

HOUSE AMENDMENT 1 TO hb1475.

deleting lines 9 through 18 of page 1 and substituting the following:

"AN ACT TO PROVIDE THAT ADJUDICATIONS OF GUILT FOR MISDEMEANOR SEX OFFENSES AND MISDEMEANORS INVOLVING VIOLENCE CAN BE USED MAKING PROFESSIONAL LICENSING DECISIONS; TO REQUIRE LICENSED PROFESSIONAL AND ASSOCIATE COUNSELORS, SOCIAL WORKERS, NURSES, OCCUPATIONAL THERAPISTS, PHYSICAL THERAPISTS, ATHLETIC TRAINERS, PSYCHOLOGISTS, PSYCHOLOGICAL EXAMINERS, SPEECH-LANGUAGE PATHOLOGISTS, AND AUDIOLOGISTS TO UNDERGO A CRIMINAL BACKGROUND CHECK PRIOR TO BEING ISSUED A PROFESSIONAL LICENSE IN THIS STATE; AND FOR OTHER PURPOSES.";

AND

by deleting sections 1 through 22 of the bill and substituting the following:

"SECTION 1. Arkansas Code Annotated § 17-1-103, relating to criminal offenders and professional licensure, is amended to read as follows:

"17-1-103. Registration, certification, and licensing for criminal offenders.

(a) It is the policy of the State of Arkansas to encourage and contribute to the rehabilitation of criminal offenders and to assist them in the assumption of the responsibilities of citizenship. The public is best protected when offenders are given the opportunity to secure employment or to engage in a meaningful trade, occupation, or profession.

(b) Subject to the provisions of subsection (c) of this section, in determining eligibility under this section, the board, commission, department, or agency may take into consideration conviction of certain crimes which have not been annulled, expunged, or pardoned. However, such convictions shall not operate as an automatic bar to registration, certification, or licensing for any trade, profession, or occupation.

(c) The following criminal records shall not be used, distributed, or disseminated in connection with an application for a registration, license, or certificate:

(1) Records of arrest not followed by a valid felony conviction by the courts;

(2) Convictions which have been annulled or expunged or pardoned by the Governor; and

(3) Misdemeanor convictions, except misdemeanor sex offenses and misdemeanors involving violence.

(d) The board, commission, department, or agency shall state explicitly in writing the reasons for a decision which prohibits the applicant from practicing the trade, occupation, or profession if the decision is based in whole or in part on conviction of a felony.

(e) For the purposes of this section, completion of the following shall be deemed prima facie evidence of sufficient rehabilitation:

(1) Probation or parole supervision; ~~or~~ and

(2) A period of ~~three (3)~~ five (5) years after final discharge or release from any term of imprisonment in the state penitentiary without any subsequent conviction.

(f) Any complaints concerning the violation of this section shall be adjudicated in accordance with the procedure set forth in the Arkansas Administrative Procedure Act, as amended, § 25-15-201 et seq., for administrative and judicial review.

(g) This section shall apply to any board, commission, department, agency, or any other body that deals in licensing or regulating a profession, trade, or occupation in the State of Arkansas.

(h) It shall be the duty of the Secretary of State to make this section known to any board, commission, department, or agency affected by this section."

SECTION 2. Arkansas Code § 17-27-301, relating to eligibility for licensure of professional counselors, is amended to read as follows:

"17-27-301. Licensed professional counselor - Qualifications.

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

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

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

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

(4) The applicant has applied for a criminal background check and has not been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in § 17-27-309(f);

~~———(4)~~ (5) The applicant has received a graduate degree from a regionally accredited institution of higher education which is primarily professional counseling in content and has accumulated at least thirty-six (36) graduate semester hours and which meets the academic and training content standard established by the board. The board shall use the standards for the preparation of counselors prepared by that special professional association nationally as a guide in establishing the standards for counseling;

~~———(5)~~ (6) The applicant has three (3) years of supervised full-time experience in professional counseling acceptable to the board. One (1) year of experience may be gained for each thirty (30) graduate semester hours earned beyond the master's degree, provided that the hours are clearly related to the field of counseling and are acceptable to the board. In no case may the applicant have less than one (1) year of professional experience; and

~~(6)~~ (7) The applicant will declare special competencies and demonstrate professional competence in specialty areas by passing a written or oral or situational examination, or any combination thereof, as the board will prescribe. Upon examination of credentials the board, by a majority of the board members present and voting, may consider such credentials adequate evidence of professional competence and recommend to the chairman of the board that a license be approved in that specialty."

SECTION 3. Arkansas Code Annotated § 17-27-302, relating to eligibility for licensure of associate counselors, is amended to read as follows:

"17-27-302. Licensed associate counselor - Qualifications.

(a) The board shall issue a license of licensed associate counselor to each applicant who meets the requirements established in § 17-27-301, with the exception of § 17-27-301~~(5)~~ (6).

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

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

(d) Any licensed associate counselor may petition the board for licensure review for the licensed professional counselor provided that requirements of § 17-27-301~~(5)~~ (6) have been completed."

SECTION 4. Arkansas Code Annotated § 17-27-306, relating to licensure of professional and associate counselors, is amended to read as follows:

"17-27-306. Suspension or revocation.

(a) The board shall have the power to suspend or revoke the license of any person found guilty of violating any ethical or professional standard. The sanction of suspension upon order of the board shall not be for a period greater than six (6) months. Any licensee thereby sanctioned shall not be allowed to practice counseling in this state until the termination of the suspension period and subsequent timely review by the board.

(b) The board shall revoke the license of any person who is found guilty of or pleads guilty or nolo contendere to any offense listed in § 17-27-309(f), unless the person requests and the board grants a waiver pursuant to § 17-27-309(h)."

SECTION 5. Subchapter 3 of Chapter 27 of Title 17 of the Arkansas Code Annotated, relating to licensure of professional and associate counselors, is amended by adding the following new section:

"17-27-309. Criminal background checks.

(a) On and after July 1, 1997, each first-time applicant for a license issued by the board shall be required to apply to the Identification Bureau of the Arkansas State

Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation.

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

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

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

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

(f) No person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to, or been found guilty of, any of the following offenses by any court in the State of Arkansas, or of any similar offense by a court in another state, or of any similar offense by a federal court:

(1) Capital murder, as prohibited in A.C.A. § 5-10-101;

(2) Murder in the first degree and second degree, as prohibited in A.C.A. §§ 5-10-102 and 5-10-103;

(3) Manslaughter, as prohibited in A.C.A. § 5-10-104;

(4) Negligent homicide, as prohibited in A.C.A. § 5-10-105;

(5) Kidnapping, as prohibited in A.C.A. § 5-11-102;

(6) False imprisonment in the first degree, as prohibited in A.C.A. § 5-11-103;

(7) Permanent detention or restraint, as prohibited in A.C.A. § 5-11-106;

(8) Robbery, as prohibited in A.C.A. § 5-12-102;

(9) Aggravated robbery, as prohibited in A.C.A. § 5-12-103;

(10) Battery in the first degree, as prohibited in A.C.A. § 5-13-201;

(11) Aggravated assault, as prohibited in A.C.A. § 5-13-204;

(12) Introduction of controlled substance into body of another person, as prohibited in A.C.A. § 5-13-210;

(13) Terroristic threatening in the first degree, as prohibited in A.C.A. § 5-13-301;

(14) Rape and carnal abuse in the first degree, second degree, and third degree, as prohibited in A.C.A. §§ 5-14-103 - 5-14-106;

(15) Sexual abuse in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-108 and 5-14-109;

(16) Sexual solicitation of a child, as prohibited in A.C.A. § 5-14-110;

(17) Violation of a minor in the first degree and second degree, as

prohibited in A.C.A. §§ 5-14-120 and 5-14-121;

(18) Incest, as prohibited in A.C.A. § 5-26-202;

(19) Offenses against the family, as prohibited in A.C.A. §§ 5-26-303 - 5-26-306;

(20) Endangering the welfare of incompetent person in the first degree, as prohibited in A.C.A. § 5-27-201;

(21) Endangering the welfare of a minor in the first degree, as prohibited in A.C.A. § 5-27-203;

