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STATE OF ARKANSAS

BOARD OF EXAMINERS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

Pursuant to the authority vested in the State Board of Examiners in Speech-Language Pathology and Audiology, the said Board has promulgated and, by these presents, does hereby publish Rules ~~and Regulations~~ of the State Board of Examiners in Speech-Language Pathology and Audiology as authorized by Section 4 Act 277 of 1975 (Ark. Code Ann. § 17-100-202).

EFFECTIVE: ~~September 26, 2015~~
AUGUST 1, 2020

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SECTION 1. ORGANIZATION AND PROCEDURES OF THE BOARD

- 1.1 The officers of the Board shall consist of a Chair, Vice Chair, and Treasurer. Officers shall be elected by members, with elections to be held annually during the first sixty (60) days of each fiscal year.
- 1.2 Committees shall be appointed by the Chair when such appointments are necessary.
- 1.3 The Board shall hold at least four (4) meetings annually, one (1) within sixty (60) days of the beginning of the fiscal year and one (1) before the end of the calendar year, at a time and place designated by the Chair. Additional meetings may be called by the Chair or upon a vote of the majority of the members. The Chair shall designate the date, time, and place of each meeting of the Board. Notice of the time and place of each additional meeting shall be transmitted to the Board members and the press by the Chair at least fifteen (15) days before the meeting is to be held. When the Chair or a majority of the members calls a meeting under special circumstances, direct oral or telephone notification shall be given by the Chair as soon as practical, pursuant to the Arkansas Freedom of Information Act, before the meeting is to be held.
- 1.4 Each Board member shall receive per diem and travel allowance as permitted by applicable state law to attend Board meetings and to conduct the official business of the Board.
- 1.5 Ark. Code Ann. § 25-15-201 et seq. shall govern the Board in all matters in which it is applicable.
- 1.6 All communications directed to the Board must be in written form, as a matter of record, before official consideration will be given to any issue, request, or submission to the Board.
- 1.7 The Board shall have such forms as are required for the discharge of its responsibilities.
- 1.8 Following July 1 each year the Board shall publish complete lists of the names of all ABESPA licensed speech-language pathologists and audiologists.
- 1.9 All applicants shall ~~receive copies have access to of~~ the statutes and rules ~~and regulations~~ concerning ethical standards of practice and procedures established by the Board. ~~All licensed speech-language pathologists and audiologists shall have access to any amendments.~~

SECTION 2. REQUIREMENTS AND QUALIFICATIONS FOR APPLICATION AND LICENSURE

- 2.1 Ark. Code Ann. § 17-100-301 provides for licensure in either Speech-Language Pathology or Audiology independently.
- 2.2 To be licensed in speech-language pathology, an individual must have appropriate academic training and clinical experience in speech-language pathology; to be licensed in audiology, an individual must have appropriate academic training and clinical experience in audiology. Persons in the process of completing the clinical fellowship experience are eligible for provisional licensure only.
- 2.3 To receive licensure in both areas, an individual must have appropriate academic training and clinical experience in each area. A degree in "speech-language and hearing" or "communicative disorders" does not, in itself, qualify an individual for licensure in both areas.
- 2.4 Persons desiring licensure or provisional licensure may obtain the necessary application form

from the Arkansas State Board of Examiners in Speech-Language Pathology and Audiology. The application must be accompanied by the non-refundable application fee.

- 2.5 Persons entering the practice of speech-language pathology and/or audiology are required to submit the application for licensure within the first 30 days of beginning practice. The Board shall then review and act upon the application at the next regular Board meeting.
- A. Any applicant who has submitted the completed application form, the application fee, and a copy of the current American Speech-Language-Hearing Association (ASHA) certified member card or a letter from ASHA specifying the date of certification and expiration date may legally practice until action is taken on the application at the next scheduled Board meeting.
 - B. Any applicant for provisional licensure who has submitted the completed application form, the application fee, and the plan for completion of the clinical fellowship experience signed by a supervisor who holds a valid Arkansas license in Speech-Language Pathology or Audiology may legally practice until action is taken on the application at the next scheduled Board meeting.
 - C. Any applicant for a license in Audiology who has submitted the completed application form, the application fee and either a copy of the current certified member card or a letter from ASHA specifying the date of certification and expiration date may legally practice until action is taken on the application at the next scheduled Board meeting. In addition, any applicant for a license in audiology who has submitted the completed application form, the application fee, and either a letter from or The American Board of Audiology specifying the date of acceptance for certification and expiration may legally practice until action is taken on the application at the next scheduled Board meeting.
 - D. Any applicant for a license in Audiology who has submitted the completed application form, the application fee, and letter from the university verifying completion of the Au.D. may legally practice until action is taken on the application at the next scheduled Board meeting.
- 2.6 Applicants for licensure in both speech-language pathology and audiology shall be required to submit a separate application for each area with the appropriate fee for each.
- 2.7 Applicants for licensure must hold a master's or doctoral degree in communicative disorders (speech language pathology or audiology) which encompasses the specific educational requirements equal to those required by a national speech-language pathology and/or audiology accrediting body recognized by the United States Department of Education.
- A. The applicant shall submit official transcripts (undergraduate/graduate/doctoral) from one or more accredited colleges or universities denoting degree conferral. Transcripts should be sent directly to the Board office from each college or university.
 - B. Until the official transcript is available from the university, the Board will accept a statement signed by the university program director verifying completion of academic and clinical practicum requirements for the degree in speech-language pathology or audiology. The statement must include the date of degree conferral.

