows:

2 (G) Has not pleaded guilty or nolo contendere to or been
3 found guilty of a felony, ~~any crime involving moral turpitude,~~ listed under §
4 17-2-102 or criminal offense involving violence, dishonesty, fraud, deceit,
5 breach of client trust, or abuse of the vulnerable;

6

7 SECTION 127. Arkansas Code § 17-103-306(c)(1)(H), concerning the
8 qualifications for a Licensed Certified Social Worker license, is amended to
9 read as follows:

10 (H) Has not pleaded guilty or nolo contendere to or been found
11 guilty of a felony, ~~any crime involving moral turpitude,~~ listed under § 17-2-
12 102 or criminal offense involving violence, dishonesty, fraud, deceit, breach
13 of client trust, or abuse of the vulnerable;

14

15 SECTION 128. Arkansas Code § 17-103-307(d)-(k), concerning criminal
16 background check requirements for social workers, are amended to read as
17 follows:

18 (d) Upon completion of the criminal background check, the
19 Identification Bureau of the Department of Arkansas State Police shall
20 forward to the board all releasable information obtained concerning the
21 applicant ~~in the commission of any offense listed in subsection (e) of this~~
22 ~~section.~~

23 (e) For purposes of this section, the board shall follow the licensing
24 restrictions based on criminal records under § 17-2-102. Except as provided
25 ~~in subdivision (k)(1) of this section, a person is not eligible to receive or~~
26 ~~hold a license issued by the board if that person has pleaded guilty or nolo~~
27 ~~contendere to or been found guilty of a felony, any crime involving moral~~
28 ~~turpitude, or criminal offense involving violence, dishonesty, fraud, deceit,~~
29 ~~breach of client trust, or abuse of the vulnerable, including without~~
30 ~~limitation:~~

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

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

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

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

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

- 1 ~~(6) False imprisonment in the first degree as prohibited in § 5-~~
2 ~~11-103;~~
- 3 ~~(7) Permanent detention or restraint as prohibited in § 5-11-~~
4 ~~106;~~
- 5 ~~(8) Robbery as prohibited in § 5-12-102;~~
- 6 ~~(9) Aggravated robbery as prohibited in § 5-12-103;~~
- 7 ~~(10) Battery in the first degree as prohibited in § 5-13-201;~~
- 8 ~~(11) Aggravated assault as prohibited in § 5-13-204;~~
- 9 ~~(12) Introduction of a controlled substance into the body of~~
10 ~~another person as prohibited in § 5-13-210;~~
- 11 ~~(13) Aggravated assault upon a law enforcement officer or an~~
12 ~~employee of a correctional facility, § 5-13-211, if a Class Y felony;~~
- 13 ~~(14) Terroristic threatening in the first degree as prohibited~~
14 ~~in § 5-13-301;~~
- 15 ~~(15) Rape as prohibited in § 5-14-103;~~
- 16 ~~(16) Sexual indecency with a child as prohibited in § 5-14-110;~~
- 17 ~~(17) Sexual extortion, § 5-14-113;~~
- 18 ~~(18) Sexual assault in the first degree, second degree, third~~
19 ~~degree, and fourth degree as prohibited in §§ 5-14-124—5-14-127;~~
- 20 ~~(19) Incest as prohibited in § 5-26-202;~~
- 21 ~~(20) Offenses against the family as prohibited in §§ 5-26-303—~~
22 ~~5-26-306;~~
- 23 ~~(21) Endangering the welfare of an incompetent person in the~~
24 ~~first degree as prohibited in § 5-27-201;~~
- 25 ~~(22) Endangering the welfare of a minor in the first degree as~~
26 ~~prohibited in § 5-27-205;~~
- 27 ~~(23) Permitting abuse of a minor as prohibited in § 5-27-221(a);~~
- 28 ~~(24) Engaging children in sexually explicit conduct for use in~~
29 ~~visual or print media, transportation of minors for prohibited sexual~~
30 ~~conduct, pandering or possessing a visual or print medium depicting sexually~~
31 ~~explicit conduct involving a child, or use of a child or consent to use of a~~
32 ~~child in a sexual performance by producing, directing, or promoting a sexual~~
33 ~~performance by a child as prohibited in §§ 5-27-303—5-27-305, 5-27-402, and~~
34 ~~5-27-403;~~
- 35 ~~(25) Computer child pornography as prohibited in § 5-27-603;~~
- 36 ~~(26) Computer exploitation of a child in the first degree as~~