(22) Permitting child abuse, as prohibited in subdivisions (a) (1) and (a) (3) of A.C.A. § 5-27-221;

(23) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, or pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in A.C.A. §§ 5-27-303, 5-27-304, 5-27-305, 5-27-402, and 5-27-403;

(24) Felony adult abuse, as prohibited in A.C.A. § 5-28-103;

(25) Theft of property, as prohibited in A.C.A. § 5-36-103;

(26) Theft by receiving, as prohibited in A.C.A. § 5-36-106;

(27) Arson, as prohibited in A.C.A. § 5-38-301;

(28) Burglary, as prohibited in A.C.A. § 5-39-201;

(29) Felony violation of the Uniform Controlled Substances Act, as prohibited in A.C.A. § 5-64-401;

(30) Promotion of prostitution in the first degree, as prohibited in A.C.A. § 5-70-104;

(31) Stalking, as prohibited in A.C.A. § 5-71-229; and

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

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

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

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

(A) An affected applicant for licensure; or

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

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

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

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

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

(i) Any information received by the board from the Identification Bureau of the Arkansas State Police pursuant to this section shall not be available for examination except by the affected applicant for licensure, or his authorized representative, or the person whose license is subject to revocation, or his authorized representative. No record, file, or document shall be removed from the custody of the Arkansas State Police.

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

(k) Rights of privilege and confidentiality established herein shall not extend to any document created for purposes other than this background check.

(l) The board shall adopt the necessary rules and regulations to fully implement the provisions of this section."

SECTION 6. Arkansas Code 17-46-305, relating to licensure of social workers, is amended to read as follows:

"17-46-305. Renewal, revocation, suspension - Disciplinary proceedings.

(a) The board may refuse to issue or renew a license or may revoke or suspend a license issued under this chapter for any of the following causes or reasons:

(1) Violation of a provision of this chapter;

(2) Gross negligence in the practice of social work; or

(3) Engaging in a course of unprofessional conduct as defined by the rules established by the board or violation of the code of ethics made and published by the board;

~~_____ (4) Conviction in this or any other state of any crime that is a felony in this state; or~~

~~_____ (5) Has been convicted of a felony in a federal court.~~

(b) The board shall refuse to issue or revoke the license of any person who is found guilty of or pleads guilty or nolo contendere to any offense listed in § 17-46-307(f), unless the person requests and the board grants a waiver pursuant to 17-46-307(h).

~~_____ (c)~~ (c) Hearings shall be conducted by the board. Decisions will be determined by a

majority vote of the board. All proceedings will be conducted in accordance with the Arkansas Administrative Procedure Act, as amended, § 25-15-201 et seq."

SECTION 7. Arkansas Code § 17-46-306, relating to eligibility for licensure of social workers, is amended to read as follows:

"17-46-306. Qualifications - Issuance.

(a) The board shall issue a license as a licensed social worker to an applicant who qualifies as follows:

(1) Has a baccalaureate degree in a social work program accredited by the Council on Social Work Education or receives before June 17, 1986, a baccalaureate degree in a social work program from an accredited educational institution;~~and~~

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

(3) Has applied for a criminal background check and has not been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in 17-46-307(f).

(b) The board shall issue a license as a licensed master social worker to an applicant who qualifies as follows:

(1) Has a master's degree from an accredited social work program in an accredited institution approved by the Council on Social Work Education;~~and~~

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

(3) Has applied for a criminal background check and has not been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in 17-46-307(f).

(c) The board shall issue a license as a licensed certified social worker to an applicant who qualifies as follows:

(1) Has a master's degree from an accredited social work program in an accredited institution approved by the Council on Social Work Education;

(2) Has two (2) years of supervised social work experience in a clinical or nonclinical concentration by a licensed certified social worker licensed under this law beyond the master's degree;~~and~~

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

(4) Has applied for a criminal background check and has not been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in 17-46-307(f)."

SECTION 8. Subchapter 3 of Chapter 46 of Title 17 of the Arkansas Code Annotated, relating to licensure of social workers, is amended by adding the following new section:

"17-46-307. Criminal background checks.

(a) On and after July 1, 1997, each first-time applicant for a license issued by the board shall be required to apply to the Identification Bureau of the Arkansas State

Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation.

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

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

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

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

(f) No person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to, or been found guilty of, any of the following offenses by any court in the State of Arkansas, or of any similar offense by a court in another state, or of any similar offense by a federal court:

(1) Capital murder, as prohibited in A.C.A. § 5-10-101;

(2) Murder in the first degree and second degree, as prohibited in A.C.A. §§ 5-10-102 and 5-10-103;

(3) Manslaughter, as prohibited in A.C.A. § 5-10-104;

(4) Negligent homicide, as prohibited in A.C.A. § 5-10-105;

(5) Kidnapping, as prohibited in A.C.A. § 5-11-102;

(6) False imprisonment in the first degree, as prohibited in A.C.A. § 5-11-103;

(7) Permanent detention or restraint, as prohibited in A.C.A. § 5-11-106;

(8) Robbery, as prohibited in A.C.A. § 5-12-102;

(9) Aggravated robbery, as prohibited in A.C.A. § 5-12-103;

(10) Battery in the first degree, as prohibited in A.C.A. § 5-13-201;

(11) Aggravated assault, as prohibited in A.C.A. § 5-13-204;

(12) Introduction of controlled substance into body of another person, as prohibited in A.C.A. § 5-13-210;

(13) Terroristic threatening in the first degree, as prohibited in A.C.A. § 5-13-301;

(14) Rape and carnal abuse in the first degree, second degree, and third degree, as prohibited in A.C.A. §§ 5-14-103 - 5-14-106;

(15) Sexual abuse in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-108 and 5-14-109;

(16) Sexual solicitation of a child, as prohibited in A.C.A. § 5-14-110;

(17) Violation of a minor in the first degree and second degree, as

prohibited in A.C.A. §§ 5-14-120 and 5-14-121;

(18) Incest, as prohibited in A.C.A. § 5-26-202;

(19) Offenses against the family, as prohibited in A.C.A. §§ 5-26-303 - 5-26-306;

(20) Endangering the welfare of incompetent person in the first degree, as prohibited in A.C.A. § 5-27-201;

(21) Endangering the welfare of a minor in the first degree, as prohibited in A.C.A. § 5-27-203;

(22) Permitting child abuse, as prohibited in subdivisions (a) (1) and (a) (3) of A.C.A. § 5-27-221;

(23) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, or pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in A.C.A. §§ 5-27-303, 5-27-304, 5-27-305, 5-27-402, and 5-27-403;

(24) Felony adult abuse, as prohibited in A.C.A. § 5-28-103;

(25) Theft of property, as prohibited in A.C.A. § 5-36-103;

(26) Theft by receiving, as prohibited in A.C.A. § 5-36-106;

(27) Arson, as prohibited in A.C.A. § 5-38-301;

(28) Burglary, as prohibited in A.C.A. § 5-39-201;

(29) Felony violation of the Uniform Controlled Substances Act, as prohibited in A.C.A. § 5-64-401;

(30) Promotion of prostitution in the first degree, as prohibited in A.C.A. § 5-70-104;

(31) Stalking, as prohibited in A.C.A. § 5-71-229; and

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

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

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

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

(A) An affected applicant for licensure; or

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

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

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

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

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

(i) Any information received by the board from the Identification Bureau of the Arkansas State Police pursuant to this section shall not be available for examination except by the affected applicant for licensure, or his authorized representative, or the person whose license is subject to revocation, or his authorized representative. No record, file, or document shall be removed from the custody of the Arkansas State Police.

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

(k) Rights of privilege and confidentiality established herein shall not extend to any document created for purposes other than this background check.

(l) The board shall adopt the necessary rules and regulations to fully implement the provisions of this section."

SECTION 9. Arkansas Code Annotated § 17-87-301 is amended to read as follows:

"17-87-301. Registered nurses.

(a) Qualifications. Before taking the examination or before the issuance of a license by endorsement, an applicant for a license to practice professional nursing shall submit to the board written evidence, verified by oath, that the applicant:

(1) Is of good moral character;

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

(3) Has completed the required approved professional nursing education program; and

(4) Has applied for a criminal background check and has not been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in 17-87-312(f).