- 2.8 The Board will accept proof of ASHA Certificate of Clinical Competence granted since January 1, 1993, as evidence of the required degree (Section 2.7). This may be a letter verifying the date of certification from the American Speech-Language-Hearing Association.
- 2.9 Applicants for a license in audiology who have not obtained a doctorate in audiology, but hold a ~~masters~~ master's degree shall submit evidence of no less than 36 weeks of full-time professional experience or its part-time equivalent. This experience must be obtained under the supervision of one or more audiologists who are licensed.
- 2.10 Pursuant to Ark. Code Ann. § 17-100-302, each applicant for a license in speech-language pathology shall submit evidence of no less than 36 weeks of full-time professional experience or its part-time equivalent in the area for which a license is requested. This experience must be obtained under the supervision of one or more speech-language pathologists who are licensed under the Act.
- A. This supervision must entail the personal and direct involvement of the supervisor in any and all ways that will permit him/her to evaluate the applicant's performance in professional clinical employment and must include some direct observation. The applicant and his/her supervisor must list and describe the methods of supervision employed. Specific information should be given regarding the professional activities supervised, the number of supervisory contacts per month, and the length of each supervisory contact. This experience must follow completion of the requirements listed in Ark. Code Ann. § 17-100-302.
- B. 36 weeks of full-time (35 hours per week) experience (or the equivalent part-time experience), totaling a minimum of 1260 hours. Part-time work can be completed, as long as the clinical fellow works more than 5 hours per week. Working more than 35 hours per week will not shorten the minimum requirement of 36 weeks.
- C. "Professional experience" shall be defined as direct clinical work with clients, consultation with parents or family, record keeping related to client care, and any other duties relevant to a clinical program in speech-language pathology and/or audiology. Time spent in administration, formal teaching, and research shall not be considered "professional employment" in this context.
- 2.11 PROVISIONAL LICENSURE:
Persons who are in the process of completing the professional experience are eligible for provisional licensure only. **Application must be made within thirty days of beginning the professional experience.** A provisional license is renewable annually, but will expire and shall not be renewed after 36 months from the initiation of the professional experience. Each provisional licensee shall submit evidence of completion of the professional experience, signed by applicant and supervisor. Upon successful completion of the professional experience and written notification, the provisional status will be removed. Provisional licensees are entitled to all the rights and privileges of persons holding a license without provisional status except they must be supervised as outlined under Section 2.10.
- 2.12 The Board designates the professional area examination in Speech-Language Pathology or the professional area examination in Audiology, offered as part of the National Examination in Speech-Language Pathology and Audiology by the Educational Testing Service (ETS), Princeton, New Jersey 08540, as the State Licensure Examination for Speech-Language Pathologists and

Audiologists, respectively. The Board has set a passing score for the professional area examination of 600 if taken prior to September 1, 2014. If taken after that date the passing score for speech-language pathology is 162 and 170 for audiology. The Board shall periodically review, and may alter pass-fail criteria of scores on the examination approved by the Board. Arrangements and fees for all examinations are the responsibility of the applicant. It shall be the responsibility of the applicant to assure that his/her score in the appropriate area examination is made available by ETS to the Board. The Board may defer a decision on an application until it has considered the examination score.

- 2.13 The Board may waive the examination and grant a license to any applicant who is certified by either holds the Certificate of Clinical Competence of the American Speech-Language-Hearing Association or the American Board of Audiology in the area for which s/he is applying for licensure, provided that the current requirements for such certification are equivalent to or greater than those for licensure under the Act. It shall be the responsibility of the applicant to furnish proof of his/her ~~ASHA~~ certification to the Board. This may be a clear photocopy of the certified member card or its current equivalent. ~~An applicant for licensure in audiology may provide a letter from either The American Academy of Audiology or The American Board of Audiology in lieu of the ASHA Certificate in Clinical Competence provided the requirements for certification in these organizations are equivalent to or greater than those for licensure under the Act.~~
- 2.14 An applicant for licensure under the reciprocity provision of the Ark. Code Ann. § 17-100-304 may be so licensed if s/he possesses a current license in speech-language pathology and/or audiology from another state which maintains professional standards considered by the Board to be equivalent to those set forth in the Act. Evidence of such licensure shall be provided by the applicant and ~~substantiated-verified~~ by the Board's staff.
- 2.15 Oral interviews may be required under the provisions of these Rules ~~and Regulations~~.
- 2.16 An applicant licensed in another state shall provide verification of good standing from the licensing Board of every state where currently ~~or~~ and previously licensed.