1 ~~prohibited in § 5-27-605;~~

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

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

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

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

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

7 ~~(32) Felony violation of the Uniform Controlled Substances Act,~~
8 ~~§ 5-64-101 et seq., as prohibited in the former § 5-64-401 and §§ 5-64-419—~~
9 ~~5-64-442;~~

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

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

13 ~~(35) Criminal attempt, criminal complicity, criminal~~
14 ~~solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-~~
15 ~~3-301, and 5-3-401, to commit any of the offenses listed in this subsection.~~

16 ~~(f)(1) The provisions of subsection (c) of this section may be waived~~
17 ~~by the board upon the request of:~~

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

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

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

22 ~~(A) The applicant's age at the time the crime was~~
23 ~~committed;~~

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

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

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

27 ~~(E) Employment references;~~

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

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

31 ~~(g)(1)(f)(1)~~ Information received by the board from the Identification
32 Bureau of the Department of Arkansas State Police under this section shall
33 not be available for examination except by the affected applicant for
34 licensure or his or her authorized representative or the person whose license
35 is subject to revocation or his or her authorized representative.

36 (2) No record, file, or document shall be removed from the

1 custody of the department.

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

5 ~~(i)(h)~~ Rights of privilege and confidentiality established in this
6 section do not extend to any document created for purposes other than the
7 criminal background check.

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

10 ~~(k)(1) As used in this section, an expunged record of a conviction or~~
11 ~~plea of guilty or nolo contendere to an offense listed in subsection (e) of~~
12 ~~this section shall not be a felony, any crime involving moral turpitude, or a~~
13 ~~criminal offense involving violence, dishonesty, fraud, deceit, breach of~~
14 ~~client trust, or abuse of the vulnerable unless the offense is also listed in~~
15 ~~subdivision (k)(2) of this section.~~

16 ~~(2) Because of the serious nature of the offenses and the close~~
17 ~~relationship to the type of work that is to be performed, a conviction,~~
18 ~~guilty plea, or nolo contendere plea to any of the following offenses shall~~
19 ~~result in permanent disqualification for licensure:~~

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

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

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

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

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

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

28 ~~(G) Sexual assault in the first degree as prohibited in §~~
29 ~~5-14-124 and sexual assault in the second degree as prohibited in § 5-14-125;~~

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

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

35 ~~(J) Engaging children in sexually explicit conduct for use~~
36 ~~in visual or print media, transportation of minors for prohibited sexual~~

1 ~~conduct, or pandering or possessing a visual or print medium depicting~~
 2 ~~sexually explicit conduct involving a child, or use of a child or consent to~~
 3 ~~use of a child in a sexual performance by producing, directing, or promoting~~
 4 ~~a sexual performance by a child, as prohibited in §§ 5-27-303—5-27-305, 5-~~
 5 ~~27-402, and 5-27-403;~~

6 ~~(K) Adult abuse that constitutes a felony as prohibited in~~
 7 ~~§ 5-28-103; and~~

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

9
 10 SECTION 129. Arkansas Code § 17-104-312(3)(F), concerning violations
 11 of the Perfusionist Licensure Act, is amended to read as follows:

12 (F) A plea of guilty, nolo contendere, or a finding of
 13 guilt of a felony listed under § 17-2-102 or any offense substantially
 14 related to the qualifications, functions, or duties of a perfusionist, in
 15 which event the record shall be conclusive evidence; or

16
 17 SECTION 130. Arkansas Code § 17-105-102(b)(6), concerning
 18 qualifications of an applicant for licensure as a physician assistant, is
 19 repealed.

20 ~~(6) Is of good moral character;~~

21
 22 SECTION 131. Arkansas Code § 17-105-113 is amended to read as follows:
 23 17-105-113. Violation.