(b) Issuance of License. A license to practice as a registered nurse may be issued:

(1) By Examination. The applicant shall be required to pass an examination in such subjects as the board may determine. Upon successfully passing the examination, the board shall issue to the applicant a license to practice professional nursing as a registered nurse;

(2) By Endorsement. The board may issue a license to practice professional nursing as a registered nurse by endorsement to an applicant who has been duly licensed as a registered nurse under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the qualifications required of registered nurses in this state at the time of graduation and if the board so recommends.

(c) Nurses Registered Prior to March 29, 1971. Any person holding a license or certificate of registration to practice nursing as a registered nurse issued by the board which was valid on March 29, 1971, shall be deemed to be licensed as a registered nurse under the provisions of this chapter.

(d) Title and Abbreviation. Any person who holds a license to practice professional nursing in this state shall have the right to use the title _registered nurse_ and the abbreviation _R.N._."

SECTION 10. Arkansas Code Annotated § 17-87-302 is amended to read as follows:

"17-87-302. Advanced practice nurses.

(a) Qualifications. In order to be licensed as an advanced practice nurse, an applicant must show evidence of education approved by the board, evidence that the applicant has applied for a criminal background check and has not been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in 17-87-312(f), and evidence of national certification approved by the board under one (1) of the following:

(1) Advanced Registered Nurse Practitioner. In order to qualify as an advanced registered nurse practitioner, an applicant must be currently certified as a nurse practitioner by a nationally recognized certifying body;

(2) Certified Registered Nurse Anesthetist. To qualify as a certified registered nurse anesthetist, an applicant must:

(A) Have earned a diploma or certificate evidencing satisfactory completion, beyond generic nursing preparation, of a formal educational program that meets the standards of the Council on Accreditation of Nurse Anesthesia Educational Programs or another nationally recognized accrediting body and that has as its objective the preparation of nurses to perform as nurse anesthetists; and

(B) Hold current certification from the Council on Certification of Nurse Anesthetists, the Council on Recertification of Nurse Anesthetists, or other nationally recognized certifying body;

(3) Certified Nurse Midwife. To qualify as a certified nurse midwife, an applicant must:

(A) Hold current certification as a nurse midwife from the American College of Nurse Midwives or other nationally recognized certifying body; and

(B) Have an agreement with a consulting physician on file with the board;

(4) Clinical Nurse Specialist. In order to qualify as a clinical nurse

specialist, an applicant must hold a master's degree evidencing successful completion of a graduate program in nursing, which shall include supervised clinical practice and classroom instruction in a nursing specialty, and must be nationally certified in a specialty role as a clinical nurse specialist.

(b) Issuance of License. A license to practice as an advanced practice nurse may be issued:

(1) By Application. Any person holding a license to practice as a registered nurse and meeting the educational qualifications and certification requirements to be licensed as an advanced practice nurse may, upon application and payment of necessary fees to the board, be licensed as an advanced practice nurse;

(2) By Endorsement. The board may issue a license to practice advanced practice nursing by endorsement to any applicant who has been licensed as an advanced practice nurse or to a person entitled to perform similar services under a different title under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the requirements for advanced practice nurses in this state.

(c) Title and Abbreviation. Any person who holds a license to practice as an advanced practice nurse shall have the right to use the title of advanced practice nurse and the abbreviation A.P.N."

SECTION 11. Arkansas Code Annotated § 17-87-303 is amended to read as follows:

"17-87-303. Registered nurse practitioners.

(a) (1) Any person holding a license to practice as a registered nurse and possessing the educational qualifications required under subsection (b) of this section to be licensed as a registered nurse practitioner may, upon application and payment of necessary fees to the board, be licensed as a registered nurse practitioner and have the right to use the title of registered nurse practitioner and the abbreviation R.N.P.

(2) No other person shall assume such title or use such abbreviation or any other words, letters, signs, or devices to indicate that the person using them is a registered nurse practitioner.

(b) In order to be licensed as a registered nurse practitioner, a registered nurse must hold a certificate or academic degree evidencing successful completion of the educational program of an accredited school of nursing or other nationally recognized accredited program recognized by the board as meeting the requirements of a nurse practitioner program and must have applied for a criminal background check and not have been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in 17-87-312(f).

(c) However, any person qualified to receive a license as a registered nurse practitioner may obtain the license upon the payment of a fee not to exceed twenty-five dollars (\$25.00) for the original license. The license fees are to be in addition to the person's registered nurse license fees."

SECTION 12. Arkansas Code Annotated § 17-87-304 is amended to read as follows:

"17-87-304. Licensed practical nurses.

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

(1) Is of good moral character;

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

(3) Has completed a prescribed curriculum in a state-approved program for the preparation of practical nurses and holds a diploma or certificate therefrom. However, the Arkansas State Board of Nursing may waive this requirement if the board determines the applicant to be otherwise qualified; and

(4) Has applied for a criminal background check and has not been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in 17-87-312(f).

(b) Issuance of License. A license to practice as a practical nurse may be issued:

(1) By Examination. The applicant shall be required to pass an examination in such subjects as the board may determine. Upon successful completion of the examination, the board shall issue to the applicant a license to practice as a licensed practical nurse;

(2) By Endorsement. The board may issue a license to practice practical nursing by endorsement to any applicant who has duly been licensed or registered as a licensed practical nurse or to a person entitled to perform similar services under a different title under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the requirements for licensed practical nurses in this state at the time of graduation and if the board so recommends.

(c) Person Licensed Prior to March 29, 1971. Any person holding a license to practice as a practical nurse issued by the board and which was valid on March 29, 1971, shall be deemed to be licensed as a practical nurse under the provisions of this chapter.

(d) Title and Abbreviation. Any person who holds a license to practice practical nursing in this state shall have the right to use the title _licensed practical nurse_ and the abbreviation _L.P.N._."

SECTION 13. Arkansas Code Annotated § 17-87-305 is amended to read as follows:

"17-87-305. Licensed psychiatric technician nurses.

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

(1) Is of good moral character;

(2) Has completed an approved high school course of study or the equivalent

thereof as determined by the appropriate educational agency; ~~and~~

(3) Has completed a prescribed curriculum in a state-approved program for the preparation of psychiatric technician nurses and holds a diploma or certificate therefrom. However, the Arkansas State Board of Nursing may waive this requirement if the board determines the applicant to be otherwise qualified; and

(4) Has applied for a criminal background check and has not been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in 17-87-312(f).

(b) Issuance of License. A license to practice as a psychiatric technician nurse may be issued:

(1) By Examination. The applicant shall be required to pass a written examination in such subjects as the board may determine. Each written examination may be supplemented by an oral examination. Upon successfully passing the examination, the board shall issue to the applicant a license to practice as a psychiatric technician nurse. All such examinations shall be conducted by an examiner, who shall be a registered nurse, and by an assistant examiner, who shall be a licensed psychiatric technician nurse;

(2) By Endorsement. The board may issue a license to practice psychiatric technician nursing by endorsement to an applicant who has duly been licensed or registered as a licensed psychiatric technician nurse or a person entitled to perform similar services under a different title under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the requirements for licensed psychiatric technician nurses in this state at the time of graduation and if the board so recommends.

(c) Person Licensed Prior to March 29, 1971. Any person holding a license to practice as a psychiatric technician issued by the board in accordance with Acts 1953, No. 124 (repealed), and which was valid on March 29, 1971, shall be deemed to be licensed as a psychiatric technician nurse under the provisions of this chapter.

(d) Title and Abbreviation. Any person who holds a license to practice psychiatric technician nursing in this state shall have the right to use the title licensed psychiatric technician nurse and the abbreviation L.P.T.N."

SECTION 14. Arkansas Code Annotated § 17-87-309 is amended to read as follows:.

"17-87-309. Disciplinary actions.