2.17 Pre-Licensure Criminal Background Check

- A. Pursuant to Act 990 of 2019, an individual may petition for a pre-licensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained. The individual must obtain the pre-licensure criminal background check petition form from the Board.
- B. The Board's Director will respond with a decision in writing to a completed petition within a reasonable time.
- C. The response will state the reasons for the decision.
- D. All decisions in response to the petition will be determined by the information provided by the individual.
- E. Any decision made in response to a pre-licensure criminal background check petition is not subject to appeal.
- F. The Board will retain a copy of the petition and response and it will be reviewed during the formal application process.

2.18. Waiver Request

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

2.19. Automatic Licensure for Military

- A. i. “Automatic licensure” means the granting of occupational licensure without an individual's having met occupational licensure requirements provided under Title 17 of the Arkansas Code or by this rule.
 - ii. As used in this subsection, “returning military veteran” means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.
- B. The Board shall grant automatic licensure to an individual who holds a substantially equivalent license in good standing in another U.S. jurisdiction and is:
 - i. An active duty military service member stationed in the State of Arkansas;
 - ii. A returning military veteran applying for licensure within one (1) year of his or discharge from active duty; or
 - iii. The spouse of a person under 2.19.B.i. or ii.
- C. The Board shall grant such automatic licensure upon receipt of all of the below:
 - i. Payment of the initial licensure fee;
 - ii. Evidence that the individual holds a substantially equivalent license in good standing in

- another state; and
iii. Evidence that the applicant is a qualified applicant under 2.19.B.

SECTION 3. PROCESSING OF APPLICATIONS

- 3.1 All application materials for licensure, accompanied by the non-refundable application fee, shall be submitted to the Board office.
- 3.2 ~~A quorum of the Board as required by Ark. Code Ann. § 17-100-203 shall deliberate on each application for licensure. Action on the application shall require a majority vote of the members present. To expedite the licensure process, the Board delegates to its Director the authority to issue licenses to applicants who meet the requirements of the Board's statutes and rules. When necessary, the Director may refer certain applications to the Board for decision.~~

SECTION 4. FEES

- 4.1 Application fee: ~~\$140.00~~ \$100.00

A non-refundable application fee (see Ark. Code Ann. § 17-100-303) of one hundred ~~forty~~ dollars (~~\$140.00~~ 100.00) shall be submitted with each application for licensure.

- 4.2 Renewal Fee: \$ ~~80.00~~ 60.00 or ~~\$120.00~~ 85.00 dual licensure
The renewal fee of a single license shall be ~~eighty-sixty~~ (~~\$80.00~~ 60.00) annually or ~~one hundred twenty dollars~~ (~~\$120.00~~) ~~eighty-five~~ (\$85.00) for dual licensure. The license expires at midnight on June 30 of each year. Failure to pay the renewal fee on or before July 15 ~~of the current licensure period~~ shall render the license invalid Ark. Code Ann. § 17-100-305. It is the responsibility of each licensee to remit his/her renewal fee even if s/he fails to receive a renewal notice.

- 4.3 Late renewal penalty:

- A. The late renewal penalty shall be: ~~one hundred dollars (\$100.00), effective July 16, two hundred dollars (\$200.00) effective August 16, three hundred dollars (\$300.00) effective September 16, four hundred dollars (\$400.00) effective October 16, five hundred dollars (\$500.00) effective November 16. The late fee shall not exceed five hundred dollars (\$500.00) Ark. Code Ann. § 17-100-308.~~

\$100 if renewed between July 16 – December 31 of the year of expiration;

\$200 if renewed between January 1 – July 15 of the year of expiration;

\$300 if renewed on or after July 16 of the year following expiration.

- B. Licenses shall be renewed within two (2) years of expiration upon payment of the renewal fee and the late renewal penalty ~~Ark. Code Ann. § 17-100-305~~. After that period, and for the next three (3) years, renewal is subject to Board review and payment of the renewal fee and the late renewal penalty.
- C. After five (5) years of the initial expiration, the license ~~is not subject to renewal~~ shall not be

renewed, per Ark. Code Ann. § 17-100-305, and the individual must apply for a new license.

- D. ~~Licenses renewed after July 15 in the year of expiration will be effective the day after postmark. (Also see Section 6.1)~~ The individual shall not engage in the practice of speech-language pathology or audiology until the license is renewed.