24 Following the exercise of due process, the Arkansas State Medical Board
 25 may discipline any physician assistant who:

26 (1) Fraudulently or deceptively obtains or attempts to obtain a
 27 license;

28 (2) Fraudulently or deceptively uses a license;

29 (3) Violates any provision of this chapter or any regulations
 30 adopted by the board pertaining to this chapter;

31 (4) Is convicted of a felony listed under § 17-2-102;

32 (5) Is a habitual user of intoxicants or drugs to such an extent
 33 that he or she is unable to safely perform as a physician assistant;

34 (6) Has been adjudicated as mentally incompetent or has a mental
 35 condition that renders him or her unable to safely perform as a physician
 36 assistant; or

1 ~~(7) Has committed an act of moral turpitude; or~~
2 ~~(8)~~(7) Represents himself or herself as a physician.

3
4 SECTION 132. Arkansas Code § 17-106-107(a)(2), concerning the
5 licensing requirements for healthcare professionals who use radioactive
6 materials or medical equipment emitting or detecting ionizing radiation on
7 human beings for diagnostic or therapeutic purposes, is amended to read as
8 follows:

9 (2) Submit satisfactory evidence verified by oath or affirmation
10 that the applicant:

11 (A) Is qualified to administer radioactive materials or
12 operate medical equipment emitting or detecting ionizing radiation upon human
13 beings;

14 ~~(B) Is of good moral character;~~

15 ~~(C)~~(B) Is at least eighteen (18) years of age at the time
16 of application; and

17 ~~(D)~~(C) Has been awarded a high school diploma or has
18 passed the General Educational Development Test or the equivalent.

19
20 SECTION 133. Arkansas Code § 17-106-110(a)(2), concerning discipline
21 for healthcare professionals who use radioactive materials or medical
22 equipment emitting or detecting ionizing radiation on human beings for
23 diagnostic or therapeutic purposes, is amended to read as follows:

24 (2) Has been convicted of a felony listed under § 17-2-102 ~~in a~~
25 ~~court of competent jurisdiction either within or outside of this state unless~~
26 ~~the conviction has been reversed and the holder of the license has been~~
27 ~~discharged or acquitted or if the holder has been pardoned with full~~
28 ~~restoration of civil rights, in which case the license shall be restored;~~

29
30 SECTION 134. Arkansas Code § 17-107-310(1), concerning disciplinary
31 action for orthotists, prosthetists, and pedorthists, is amended to read as
32 follows:

33 (1) Has pleaded guilty or nolo contendere to or has been found
34 guilty of a felony listed under § 17-2-102;

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36

/s/J. Cooper

APPROVED: 4/15/19

1 State of Arkansas As Engrossed: H2/4/19 S4/5/19

2 92nd General Assembly

A Bill

3 Regular Session, 2019

HOUSE BILL 1255

4

5 By: Representative Dotson

6 By: Senator Hester

7

8

For An Act To Be Entitled

9 AN ACT TO PROMOTE, RECRUIT, AND RETAIN A HIGHLY
10 SKILLED WORKFORCE IN THE STATE OF ARKANSAS; TO AMEND
11 THE LAW CONCERNING LICENSING, REGISTRATION, AND
12 CERTIFICATION FOR CERTAIN PROFESSIONS; TO ESTABLISH A
13 SYSTEM OF ENDORSEMENT, RECOGNITION, AND RECIPROCITY
14 FOR LICENSING, REGISTRATION, AND CERTIFICATION FOR
15 CERTAIN PROFESSIONS; AND FOR OTHER PURPOSES.

16

17

18

Subtitle

19 TO AMEND THE LAW CONCERNING LICENSING,
20 REGISTRATION, AND CERTIFICATION FOR
21 CERTAIN PROFESSIONS; AND TO ESTABLISH A
22 SYSTEM OF ENDORSEMENT, RECOGNITION, AND
23 RECIPROCITY FOR LICENSING.

24

25

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

27

28 SECTION 1. Arkansas Code § 17-1-107 is amended to read as follows:

29 17-1-107. Reinstatement of licenses – Definition.