(a) The board shall have sole authority to deny or suspend any license to practice nursing or certificate of prescriptive authority issued by the board or applied for in accordance with the provisions of this chapter or to otherwise discipline a licensee upon proof that the person:

(1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing;

(2) ~~Is guilty of a crime or gross immorality~~ Has been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in 17-87-312(f);

- (3) Is unfit or incompetent by reason of negligence, habits, or other causes;
- (4) Is habitually intemperate or is addicted to the use of habit-forming drugs;
- (5) Is mentally incompetent;
- (6) Is guilty of unprofessional conduct;
- (7) Has had a license, certificate, or registration revoked, suspended, or placed on probation or under disciplinary order in any jurisdiction;
- (8) Has voluntarily surrendered a license, certification, or registration and has not been reinstated in any jurisdiction; or
- (9) Has willfully or repeatedly violated any of the provisions of this chapter.

(b) Proceedings under this section shall be as provided in the Arkansas Administrative Procedure Act, as amended, § 25-15-201 et seq."

SECTION 15. Subchapter 3 of Chapter 8 of Title 17 is amended by adding the following new section:

"17-87-312. Criminal background checks.

(a) On and after July 1, 1997, each first-time applicant for a license issued by the board shall be required to apply to the Identification Bureau of the Arkansas State Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation.

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

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

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

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

(f) No person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to, or been found guilty of, any of the following offenses by any court in the State of Arkansas, or of any similar offense by a court in another state, or of any similar offense by a federal court:

(1) Capital murder, as prohibited in A.C.A. § 5-10-101;

(2) Murder in the first degree and second degree, as prohibited in A.C.A. §§ 5-10-102 and 5-10-103;

(3) Manslaughter, as prohibited in A.C.A. § 5-10-104;

(4) Negligent homicide, as prohibited in A.C.A. § 5-10-105;

(5) Kidnapping, as prohibited in A.C.A. § 5-11-102;

(6) False imprisonment in the first degree, as prohibited in A.C.A.

§ 5-11-103;

(7) Permanent detention or restraint, as prohibited in A.C.A. § 5-11-106;

(8) Robbery, as prohibited in A.C.A. § 5-12-102;

(9) Aggravated robbery, as prohibited in A.C.A. § 5-12-103;

(10) Battery in the first degree, as prohibited in A.C.A. § 5-13-201;

(11) Aggravated assault, as prohibited in A.C.A. § 5-13-204;

(12) Introduction of controlled substance into body of another person, as prohibited in A.C.A. § 5-13-210;

(13) Terroristic threatening in the first degree, as prohibited in A.C.A.

§ 5-13-301;

(14) Rape and carnal abuse in the first degree, second degree, and third degree, as prohibited in A.C.A. §§ 5-14-103 - 5-14-106;

(15) Sexual abuse in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-108 and 5-14-109;

(16) Sexual solicitation of a child, as prohibited in A.C.A. § 5-14-110;

(17) Violation of a minor in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-120 and 5-14-121;

(18) Incest, as prohibited in A.C.A. § 5-26-202;

(19) Offenses against the family, as prohibited in A.C.A. §§ 5-26-303 - 5-26-306;

(20) Endangering the welfare of incompetent person in the first degree, as prohibited in A.C.A. § 5-27-201;

(21) Endangering the welfare of a minor in the first degree, as prohibited in A.C.A. § 5-27-203;

(22) Permitting child abuse, as prohibited in subdivisions (a) (1) and (a) (3) of A.C.A. § 5-27-221;

(23) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, or pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in A.C.A.

§§ 5-27-303, 5-27-304, 5-27-305, 5-27-402, and 5-27-403;

(24) Felony adult abuse, as prohibited in A.C.A. § 5-28-103;

(25) Theft of property, as prohibited in A.C.A. § 5-36-103;

(26) Theft by receiving, as prohibited in A.C.A. § 5-36-106;

(27) Arson, as prohibited in A.C.A. § 5-38-301;

(28) Burglary, as prohibited in A.C.A. § 5-39-201;

(29) Felony violation of the Uniform Controlled Substances Act, as prohibited in A.C.A. § 5-64-401;

(30) Promotion of prostitution in the first degree, as prohibited in A.C.A. § 5-70-104;

(31) Stalking, as prohibited in A.C.A. § 5-71-229; and

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

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

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

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

(A) An affected applicant for licensure; or

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

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

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

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

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

(i) Any information received by the board from the Identification Bureau of the Arkansas State Police pursuant to this section shall not be available for examination except by the affected applicant for licensure, or his authorized representative, or the person whose license is subject to revocation, or his authorized representative. No record, file, or document shall be removed from the custody of the Arkansas State Police.

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

(k) Rights of privilege and confidentiality established herein shall not extend to any document created for purposes other than this background check.

(l) The board shall adopt the necessary rules and regulations to fully implement

the provisions of this section."

SECTION 16. Arkansas Code Annotated § 17-88-302 is amended to read as follows:

"17-88-302. Qualifications of applicants.

Each applicant must meet the following conditions:

- (1) The applicant must be an individual at least eighteen (18) years old;
- (2) The applicant must be of good moral character;
- (3) The applicant must have successfully completed the academic requirements of an educational program in occupational therapy with concentration in biologic or physical science, psychology, and sociology, and with education in selected manual skills; and
- (4) The applicant must have applied for a criminal background check and not have been found guilty of, pleaded guilty or nolo contendere to any of the offenses listed in 17-88-313(f).

(A) For an occupational therapist, the program shall be accredited by the American Medical Association in collaboration with the American Occupational Therapy Association and shall lead to the awarding of a bachelor's or master's level degree or advanced standing certificate in occupational therapy.

(B) For an occupational therapy assistant, the program shall be approved by the American Occupational Therapy Association and shall lead to the awarding of an associate level degree in occupational therapy;

~~——(4)~~ (5) The applicant must have successfully completed a period of supervised field work experience at a recognized educational institution where he or she met the following academic requirements:

(A) For an occupational therapist, a minimum of six (6) months of supervised field work experience is required;

(B) For an occupational therapy assistant, a minimum of two (2) months of supervised field work experience at an approved facility other than the one at which the person was previously employed, if applicable, is required; and

~~——(5)~~ (6) The applicant must have passed an examination conducted by the board as provided in § 17-88-304."

SECTION 17. Arkansas Code Annotated § 17-88-309 is amended to read as follows:

"17-88-309. Denial, revocation, or suspension - Grounds.

(a) After notice and hearing, the board may deny or refuse to renew a license or may suspend or revoke a license where the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

(b) Unprofessional conduct shall include:

(1) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;

(2) Being guilty of unprofessional conduct or gross negligence as defined by rules established by the committee or violating the code of ethics adopted and published by the committee;

(3) Treating, or undertaking to treat, ailments of human beings otherwise than by occupational therapy, as authorized by this chapter;

~~(4) Being convicted of a crime, other than minor offenses defined as minor misdemeanors, violations, or offenses, in any court if the acts for which the applicant or licensee was convicted are found by the board to have a direct bearing on whether he or she should be entrusted to serve the public in the capacity of an occupational therapist or occupational therapy assistant~~ Having been found guilty or having pleaded guilty or nolo contendere to any of the offenses listed in 17-88-313(f);
and

(5) Using any narcotic drug or alcohol to an extent that impairs the ability to perform the work of an occupational therapist or occupational therapy assistant with safety to the public.

(c) The procedure hereunder on all refusals, revocations, and suspensions of license shall be as prescribed by the Arkansas Administrative Procedure Act, as amended, § 25-15-201 et seq."

SECTION 18. Subchapter 3 of Chapter 88 of Title 17 is amended by adding the following new section:

"17-88-313. Criminal background checks.

(a) On and after July 1, 1997, each first-time applicant for a license issued by the board shall be required to apply to the Identification Bureau of the Arkansas State Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation.