4.4 Inactive Status/Reactivation fee(s): \$40.00

- A. A one-time fee of forty dollars (\$40.00) shall be charged a speech-language pathologist or audiologist, otherwise qualified and licensed by the Board, to place his/her license on inactive status. If inactive status is requested more than 30 days after expiration, late fees apply as set out in Section 4.3. Request for inactive status must be made to the Board in writing. The individual shall not engage in the practice of speech-language pathology and/or audiology ~~in a non-exempt facility~~ in Arkansas while his/her license is inactive.
- B. An individual wishing to regain active status shall ~~notify the Board in writing, submit documentation of CPEs for each year the license was inactive (maximum of 50 hours for a single license or 75 hours for dual licensure), provide the information required by Section 6.1~~ and submit the balance (\$40) of the full renewal fee. Applicant may not resume practice until s/he receives notification of reactivation from the Board office.

4.5 Fees related to continuing education-See Section 9.7

SECTION 5. LICENSES

- 5.1 The license, renewable annually, Ark. Code Ann. § 17-100-305, in speech-language pathology and/or audiology shall be issued to all applicants who meet the requirements for licensure under the provisions of the Act and who pay to the Board the prescribed license fees.
- 5.2 Licenses expire at 12 midnight on June 30th of each year if not renewed. Payment and continuing education (if required) must be postmarked or submitted through the website no later than July 15 or the individual must cease practice until written notification of license renewal is received from the Board.
- 5.3 The speech-language pathologist and/or audiologist shall practice under the provisions of the Act only in the professional areas (s) in which s/he is licensed by the Board.
- 5.4 Pursuant to Ark. Code Ann. § 17-100-107, the Board will take legal action against any person not licensed by the Board, or any licensee who engages in the practice of speech-language pathology or audiology as herein defined in violation of state law and rules ~~and regulations~~ of this Board.
- 5.5 Licenses are the property of the Board. Any licensee whose license is suspended or revoked under the provisions of Ark. Code Ann. § 17-100-307 shall return the license to the Board.

SECTION 6. INACTIVE STATUS, OR REACTIVATION ~~OR REINSTATEMENT~~

- 6.1 Individuals who have inactive status and who are seeking reactivation ~~or reinstatement~~ of a

license shall, prior to engaging in the practice of speech-language pathology or audiology in the State of Arkansas, satisfy the following requirements:

- A. Submit a written letter of request for reactivation ~~or reinstatement~~.
- B. Furnish evidence of completion of the number of hours of acceptable continuing professional education (CPE) computed by multiplying ten (10) times the number of years the licensee has held an inactive or invalid license, not to exceed 50 hours or if dually licensed fifteen (15) hours times the number of years the licensee held an inactive ~~or invalid~~ license, not to exceed seventy- five (75) hours. At least half of the hours must be in Content I.
- C. Pay appropriate fees stated in Section 4.4.
- D. Submit a letter of good standing from any other jurisdiction in which the individual has been practicing while on inactive status. The Board may verify an applicant's standing online or via telephone.

6.2 An individual who meets the conditions established in A.C.A. § 17-1-107 and can demonstrate that the individual passed the applicable examination(s) with scores sufficient for licensure at the time the individual's initial license was issued shall not be required to re-take the examination(s) in order to be licensed.

SECTION 7. DISCIPLINARY ACTION

- 7.1 The license of any speech-language pathologist, speech-language pathology assistant, or audiologist may be suspended or revoked by the Board upon proof that s/he has violated any part of Ark. Code Ann. § 17-100-307.
- 7.2 The Board shall follow the provisions of the Administrative Procedures Act in ~~investigating any charges brought~~ bringing disciplinary action against a licensed speech-language pathologist, ~~or audiologist~~, or speech-language pathology assistant.
- 7.3 Charges against a licensed speech-language pathologist, speech-language pathology assistant, or audiologist shall be in the form of a written statement describing the specific violations of ethical practice, or of the provisions of the Act, or of these Rules ~~and Regulations~~. The statement must be signed and filed with the Board office.
- 7.4 The individual against whom a charge has been filed shall have the right to appear before the Board in person or by counsel. S/he may present witnesses and evidence in his/her behalf and examine witnesses.
- 7.5 If, after a hearing, the Board determines that the individual has committed any act which constitutes grounds for disciplinary action, the Board may:
 - a. Refuse to issue or renew a license;
 - b. Revoke a license;
 - c. Suspend a license;
 - d. ~~Administer Issue~~ a public-reprimand;
 - e. Impose a civil penalty not to exceed \$1,000.00 per infraction;

- f. Require additional continuing education in a specified area;
- g. Require community service hours in a specified field;
- h. Impose sanctions pursuant to other applicable state laws.