30 ~~(a)(1) It is not the intent of the General Assembly to cause the~~
31 ~~licensing entity to engage in simple comparisons of the required hours of~~
32 ~~training and other personal qualifications under Arkansas's occupational~~
33 ~~licensing statutes with those qualifications required in the state where the~~
34 ~~person is credentialed.~~

35 ~~(2) It is the intent of the General Assembly to ensure that a~~
36 ~~person may be credentialed to work in Arkansas if he or she generally~~



1 ~~demonstrates the skills and ethics required by state law based on the~~
2 ~~person's experience and credentials in another state.~~

3 ~~(b)(a)~~ A An occupational licensing entity shall by rule adopt reduced
4 requirements for reinstatement of a license, registration, permit, or
5 certification for a person who:

6 (1) Demonstrates that he or she:

7 (A) Was previously licensed, registered, permitted, or
8 certified to practice in the field of his or her profession at any time in
9 this state;

10 (B) Held his or her license, registration, permit, or
11 certification in good standing at the time of licensing, registration,
12 permitting, or certification;

13 (C) Did not have his or her license, registration, permit,
14 or certification revoked for:

15 (i) An act of bad faith; or

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

17 (D) Is not holding a suspended or probationary license,
18 registration, permit, or certification in any state; and

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

20 (2) Pays any reinstatement fee required by law.

21 ~~(e)(b)~~ The occupational licensing entity may require that sufficient
22 competency in a particular field be demonstrated by:

23 (1) Proficiency testing;

24 (2) Letters of recommendation; or

25 (3) Both proficiency testing and letters of recommendation.

26 ~~(d)(1)(c)(1)~~ Except as provided under subdivision ~~(e)(2)(b)~~ of this
27 section, the occupational licensing entity shall not require a person who
28 meets the requirements of subsection (a) of this section to participate in
29 the apprenticeship, education, or training required as a prerequisite to
30 licensing, registration, permitting, or certification of a new professional
31 in the field.

32 (2) The occupational licensing entity may require the person to
33 participate in continuing education or training if the continuing education
34 or training is required for all professionals in the field to maintain the
35 license, registration, permit, or certification.

36 ~~(e)(d)~~ A person shall not be required to comply with requirements

1 under this section to obtain reinstatement of his or her license,
2 *registration, permit, or certification* if the person meets the requirements
3 for reciprocity.

4 ~~(f)~~(e) If a criminal background check is required of an applicant for
5 an original license, registration, permit, or certification, or of a person
6 currently holding a license, *registration, permit, or certification*, then the
7 occupational licensing entity may require a person seeking reinstatement
8 under this section to meet the same criminal background check requirements as
9 the applicant for an original license, registration, permit, or
10 certification, or as the person currently holding a license, registration,
11 permit, or certification.

12 ~~(g)~~(f)(1) As used in this section, "occupational licensing entity"
13 means an agency, office, council, bureau, board, commission, department,
14 committee, or other authority of the government of the State of Arkansas,
15 whether within or subject to review by another agency, ~~except the General~~
16 ~~Assembly, the courts, and the Governor~~, that has the duty to license,
17 register, permit, certify, or otherwise approve a person to work in a
18 particular field or industry.

19 (2) As used in subdivision (f)(1) of this section "agency"
20 does not include the General Assembly, the courts, or the Governor.

21
22 SECTION 2. Arkansas Code § 17-1-108, as added by Acts 2019, No. 426,
23 is amended to read as follows:

24 17-1-108. Expedited temporary and provisional licensure – Legislative
25 intent.

26 (a)(1) It is the intent of the General Assembly to ensure that an
27 individual may be credentialed to work in Arkansas if he or she generally
28 demonstrates the skills and ethics required by state law based on the
29 individual's experience and credentials in another state.

30 (2) It is not the intent of the General Assembly to cause the
31 licensing entity to engage in simple comparisons of the required hours of
32 training and other personal qualifications under Arkansas's occupational
33 licensing statutes with those qualifications required in the state where the
34 individual is credentialed.