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

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

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

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

(f) No person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to, or been found guilty of, any of the following offenses by any court in the State of Arkansas, or of any similar offense by a

court in another state, or of any similar offense by a federal court:

(1) Capital murder, as prohibited in A.C.A. § 5-10-101;

(2) Murder in the first degree and second degree, as prohibited in A.C.A. §§ 5-10-102 and 5-10-103;

(3) Manslaughter, as prohibited in A.C.A. § 5-10-104;

(4) Negligent homicide, as prohibited in A.C.A. § 5-10-105;

(5) Kidnapping, as prohibited in A.C.A. § 5-11-102;

(6) False imprisonment in the first degree, as prohibited in A.C.A. § 5-11-103;

(7) Permanent detention or restraint, as prohibited in A.C.A. § 5-11-106;

(8) Robbery, as prohibited in A.C.A. § 5-12-102;

(9) Aggravated robbery, as prohibited in A.C.A. § 5-12-103;

(10) Battery in the first degree, as prohibited in A.C.A. § 5-13-201;

(11) Aggravated assault, as prohibited in A.C.A. § 5-13-204;

(12) Introduction of controlled substance into body of another person, as prohibited in A.C.A. § 5-13-210;

(13) Terroristic threatening in the first degree, as prohibited in A.C.A. § 5-13-301;

(14) Rape and carnal abuse in the first degree, second degree, and third degree, as prohibited in A.C.A. §§ 5-14-103 - 5-14-106;

(15) Sexual abuse in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-108 and 5-14-109;

(16) Sexual solicitation of a child, as prohibited in A.C.A. § 5-14-110;

(17) Violation of a minor in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-120 and 5-14-121;

(18) Incest, as prohibited in A.C.A. § 5-26-202;

(19) Offenses against the family, as prohibited in A.C.A. §§ 5-26-303 - 5-26-306;

(20) Endangering the welfare of incompetent person in the first degree, as prohibited in A.C.A. § 5-27-201;

(21) Endangering the welfare of a minor in the first degree, as prohibited in A.C.A. § 5-27-203;

(22) Permitting child abuse, as prohibited in subdivisions (a) (1) and (a) (3) of A.C.A. § 5-27-221;

(23) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, or pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in A.C.A. §§ 5-27-303, 5-27-304, 5-27-305, 5-27-402, and 5-27-403;

- (24) Felony adult abuse, as prohibited in A.C.A. § 5-28-103;
- (25) Theft of property, as prohibited in A.C.A. § 5-36-103;
- (26) Theft by receiving, as prohibited in A.C.A. § 5-36-106;
- (27) Arson, as prohibited in A.C.A. § 5-38-301;
- (28) Burglary, as prohibited in A.C.A. § 5-39-201;
- (29) Felony violation of the Uniform Controlled Substances Act, as prohibited in A.C.A. § 5-64-401;
- (30) Promotion of prostitution in the first degree, as prohibited in A.C.A. § 5-70-104;
- (31) Stalking, as prohibited in A.C.A. § 5-71-229; and
- (32) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in A.C.A. §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection.

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

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

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

- (A) An affected applicant for licensure; or
- (B) The person holding a license subject to revocation.

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

- (A) The age at which the crime was committed;
- (B) The circumstances surrounding the crime;
- (C) The length of time since the crime;
- (D) Subsequent work history;
- (E) Employment references;
- (F) Character references; and
- (G) Other evidence demonstrating that the applicant does not pose a

threat to the health or safety of children.

(i) Any information received by the board from the Identification Bureau of the Arkansas State Police pursuant to this section shall not be available for examination except by the affected applicant for licensure, or his authorized representative, or the person whose license is subject to revocation, or his authorized representative. No record, file, or document shall be removed from the custody of the Arkansas State Police.

(j) Any information made available to the affected applicant for licensure or the

person whose license is subject to revocation shall be information pertaining to that person only.

(k) Rights of privilege and confidentiality established herein shall not extend to any document created for purposes other than this background check.

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

SECTION 19. Arkansas Code Annotated § 17-93-303(b), relating to eligibility for licensure of physical therapists, is amended to read as follows:

"(b) Each physical therapist applicant must:

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

(2) Be of good moral character;

(3) Have applied for a criminal background check and have not been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in 17-93-312(f);

~~—————(3)(4) Have been graduated by a school of physical therapy approved by the American Physical Therapy Association; and~~

~~—————(4)(5) Have passed a written examination selected, approved, and administered by the State Examining Committee for Physical Therapists."~~

SECTION 20. Arkansas Code Annotated § 17-93-304(b), relating to eligibility for licensure for physical therapist assistants, is amended to read as follows:

"(b) Each physical therapist assistant applicant must meet the following conditions:

(1) When there is a graduating class from an Arkansas college-level associate degree program approved by the American Physical Therapy Association, graduation from such a program in Arkansas or other program approved by the American Physical Therapy Association will be a requirement for initial licensure, but those who have not completed the examination provision provided for in subdivision (a)(2) of this section shall have one (1) additional opportunity to complete the examination;~~and~~

(2) The applicant must have achieved a satisfactory grade on a proficiency examination selected, approved, and administered by the State Examining Committee for Physical Therapists. A fee as determined by the board must accompany the application; and

(3) The applicant must have applied for a criminal background check and have not been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in 17-93-312(f)."

SECTION 21. Arkansas Code Annotated § 17-93-308, relating to licensure of physical therapists and physical therapist assistants, is amended to read as follows:

"17-93-308. Revocation, suspension, or denial - Grounds.

(a) After due notice and hearing, the board may suspend, revoke, or refuse to renew the license of any person licensed under this chapter, or take other appropriate action against any person licensed under this chapter, who:

- (1) Is habitually drunk or who is addicted to the use of narcotic drugs;
- ~~_____ (2) Has been convicted of violating any state or federal narcotics law;~~
- ~~_____ (3)~~ (2) Is, in the judgment of the board, guilty of immoral or unprofessional conduct;
- ~~_____ (4) Has been convicted of any crime involving moral turpitude;~~
- ~~_____ (5)~~ (3) Is guilty, in the judgment of the board, of gross negligence in his practice;
- ~~_____ (6)~~ (4) Has obtained, or attempted to obtain, registration by fraud or material misrepresentation;
- ~~_____ (7)~~ (5) Has been declared insane by a court of competent jurisdiction and has not thereafter been lawfully declared sane;
- ~~_____ (8)~~ (6) Has treated, or undertaken to treat, ailments of human beings otherwise than by physical therapy and as authorized by this chapter, or has undertaken to practice independent of the referral of a person licensed to practice medicine and surgery without limitation;
- ~~_____ (9)~~ (7) (A) Engages, directly or indirectly, in the division, transferring, assigning, rebating, or refunding of fees received for professional services or gratuity with any physician or health care practitioner who referred a patient, or with any relative or business associate of the referring person, without appropriate disclosure to the patient so referred.

(B) Nothing in this subdivision ~~(a) (9)~~ (a) (7) shall be construed as prohibiting the members of any regularly and properly organized business entity recognized by Arkansas law and composed of physical therapists from making any division of their total fees among themselves as they determine by contract necessary to defray their joint operating costs.

(C) This subdivision ~~(a) (9)~~ (a) (7) shall not apply to any physical therapist employed by a licensed physician on July 15, 1991, during the term of such employment, nor shall it apply to physical therapy positions on the premises of Arkansas licensed hospitals and nursing homes; or

~~_____ (10)~~ (8) Is in violation of any provisions of this chapter or any regulation promulgated by the board.

(b) The board shall refuse to issue or revoke the license of any person who is found guilty of or pleads guilty or nolo contendere to any offense listed in § 17-93-312(f), unless the person requests and the board grants a waiver pursuant to 17-93-312(h).

~~_____ (b)~~ (c) The procedure in all disciplinary actions shall be as prescribed by the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and shall include the power to subpoena documents and people."

SECTION 22. Subchapter 3 of Chapter 93 of Title 17 of the Arkansas Code Annotated is amended by adding the following new section:

"17-93-312. Criminal background checks.

(a) On and after July 1, 1997, each first-time applicant for a license issued by the board shall be required to apply to the Identification Bureau of the Arkansas State Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation.