- 7.6 To suspend or revoke a license, a majority of the Board members present must vote in favor of that action.
- 7.7 The individual charged shall be notified of any Board decision(s) by certified or registered mail immediately following the conclusion of the proceedings. Upon suspension or revocation of a license, the license must be returned to the Board.
- 7.8 When an individual's license has been suspended or revoked, the Board may take legal action to enforce its decision.
- 7.9 No sooner than five (5) years after the date of revocation of a license, a person may again apply for licensure. The Board may accept or reject an application for licensure and may impose additional requirements. ~~To reinstate a license, a majority of the Board members present must vote in favor of that action.~~
- ~~7.10 This article applies to SLP Assistants and SLP Aides as provided by Section 13.17~~

~~7.11~~ 7.10 In order for a licensee to complete a penalty of community service as a sanction, the following restrictions must be applied:

- A. The total number of hours of assigned service must be documented by the person supervising the site where the service was performed.
- B. The site where community service is provided must be separate from the licensee's place of business.
- C. The Board reserves the right to evaluate and either accept or reject the documented hours presented to them as evidence of completion of the punishment as judged by the restrictions above.
- D. Minor infractions of the ABESPA law or Rules ~~and Regulations~~ may be removed from the licensee's record after two (2) years. Minor infractions include, but are not limited to, failure to apply within 30 days of beginning practice, failure to respond to a request for information within the required time, or practicing without a license following expiration if renewed within 30 days or less. Any sanction which includes revocation of the license shall remain on the licensee's record.

SECTION 8. CODE OF ETHICS

Preamble

The preservation of the highest standards of integrity and ethical principles is vital to the responsible discharge of obligations in the professions of speech-language pathology and audiology. This code of ethics sets forth the fundamental principles and rules considered essential to this purpose.

Every licensee and applicant shall abide by this Code of Ethics. Any action that violates the spirit and purpose of this Code shall be considered unethical. Failure to specify any particular responsibility or practice in this Code of Ethics shall not be construed as denial of the existence of such responsibilities or practices.

The fundamentals of ethical conduct are described by Principles of Ethics and by Rules of Ethics as they relate to responsibility to persons served, to the public, and to the professions of speech-language pathology and audiology.

Principles of Ethics, aspirational and inspirational in nature, form the underlying moral basis for the Code of Ethics. Individuals shall observe these principles as affirmative obligations under all conditions of professional activity.

Rules of Ethics are specific statements of minimally acceptable professional conduct or of prohibitions and are applicable to all individuals.

8.1 Principle of Ethics I:

Individuals shall honor their responsibility to hold paramount the welfare of persons they serve professionally.

Rules of Ethics

- A. Individuals shall provide all clinical services and scientific activities competently.
- B. Individuals shall use every resource, including referral and/or interprofessional collaboration when appropriate, to ensure that ~~high~~-quality service is provided.
- C. Individuals shall not discriminate in the delivery of professional services or in the conduct of research and scholarly activities on the basis of race or ethnicity, sex, gender identity/gender expression, age, religion, national origin, sexual orientation, ~~or~~ disability, culture, language, or dialect.
- D. Individuals shall not misrepresent the credentials of aides, assistants, technicians, ~~or~~ support personnel, students, research interns, Clinical Fellows, or any others under their supervision, and they shall inform those they serve professionally of the name, role, and professional credentials of persons providing services.
- ~~E. Individuals shall fully inform the persons they serve of the nature and possible effects of services rendered and products dispensed.~~
- ~~E. Individuals who hold an Arkansas license may delegate tasks related to the provision of clinical services to aides, assistants, technicians, support personnel, or any other persons only if those persons are adequately prepared and are appropriately supervised. The responsibility for the welfare of those being served remains with the licensed individual.~~
- ~~F. Individuals who hold an Arkansas license shall not delegate tasks that require the unique skills, knowledge, judgment, or credentials that are within the scope of their profession to aides, assistants, technicians, support personnel, or any nonprofessionals over whom they have supervisory responsibility.~~

- G. Individuals who hold an Arkansas license may delegate to students tasks related to the provision of clinical services that require the unique skills, knowledge, and judgment that are within the scope of practice of their profession only if those students are adequately prepared and are appropriately supervised. The responsibility for the welfare of those being served remains with the licensed individual.
- H. Individuals shall obtain informed consent from the persons they serve about the nature and possible risks and effects of services provided, technology employed, and products dispensed. This obligation also includes informing persons served about possible effects of not engaging in treatment or not following clinical recommendations. If diminished decision-making ability of persons served is suspected, individuals should seek appropriate authorization for services, such as authorization from a spouse, other family member, or legally authorized/appointed representative.
- I. Individuals shall enroll and include persons as participants in research or teaching demonstrations only if participation is voluntary, without coercion, and with informed consent.
- J. Individuals shall accurately represent the intended purpose of a service, product, or research endeavor and shall abide by established guidelines for clinical practice and the responsible conduct of research.
- ~~F.K.~~ Individuals who hold an Arkansas license shall evaluate the effectiveness of services rendered provided, technology employed, and of products dispensed, and they shall provide services or dispense products only when benefit can reasonably be expected.
- ~~G.—L.~~ Individuals may make a reasonable statement of prognosis, but they shall not guarantee ~~the results of any treatment or procedure~~, directly or by implication; ~~the results of any treatment or procedure.~~ however, they may make a reasonable statement of prognosis.
- M. Individuals who hold an Arkansas license shall use independent and evidence- based clinical judgment, keeping paramount the best interests of those being served.
- ~~H. N.~~ Individuals who hold an Arkansas license shall not provide clinical services solely by evaluate or treat speech, language, or hearing disorders solely by correspondence, but may provide services via telepractice consistent with this rule, professional standards, and state and federal laws.
- O. Individuals shall protect the confidentiality and security of records of professional services provided, research and scholarly activities conducted, and products dispensed. Access to these records shall be allowed only when doing so is necessary to protect the welfare of the person or of the community, is legally authorized, or is otherwise required by law.
- P. Individuals shall protect the confidentiality of any professional or personal information about