35 ~~(a)~~(b) As used in this section:

36 (1) "Individual" means a natural person, firm, association,

1 partnership, corporation, or other entity that may hold an occupational
2 licensure;

3 (2) "Occupational licensing entity" means an office, board,
4 commission, committee, department, council, bureau, or other agency of state
5 government having authority to license, certify, register, permit, or
6 otherwise authorize an individual to engage in a particular occupation or
7 profession; and

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

12 ~~(b)(c)~~ An occupational licensing entity shall by rule adopt the least
13 restrictive requirements for occupational licensure for an individual who:

14 (1) Demonstrates that he or she:

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

18 (B) Holds his or her occupational licensure in good
19 standing;

20 (C) Has not had his or her occupational licensure revoked
21 for:

22 (i) An act of bad faith; or

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

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

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

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

29 ~~(e)(1)(A)(d)(1)(A)~~ An occupational licensing entity shall comply with
30 the requirements under subsection ~~(b)(c)~~ of this section by adopting the
31 least restrictive rule that allows for reciprocity or licensure by
32 endorsement.

33 (B) The rule adopted under subdivision ~~(e)(1)(A)(d)(1)(A)~~
34 of this section shall provide the procedure by which an occupational
35 licensing entity shall grant a temporary and provisional occupational
36 licensure for ninety (90) days or longer to an individual under subsection

1 ~~(b)~~(c) of this section if presented with evidence of a current and active
2 occupational licensure that is substantially similar to practice in the field
3 of his or her occupation or profession in another state, territory, or
4 district of the United States.

5 (2) If a state, territory, or district of the United States does
6 not require occupational licensure for a profession that requires
7 occupational licensure in this state, an occupational licensing entity shall
8 adopt a rule that is least restrictive to permit an individual who is
9 sufficiently competent in his or her field to obtain occupational licensure
10 for that occupation or profession in this state.

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

16 ~~(d)~~(1)(e)(1) Except as provided under subdivision ~~(d)~~(1)(e)(2) of this
17 section, an occupational licensing entity shall not require an individual who
18 meets the requirements of subsection ~~(b)~~(c) of this section to participate in
19 the apprenticeship, education, or training required as a prerequisite to
20 occupational licensure of a new professional in the field.

21 (2) The occupational licensing entity may require the individual
22 to participate in continuing education or training if the continuing
23 education or training is required for all professionals in the field to
24 maintain the occupational licensure.

25 ~~(e)~~(f) If a criminal background check is required of an applicant for
26 an initial occupational licensure or of ~~a person~~ an individual currently
27 holding an occupational licensure, then the occupational licensing entity may
28 require ~~a person~~ an individual seeking his or her occupational licensure
29 under this section to meet the same criminal background check requirements as
30 the applicant for an initial occupational licensure or as the ~~person~~
31 individual currently holding an occupational licensure.

32 ~~(f)~~(g) The occupational licensing entity may require the individual
33 applying for occupational licensure under this section to meet any bonding,
34 financial statement, or insurance requirements that are applicable to all
35 applicants.

36 ~~(g)~~(h) This section shall not apply to:

1 (1) Reciprocity or license by endorsement provisions under §§
2 17-12-308, 17-26-315, 17-27-308, 17-28-306, 17-31-308, 17-36-304, 17-42-305,
3 17-43-307, 17-83-305, 17-88-305, 17-89-305, 17-90-302, 17-92-114, 17-92-308,
4 17-93-414, 17-97-306, 17-99-304, 17-100-304, and 17-103-302; or

5 (2) The occupational licensing entities that administer the
6 reciprocity provisions under subdivision ~~(g)~~~~(1)~~(h)(1) of this section.

7 ~~(h)(i)~~ An occupational licensing entity may enter into written
8 agreements with similar occupational licensing entities of another state,
9 territory, or district of the United States as necessary to assure ~~for~~ that
10 licensees in this state have comparable nonresident licensure opportunities
11 as those opportunities available to nonresidents by occupational licensing
12 entities in this state.

13
14
15 /s/Dotson

16
17
18 **APPROVED: 4/15/19**
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36