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

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

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

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

(f) No person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to, or been found guilty of, any of the following offenses by any court in the State of Arkansas, or of any similar offense by a court in another state, or of any similar offense by a federal court:

(1) Capital murder, as prohibited in A.C.A. § 5-10-101;

(2) Murder in the first degree and second degree, as prohibited in A.C.A. §§ 5-10-102 and 5-10-103;

(3) Manslaughter, as prohibited in A.C.A. § 5-10-104;

(4) Negligent homicide, as prohibited in A.C.A. § 5-10-105;

(5) Kidnapping, as prohibited in A.C.A. § 5-11-102;

(6) False imprisonment in the first degree, as prohibited in A.C.A. § 5-11-103;

(7) Permanent detention or restraint, as prohibited in A.C.A. § 5-11-106;

(8) Robbery, as prohibited in A.C.A. § 5-12-102;

(9) Aggravated robbery, as prohibited in A.C.A. § 5-12-103;

(10) Battery in the first degree, as prohibited in A.C.A. § 5-13-201;

(11) Aggravated assault, as prohibited in A.C.A. § 5-13-204;

(12) Introduction of controlled substance into body of another person, as prohibited in A.C.A. § 5-13-210;

(13) Terroristic threatening in the first degree, as prohibited in A.C.A. § 5-13-301;

- (14) Rape and carnal abuse in the first degree, second degree, and third degree, as prohibited in A.C.A. §§ 5-14-103 - 5-14-106;
- (15) Sexual abuse in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-108 and 5-14-109;
- (16) Sexual solicitation of a child, as prohibited in A.C.A. § 5-14-110;
- (17) Violation of a minor in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-120 and 5-14-121;
- (18) Incest, as prohibited in A.C.A. § 5-26-202;
- (19) Offenses against the family, as prohibited in A.C.A. §§ 5-26-303 - 5-26-306;
- (20) Endangering the welfare of incompetent person in the first degree, as prohibited in A.C.A. § 5-27-201;
- (21) Endangering the welfare of a minor in the first degree, as prohibited in A.C.A. § 5-27-203;
- (22) Permitting child abuse, as prohibited in subdivisions (a) (1) and (a) (3) of A.C.A. § 5-27-221;
- (23) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, or pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in A.C.A. §§ 5-27-303, 5-27-304, 5-27-305, 5-27-402, and 5-27-403;
- (24) Felony adult abuse, as prohibited in A.C.A. § 5-28-103;
- (25) Theft of property, as prohibited in A.C.A. § 5-36-103;
- (26) Theft by receiving, as prohibited in A.C.A. § 5-36-106;
- (27) Arson, as prohibited in A.C.A. § 5-38-301;
- (28) Burglary, as prohibited in A.C.A. § 5-39-201;
- (29) Felony violation of the Uniform Controlled Substances Act, as prohibited in A.C.A. § 5-64-401;
- (30) Promotion of prostitution in the first degree, as prohibited in A.C.A. § 5-70-104;
- (31) Stalking, as prohibited in A.C.A. § 5-71-229; and
- (32) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in A.C.A. §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection.

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

(2) Upon receipt of information from the Identification Bureau of the Arkansas State Police that the person holding such letter of provisional licensure has pleaded

guilty or nolo contendere to, or been found guilty of, any offense listed in subsection (f) of this section, the board shall immediately revoke the provisional license.

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

(A) An affected applicant for licensure; or

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

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

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

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

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

(i) Any information received by the board from the Identification Bureau of the Arkansas State Police pursuant to this section shall not be available for examination except by the affected applicant for licensure, or his authorized representative, or the person whose license is subject to revocation, or his authorized representative. No record, file, or document shall be removed from the custody of the Arkansas State Police.

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

(k) Rights of privilege and confidentiality established herein shall not extend to any document created for purposes other than this background check.

(l) The board shall adopt the necessary rules and regulations to fully implement the provisions of this section."

SECTION 23. Arkansas Code Annotated § 17-93-409(b), relating to eligibility for licensure of athletic trainers, is amended to read as follows:

"(b) An applicant for an Arkansas athletic trainer_s license must:

(1) Possess a bachelor_s degree from an accredited college or university;

(2) Meet other curriculum and internship requirements as specified by the board upon recommendation of the committee;

(3) Pass an examination for licensure as designated by the board on recommendation of the committee which is a reliable, valid, legally defensible examination for determining minimum competency in athletic training;

(4) Apply for a criminal background check and not have been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in § 17-93-415(f);

~~_____ (4) (5)~~ Submit appropriate application forms to the board for committee approval; and

~~_____ (5) (6)~~ Pay all appropriate fees."

SECTION 24. Arkansas Code Annotated § 17-93-412, relating to licensure of athletic trainers, is amended to read as follows:

"17-93-412. Revocation, suspension, or denial - Grounds.

(a) The board, on recommendation of the committee, may refuse to issue or renew a license or suspend or revoke a license if an applicant has:

~~_____ (1) Been convicted of a felony or misdemeanor involving moral turpitude, the record of conviction being conclusive evidence of conviction if the board determines after investigation that such person has not been sufficiently rehabilitated to warrant the public trust;~~

~~_____ (2) (1)~~ Secured a license under this subchapter by fraud or deceit; or

~~_____ (3) (2)~~ Violated or conspired to violate this subchapter or rules or regulations issued pursuant to this subchapter.

(b) The board shall refuse to issue or revoke the license of any person who has been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in 17-93-415(f), unless the person requests and the board grants a waiver pursuant to 17-93-415(h).

~~_____ (b) (c) (1)~~ On application, the board may reissue a license to a person whose license has been revoked, but the application may not be made prior to the expiration of a period of one (1) year after the order of revocation has become final.

(2) Such application shall be made in the manner and form required by the board."

SECTION 25. Subchapter 4 of Chapter 93 of Title 17 is amended by adding the following new section:

"17-93-415. Criminal background checks.

(a) On and after July 1, 1997, each first-time applicant for a license issued by the board shall be required to apply to the Identification Bureau of the Arkansas State Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation.

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

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

(d) Upon completion of the criminal background check, the Identification Bureau of the Arkansas State Police shall forward all information obtained concerning the applicant

in the commission of any offense listed in subsection (f) of this section to the board.

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

(f) No person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to, or been found guilty of, any of the following offenses by any court in the State of Arkansas, or of any similar offense by a court in another state, or of any similar offense by a federal court:

(1) Capital murder, as prohibited in A.C.A. § 5-10-101;

(2) Murder in the first degree and second degree, as prohibited in A.C.A. §§ 5-10-102 and 5-10-103;

(3) Manslaughter, as prohibited in A.C.A. § 5-10-104;

(4) Negligent homicide, as prohibited in A.C.A. § 5-10-105;

(5) Kidnapping, as prohibited in A.C.A. § 5-11-102;

(6) False imprisonment in the first degree, as prohibited in A.C.A. § 5-11-103;

(7) Permanent detention or restraint, as prohibited in A.C.A. § 5-11-106;

(8) Robbery, as prohibited in A.C.A. § 5-12-102;

(9) Aggravated robbery, as prohibited in A.C.A. § 5-12-103;

(10) Battery in the first degree, as prohibited in A.C.A. § 5-13-201;

(11) Aggravated assault, as prohibited in A.C.A. § 5-13-204;

(12) Introduction of controlled substance into body of another person, as prohibited in A.C.A. § 5-13-210;

(13) Terroristic threatening in the first degree, as prohibited in A.C.A. § 5-13-301;

(14) Rape and carnal abuse in the first degree, second degree, and third degree, as prohibited in A.C.A. §§ 5-14-103 - 5-14-106;

(15) Sexual abuse in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-108 and 5-14-109;

(16) Sexual solicitation of a child, as prohibited in A.C.A. § 5-14-110;

(17) Violation of a minor in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-120 and 5-14-121;

(18) Incest, as prohibited in A.C.A. § 5-26-202;

(19) Offenses against the family, as prohibited in A.C.A. §§ 5-26-303 - 5-26-306;

(20) Endangering the welfare of incompetent person in the first degree, as prohibited in A.C.A. § 5-27-201;

(21) Endangering the welfare of a minor in the first degree, as prohibited in A.C.A. § 5-27-203;

(22) Permitting child abuse, as prohibited in subdivisions (a) (1) and (a) (3)

of A.C.A. § 5-27-221;

(23) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, or pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in A.C.A.