persons served professionally or participants involved in research and scholarly activities and may disclose confidential information only when doing so is necessary to protect the welfare of the person or of the community, is legally authorized, or is otherwise required by law.

- ~~I. Q.~~ Individuals shall maintain timely records and accurately record and bill for services provided
~~adequate documentation regarding diagnosis and intervention, and contact time of professional services rendered, and products dispensed and shall-~~ not misrepresent services provided, products dispensed, or research and scholarly activities conducted. ~~allow access to these records when appropriately authorized.~~
- ~~J.~~ Individuals shall ~~not reveal, without authorization, any professional or personal information about the person served professionally, unless required by law to do so, or unless doing so is necessary to protect the welfare of the person or the community.~~
- ~~K.~~ Individuals shall ~~not charge for services not rendered, nor shall they misrepresent, in any fashion, services rendered or products dispensed. For purposes of this Code of Ethics, misrepresentation includes any untrue statement or statements that are likely to mislead. Misrepresentation also includes the failure to state any information that is material and that ought, in fairness, to be considered.~~
- ~~L.~~ Individuals shall ~~use persons in research or as subjects of teaching demonstrations only with their informed consent.~~
- R. M. Individuals whose professional ~~services are~~practice is adversely affected by substance abuse, addiction, or ~~another~~ health- related conditions are impaired practitioners and shall seek professional assistance and, ~~when~~ where appropriate, withdraw from the affected areas of practice.
- S. Individuals who have knowledge that a colleague is unable to provide professional services with reasonable skill and safety shall report this information to the appropriate authority, internally if a mechanism exists and, otherwise, externally.
- T. Individuals shall provide reasonable notice and information about alternatives for obtaining care in the event that they can no longer provide professional services.

8.2 Principle of Ethics II:

Individuals shall honor their responsibility to achieve and maintain the highest level of professional competence.

Rules of Ethics

~~A.— Individuals shall engage in the provision of clinical services only when they hold the appropriate license or when they are in the licensure process. If applying for a provisional license, the applicant must be supervised by an individual who holds an appropriate Arkansas license in the appropriate area under the Act.~~

A.B. Individuals who hold an Arkansas license shall engage in only those aspects of the

professions that are within the scope of their professional practice and competence, considering their licensure status, level of education, training, and experience.

- ~~C. Individuals shall continue their professional development throughout their careers.~~
- ~~D. Individuals shall delegate the provision of clinical services only to persons who are licensed or to persons in the licensure process who are appropriately supervised. The provision of support services may be delegated to registered speech-language pathology assistants as stipulated in Section 13.~~
- B. Individuals who engage in research shall comply with all institutional, state, and federal rules that address any aspects of research, including those that involve human participants and animals.
- C. Individuals shall enhance and refine their professional competence and expertise through engagement in lifelong learning applicable to their professional activities and skills.
- ~~E.D. Individuals in administrative or supervisory roles shall not require or permit prohibit any of their professional staff from providingto provide services or conduct research activities that exceed the staff member's licensure or registration status, competence, considering the staff member's level of~~ education, training, and experience.
- E. Individuals in administrative or supervisory roles shall not require or permit their professional staff to provide services or conduct clinical activities that compromise the st/aff member's independent and objective professional judgment.
- F. Individuals shall make use of technology and instrumentation consistent with accepted professional guidelines in their areas of practice. When such technology is not available, an appropriate referral may be made.
- G. Individuals shall ensure that all technology and instrumentation equipment used in the provision to provide of services or to conduct research and scholarly activities isare in proper working order and isare properly calibrated.

8.3 Principle of Ethics III:

Individuals shall honor their responsibility to the public by promoting public understanding of the professions, by supporting the development of services designed to fulfill the unmet needs of the public, and by providing accurate information in all communications involving any aspect of the professions.

Rules of Ethics

- A. Individuals shall not misrepresent their credentials, competence, education, training, or experience, and scholarly contributions.
- B. Individuals shall not participate in professional activities that constitute aavoid engaging in conflicts of interest whereby personal, financial, or other considerations have the potential to

influence or compromise professional judgment and objectivity.

~~C.~~ ~~Individuals shall refer those served professionally solely on the basis of the interest of those being referred and not on any personal financial interest.~~

~~D.C.~~ Individuals shall not misrepresent research and scholarly activities, diagnostic information, services ~~rendered~~provided, results of services provided, or products dispensed, ~~or engage in any scheme or artifice to defraud in connection with obtaining reimbursement for such services or products~~or the effects of products dispensed.

D. Individuals shall not defraud through intent, ignorance, or negligence or engage in any scheme to defraud in connection with obtaining payment, reimbursement, or grants and contracts for services provided, research conducted, or products dispensed.

E. Individuals' statements to the public shall provide accurate and complete information about the nature and management of communication disorders, about the professions, ~~and~~ about professional services, about products for sale, and about research and scholarly activities.

~~E.F.~~ Individuals' statements to the public shall adhere to prevailing professional norms and shall not contain misrepresentations when –advertising, announcing, and ~~marketing-promoting~~ their professional services, ~~reporting research results, and promoting~~ products and when reporting research shall adhere to prevailing professional standards and shall not contain misrepresentations.

G. Individuals shall not knowingly make false financial or nonfinancial statements and shall complete all materials honestly and without omission.

8.4 Principle of Ethics IV:

Individuals shall honor their responsibilities to the professions and their relationships with colleagues, students, and members of allied professions. Individuals shall uphold the dignity and autonomy of the professions, maintain harmonious interprofessional and intraprofessional relationships, and accept the professions' self-imposed standards.

Rules of Ethics

A. Individuals shall ~~prohibit not knowingly allow~~ anyone under their supervision ~~from engaging to engage~~ in any practice that violates the Code of Ethics.

B. Individuals shall not engage in ~~dishonesty, fraud, deceit, misrepresentation, sexual harassment,~~ or any form of conduct that adversely reflects on the professions or on the individual's fitness to serve persons professionally.

C. Individuals shall not engage in dishonesty, negligence, fraud, deceit, or misrepresentation.

~~C.D.~~ Individuals shall assign credit only to those who have contributed to a publication, presentation, process, or product. Credit shall be assigned in proportion to the contribution

and only with the contributor's consent.

- ~~D.E.~~ Individuals' statements to colleagues about professional services, research results, and products shall adhere to prevailing professional standards and shall contain no misrepresentations.
- ~~E.F.~~ Individuals shall ~~not provide professional services without exercising exercise~~ independent professional judgment in recommending and providing professional services when an administrative mandate, referral source, or prescription prevents keeping the welfare of persons served paramount, regardless of referral source or prescription.
- ~~F.G.~~ Individuals shall not discriminate in their relationship with colleagues, assistants, students, support personnel, and members of ~~allied other~~ professions and disciplines on the basis of race, ~~or~~ ethnicity, sex, gender/identity, gender/expression, age, religion, national origin, sexual orientation, culture, language, dialect, socioeconomic status, or disability.
- ~~G.H.~~ Individuals ~~who have reason to believe~~ with evidence that the Code of Ethics ~~has~~ may have been violated have the responsibility to work collaboratively to resolve the situation where possible or to inform the Arkansas Board of Examiners in Speech Pathology and Audiology through its established procedures shall inform the Board.
- ~~H.I.~~ Individuals making and responding to complaints shall ~~cooperate~~ comply fully with the policies of the Arkansas Board of Examiners in Speech-Language Pathology and Audiology in its investigation and consideration, adjudication, and resolution of ~~matters~~ complaints of alleged violations of related to this the Code of Ethics.
- ~~I.J.~~ Individuals shall reference the source when using other persons' ideas, research, presentations, results, or products in written, oral, or any other media presentation or summary. To do otherwise constitutes plagiarism.
- K. Individuals shall work collaboratively, when appropriate, with members of one's own profession and/or members of other professions to deliver the highest quality of care.
- L. Applicants for licensure and individuals making disclosures shall not knowingly make false statements and shall complete all application and disclosure materials honestly and without omission.
- M. Individuals shall not engage in sexual activities with individuals (other than a spouse or other individual with whom a prior consensual relationship exists) over whom they exercise professional authority or power, including persons receiving services, assistants, students, or research participants.
- N. Individuals shall not engage in any form of harassment, power abuse, or sexual harassment.
- O. Individuals shall report members of other professions who they know have violated standards of care to the appropriate professional licensing authority or board, other professional regulatory body, or professional association when such violation compromises the welfare of persons served and/or research participants.
- P. Individuals shall not file or encourage others to file complaints that disregard or ignore

facts that would disprove the allegation; the Code of Ethics shall not be used for personal reprisal, as a means of addressing personal animosity, or as a vehicle for retaliation.