§§ 5-27-303, 5-27-304, 5-27-305, 5-27-402, and 5-27-403;

(24) Felony adult abuse, as prohibited in A.C.A. § 5-28-103;

(25) Theft of property, as prohibited in A.C.A. § 5-36-103;

(26) Theft by receiving, as prohibited in A.C.A. § 5-36-106;

(27) Arson, as prohibited in A.C.A. § 5-38-301;

(28) Burglary, as prohibited in A.C.A. § 5-39-201;

(29) Felony violation of the Uniform Controlled Substances Act, as prohibited in A.C.A. § 5-64-401;

(30) Promotion of prostitution in the first degree, as prohibited in A.C.A. § 5-70-104;

(31) Stalking, as prohibited in A.C.A. § 5-71-229; and

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

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

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

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

(A) An affected applicant for licensure; or

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

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

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

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

(G) Other evidence demonstrating that the applicant does not pose a

threat to the health or safety of children.

(i) Any information received by the board from the Identification Bureau of the Arkansas State Police pursuant to this section shall not be available for examination except by the affected applicant for licensure, or his authorized representative, or the person whose license is subject to revocation, or his authorized representative. No record, file, or document shall be removed from the custody of the Arkansas State Police.

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

(k) Rights of privilege and confidentiality established herein shall not extend to any document created for purposes other than this background check.

(l) The board shall adopt the necessary rules and regulations to fully implement the provisions of this section."

SECTION 26. Arkansas Code Annotated § 17-97-302(b), relating to eligibility for licensure of psychologists, is amended to read as follows:

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

(A) Is of good moral character;

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

(C) Has had at least one (1) year of experience in psychology of a type considered by the board to be qualifying in nature;

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

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

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

~~_____~~ (G) Has not, within the preceding six (6) months, failed an examination given by the board.

(2) The board may at its discretion accept satisfactory substitute training and experience in lieu of that prescribed in subdivision (b) (1) of this section."

SECTION 27. Arkansas Code Annotated § 17-97-303(b), relating to eligibility for licensure of psychological examiners, is amended to read as follows:

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

(A) Is of good moral character;

(B) Has had two (2) academic years of graduate training in psychology, including a master's degree from an accredited educational institution recognized by the board as maintaining satisfactory standards or, in lieu thereof, such training and experience as the board shall consider equivalent;

(C) Is competent as a psychological examiner as shown by passing such examinations, written or oral, or both, as the board deems necessary;

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

and

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

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

(2) The board may at its discretion accept satisfactory substitute training and experience in lieu of that prescribed in subdivision (b) (1) of this section."

SECTION 28. Arkansas Code Annotated § 17-97-310, relating to licensure of psychologists and psychological examiners, is amended to read as follows:

"17-97-310. Denial, suspension, or revocation - Grounds - Reinstatement.

(a) The Arkansas Board of Examiners in Psychology may refuse to grant a certificate or may recommend suspension of any license for a period to be determined by the board, on the following grounds:

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

~~_____ (2) Conviction of felony;~~

~~_____ (3) (2)~~ The practice of psychology under a false or assumed name or the impersonation of another practitioner of a like or different name;

~~_____ (4) (3)~~ Habitual intemperance in the use of ardent spirits, narcotics, or stimulants to such an extent as to incapacitate the licensee or applicant for the performance of his duties;

~~_____ (5) (4)~~ Violation of the Arkansas Medical Practices Act, § 17-95-201 et seq.;

~~_____ (6) (5)~~ Practice of a level of psychology inappropriate to the particular license held by the licentiate;

~~_____ (7) (6)~~ Upon recommendation of the ethics committee of the Arkansas Psychological Association or of the American Psychological Association; or

~~_____ (8) (7)~~ Negligence or wrongful actions in the performance of his duties.

(b) The board shall refuse to issue or revoke the license of any person who has been

found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in 17-97-312(f), unless the person requests and the board grants a waiver pursuant to 17-97-312(h).

~~—(b)~~ (c) (1) Upon satisfactory proof that any applicant or licentiate has been guilty of any of the above offenses, the board may refuse to grant a certificate to the applicant or may revoke a license of the licentiate upon a vote of at least three (3) members of the board.

(2) An application for reinstatement may be made to the board, and the board may, upon favorable action by three (3) of its members, reinstate the applicant."

SECTION 29. Subchapter 3 of Chapter 97 of Title 17 of the Arkansas Code Annotated, relating to licensure of psychologists and psychological examiners, is amended to read as follows:

"17-97-312. Criminal background checks.

(a) On and after July 1, 1997, each first-time applicant for a license issued by the board shall be required to apply to the Identification Bureau of the Arkansas State Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation.

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

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

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

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

(f) No person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to, or been found guilty of, any of the following offenses by any court in the State of Arkansas, or of any similar offense by a court in another state, or of any similar offense by a federal court:

(1) Capital murder, as prohibited in A.C.A. § 5-10-101;

(2) Murder in the first degree and second degree, as prohibited in A.C.A. §§ 5-10-102 and 5-10-103;

(3) Manslaughter, as prohibited in A.C.A. § 5-10-104;

(4) Negligent homicide, as prohibited in A.C.A. § 5-10-105;

(5) Kidnapping, as prohibited in A.C.A. § 5-11-102;

(6) False imprisonment in the first degree, as prohibited in A.C.A.

§ 5-11-103;

(7) Permanent detention or restraint, as prohibited in A.C.A. § 5-11-106;

(8) Robbery, as prohibited in A.C.A. § 5-12-102;

(9) Aggravated robbery, as prohibited in A.C.A. § 5-12-103;

(10) Battery in the first degree, as prohibited in A.C.A. § 5-13-201;

(11) Aggravated assault, as prohibited in A.C.A. § 5-13-204;

(12) Introduction of controlled substance into body of another person, as prohibited in A.C.A. § 5-13-210;

(13) Terroristic threatening in the first degree, as prohibited in A.C.A.

§ 5-13-301;

(14) Rape and carnal abuse in the first degree, second degree, and third degree, as prohibited in A.C.A. §§ 5-14-103 - 5-14-106;

(15) Sexual abuse in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-108 and 5-14-109;

(16) Sexual solicitation of a child, as prohibited in A.C.A. § 5-14-110;

(17) Violation of a minor in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-120 and 5-14-121;

(18) Incest, as prohibited in A.C.A. § 5-26-202;

(19) Offenses against the family, as prohibited in A.C.A. §§ 5-26-303 - 5-26-306;

(20) Endangering the welfare of incompetent person in the first degree, as prohibited in A.C.A. § 5-27-201;

(21) Endangering the welfare of a minor in the first degree, as prohibited in A.C.A. § 5-27-203;

(22) Permitting child abuse, as prohibited in subdivisions (a) (1) and (a) (3) of A.C.A. § 5-27-221;

(23) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, or pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in A.C.A. §§ 5-27-303, 5-27-304, 5-27-305, 5-27-402, and 5-27-403;

(24) Felony adult abuse, as prohibited in A.C.A. § 5-28-103;

(25) Theft of property, as prohibited in A.C.A. § 5-36-103;

(26) Theft by receiving, as prohibited in A.C.A. § 5-36-106;

(27) Arson, as prohibited in A.C.A. § 5-38-301;

(28) Burglary, as prohibited in A.C.A. § 5-39-201;

(29) Felony violation of the Uniform Controlled Substances Act, as prohibited in A.C.A. § 5-64-401;

(30) Promotion of prostitution in the first degree, as prohibited in A.C.A.

§ 5-70-104;

(31) Stalking, as prohibited in A.C.A. § 5-71-229; and

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

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

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

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

(A) An affected applicant for licensure; or

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

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

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

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

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

(i) Any information received by the board from the Identification Bureau of the Arkansas State Police pursuant to this section shall not be available for examination except by the affected applicant for licensure, or his authorized representative, or the person whose license is subject to revocation, or his authorized representative. No record, file, or document shall be removed from the custody of the Arkansas State Police.

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

(k) Rights of privilege and confidentiality established herein shall not extend to any document created for purposes other than this background check.

(l) The board shall adopt the necessary rules and regulations to fully implement the provisions of this section."

licensure of speech-language pathologists and audiologists, is amended to read as follows:

"17-100-302. Eligibility.

(a) The board shall issue a license to any person who meets the requirements of this chapter and pays to the board the initial license fee prescribed in § 17-100-308.

(b) To be eligible for licensure by the board as a speech-language pathologist or audiologist, a person shall:

(1) Be of good moral character;

(2) Have applied for a criminal background check and have not been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in § 17-100-309(f);

~~_____ (2) (3)~~ Possess at least a master's degree in the area of speech-language pathology or audiology, as the case may be, from an educational institution recognized by the board;

~~_____ (3) (4)~~ Submit evidence of the completion of the educational, clinical experience, and employment requirements, which shall be based on appropriate national standards and prescribed by the rules and regulations adopted pursuant to this chapter; and

~~_____ (4) (5)~~ Pass an examination approved by the board. This examination may be taken either before or after the completion of the employment requirement specified pursuant to subdivision ~~(b) (3)~~ (b) (4) of this section.

(c) The board shall issue a provisional license to any person who meets the requirements of this chapter, submits the appropriate application, and pays to the board the initial license fee prescribed in § 17-100-308.

(d) To be eligible for provisional licensure by the board as a speech-language pathologist or audiologist, a person shall:

(1) Be of good moral character;

(2) Have applied for a criminal background check and not been found guilty of or pleaded or guilty or nolo contendere to any of the offenses listed in §17-100-309(f);

~~_____ (2) (3)~~ Possess at least a master's degree in the area of speech-language pathology or audiology, as the case may be, from an educational institution recognized by the board;

~~_____ (3) (4)~~ Be in the process of completing the postgraduate professional experience requirement; and

~~_____ (4) (5)~~ Pass an examination approved by the board.

(e) The purpose of a provisional license is to permit a person to practice speech-language pathology or audiology while completing the postgraduate professional experience as required by this chapter. A person holding a provisional license is authorized to practice speech-language pathology or audiology only while working under the supervision of a person fully licensed by this state in accordance with this chapter.

(f) The board shall have the authority to adopt rules and regulations regarding the

term and conditions for which a provisional license is granted."

SECTION 31. Arkansas Code Annotated § 17-100-307, pertaining to licensure of speech-language pathologists and audiologists, is amended to read as follows:

"17-100-307. Denial, suspension, revocation, or other disciplinary action - Reinstatement.

(a) The board may refuse to issue or renew a license, or may suspend or revoke a license, where the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct may result from, but not necessarily be limited to:

(1) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;

(2) Being guilty of unprofessional conduct as defined by the rules established by the board or violating the code of ethics adopted and published by the board;

~~(3) Being convicted of a felony in any court of the United States if the acts for which the licensee or applicant is convicted are found by the board to have a direct bearing on whether he should be entrusted to serve the public in the capacity of a speech pathologist or audiologist.~~

~~(A) A plea or verdict of guilty made to a charge of a felony or of any offense involving moral turpitude is a conviction within the meaning of this section.~~

~~(B) At the direction of the board, and after due notice and administrative hearing in accordance with the provisions of applicable Arkansas laws, the license of the person so convicted shall be suspended or revoked or the board shall decline to issue a license when:~~

~~(i) The time for appeal has elapsed;~~

~~(ii) The judgment of conviction has been affirmed on appeal; or~~

~~(iii) An order granting probation has been made suspending the imposition of sentence, without regard to a subsequent order under the provisions of state law allowing the withdrawal of a guilty plea and the substitution of a not guilty plea, or the setting aside of a guilty verdict, or the dismissal of the acquisition, information, or indictment;~~

~~(4)(3) Violating any lawful order, rule, or regulation rendered or adopted by the board; or~~

~~(5)(4) Violating any provision of this chapter.~~

~~(b) The board shall deny any application for, or issue a letter of reprimand, or censure, suspend, revoke, or impose probationary conditions upon, the license or licensee as ordered by the board in any decision made after a hearing as provided in this chapter.~~

(b) The board shall refuse to issue or revoke the license or provisional license of

any person who has been found guilty of or pleaded guilty or nolo contendere to any of the offenses listed in 17-100-309(f), unless the person requests and the board grants a waiver pursuant to 17-100-309(h).

(c) One (1) year from the date of revocation of a license under this section, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may require an examination for reinstatement."

SECTION 32. Subchapter 3 of Chapter 100 of Title 17 of the Arkansas Code Annotated, relating to licensure of speech-language pathologists and audiologists, is amended by adding the following new section:

"17-100-309. Criminal background checks.

(a) On and after July 1, 1997, each first-time applicant for a license issued by the board shall be required to apply to the Identification Bureau of the Arkansas State Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation.

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

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

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

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

(f) No person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to, or been found guilty of, any of the following offenses by any court in the State of Arkansas, or of any similar offense by a court in another state, or of any similar offense by a federal court:

(1) Capital murder, as prohibited in A.C.A. § 5-10-101;

(2) Murder in the first degree and second degree, as prohibited in A.C.A. §§ 5-10-102 and 5-10-103;

(3) Manslaughter, as prohibited in A.C.A. § 5-10-104;

(4) Negligent homicide, as prohibited in A.C.A. § 5-10-105;

(5) Kidnapping, as prohibited in A.C.A. § 5-11-102;

(6) False imprisonment in the first degree, as prohibited in A.C.A. § 5-11-103;

(7) Permanent detention or restraint, as prohibited in A.C.A. § 5-11-106;

- (8) Robbery, as prohibited in A.C.A. § 5-12-102;
- (9) Aggravated robbery, as prohibited in A.C.A. § 5-12-103;
- (10) Battery in the first degree, as prohibited in A.C.A. § 5-13-201;
- (11) Aggravated assault, as prohibited in A.C.A. § 5-13-204;
- (12) Introduction of controlled substance into body of another person, as prohibited in A.C.A. § 5-13-210;
- (13) Terroristic threatening in the first degree, as prohibited in A.C.A. § 5-13-301;
- (14) Rape and carnal abuse in the first degree, second degree, and third degree, as prohibited in A.C.A. §§ 5-14-103 - 5-14-106;
- (15) Sexual abuse in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-108 and 5-14-109;
- (16) Sexual solicitation of a child, as prohibited in A.C.A. § 5-14-110;
- (17) Violation of a minor in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-120 and 5-14-121;
- (18) Incest, as prohibited in A.C.A. § 5-26-202;
- (19) Offenses against the family, as prohibited in A.C.A. §§ 5-26-303 - 5-26-306;
- (20) Endangering the welfare of incompetent person in the first degree, as prohibited in A.C.A. § 5-27-201;
- (21) Endangering the welfare of a minor in the first degree, as prohibited in A.C.A. § 5-27-203;
- (22) Permitting child abuse, as prohibited in subdivisions (a) (1) and (a) (3) of A.C.A. § 5-27-221;
- (23) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, or pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in A.C.A. §§ 5-27-303, 5-27-304, 5-27-305, 5-27-402, and 5-27-403;
- (24) Felony adult abuse, as prohibited in A.C.A. § 5-28-103;
- (25) Theft of property, as prohibited in A.C.A. § 5-36-103;
- (26) Theft by receiving, as prohibited in A.C.A. § 5-36-106;
- (27) Arson, as prohibited in A.C.A. § 5-38-301;
- (28) Burglary, as prohibited in A.C.A. § 5-39-201;
- (29) Felony violation of the Uniform Controlled Substances Act, as prohibited in A.C.A. § 5-64-401;
- (30) Promotion of prostitution in the first degree, as prohibited in A.C.A. § 5-70-104;
- (31) Stalking, as prohibited in A.C.A. § 5-71-229; and

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

(g) (1) The board may issue a six-month nonrenewable letter of temporary eligibility for licensure to a first-time applicant pending the results of the criminal background check.

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

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

(A) An affected applicant for licensure; or

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

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

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

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

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

(i) Any information received by the board from the Identification Bureau of the Arkansas State Police pursuant to this section shall not be available for examination except by the affected applicant for licensure, or his authorized representative, or the person whose license is subject to revocation, or his authorized representative. No record, file, or document shall be removed from the custody of the Arkansas State Police.

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

(k) Rights of privilege and confidentiality established herein shall not extend to any document created for purposes other than this background check.

(l) The board shall adopt the necessary rules and regulations to fully implement the provisions of this section."

AND

by appropriately renumbering the subsequent sections of the bill;

AND

by deleting lines 1 through 6 of page 35 and substituting the following:

"health and safety shall become effective on October 1, 1997.".