- Q. Individuals involved in ethics complaints shall not knowingly make false statements of fact or withhold relevant facts necessary to fairly adjudicate the complaints.
- R. Individuals shall comply with local, state, and federal laws applicable to professional practice, research ethics, and the responsible conduct of research.
- S. Individuals who have been convicted, been found guilty, or entered a plea of guilty or nolo contendere to (1) any misdemeanor involving dishonesty, physical harm or the threat of physical harm to the person or property of another, or (2) any felony, shall self-report by notifying the Arkansas Board of Examiners in Speech Pathology and Audiology in writing within 30 days of the conviction, plea, or finding of guilt. Individuals shall also provide a certified copy of the conviction, plea, nolo contendere record, or docket entry to ABESPA within 30 days of self-reporting.
- T. Individuals who have been publicly sanctioned or denied a license or a professional credential by any professional association, professional licensing authority or board, or other professional regulatory body shall self-report by notifying ABESPA in writing within 30 days of the final action or disposition. Individuals shall also provide a certified copy of the final action, sanction, or disposition to ABESPA within 30 days of self-reporting.

SECTION 9. CONTINUING PROFESSIONAL EDUCATION (CPE)

- 9.1 Continuing Professional Education in Speech-Language Pathology and Audiology Ark. Code Ann. § 17-100-306 shall consist of a series of planned learning experiences beyond the educational programs that have led to the degree that qualifies one for licensure. The licensee must participate in CPE activities of at least **ten (10) clock hours** for each license period. At least five (5) of these hours must be in Content Area I. Dual licensees must complete **fifteen (15) clock hours** with a minimum of **five (5) hours in each discipline from Content Area I**. Renewal of a license shall be contingent upon the licensee fulfilling the CPE requirements, submitting an annual CPE report, and maintaining evidence for possible audit. (See Section 13.10 A.6 for SLP assistant requirements)

The Board ~~does not~~may pre-approve continuing education programs. It is the licensee's responsibility to obtain continuing education which meets the guidelines specified in this rule. The Board retains final authority for acceptance of any educational activity submitted by the licensee to meet requirements. Continuing education can be obtained through (1) live presentations (2) college courses {one credit hour = 15 clock hours} (3) online activities with written documentation of completion, or (4) self-study. Self-study is defined as any activity completed by the licensee alone such as a book, or video, or online activity that does not require a test. Any re-play of a live conference is also considered self-study. The ABESPA self-study report (available online) must be completed for these activities. The Board retains final authority for acceptance of any educational activity submitted by the licensee to meet requirements.

CONTENT AREA I:

- (a) Anatomic and physiologic bases for the normal development and use of speech, language, communication, swallowing, ~~and~~ hearing and balance/vestibular systems;
- (b) Physical bases and processes of the production and perception of speech, language, communication, swallowing, ~~and~~ hearing and balance/vestibular systems;
- (c) Linguistic and psycho-linguistic variables related to normal development and use of speech, language and hearing;
- (d) Technological, biomedical, engineering and instrumentation information related to basic communication processes, ~~and~~ swallowing, balance/vestibular disorders and cerumen management;
- (e) Various types of communication disorders ~~of communication~~, swallowing disorders, balance/vestibular disorders, and their manifestations, classifications, and causes;
- (f) Evaluation skills, including procedures, techniques, and instrumentation for assessment;
- (g) Principles and procedures in habilitation and rehabilitation of communication disorders ~~and~~ swallowing and balance/vestibular disorders;
- ~~(h) Principles in diagnosis and rehabilitation/treatment of balance, vestibular disorders, and cerumen~~

CONTENT AREA II: (Must relate to the practice of Speech-Language Pathology and/or Audiology)

- (a) Regulations and implementation of federal and/or state regulated programs;
- (b) ~~service~~ Service delivery such as telepractice, group versus individual services, use of support staff, ~~service to underserved populations;~~
- (c) Ethical practices;
- (d) Supervision related to speech-language pathology and audiology students, clinical fellows, ~~and speech language pathology assistants, and aides;-~~
- (e) Related disciplines which interface with delivery of speech-language pathology and audiology services;
- (f) Reimbursement issues;
- (g) Behavior management/~~training courses;~~

9.2 Each licensee will file a report of Continuing Professional Education each year with the renewal fee.

9.3 Annually, the Board will select licensees for audit. During an audit, the Board ~~will~~ may request verification of CPEs submitted, including information regarding date, content, attendance, and number of hours. It is the responsibility of the licensee to maintain records to substantiate compliance. The Board shall be the final authority on acceptance of any educational activity submitted by the licensee to meet requirements. Failure to substantiate Continuing Professional Education hours, when audited, may result in disciplinary action. Documentation may include, but is not limited to the following:

- A. Program notes, outlines, or hand-outs
- B. Independent study notes on the self-study report
- C. Transcripts from college/university courses
- D. Certificates of attendance, including registry transcripts or CE tally sheets

9.4 Provisional and full licensees are not required to complete a report of continuing professional education and will not be audited during the initial licensing year; however, a licensee in a clinical

fellowship that lasts longer than one (1) year shall ~~but will need to~~ submit the a continuing professional education report ~~to that~~ documents a minimum of ten (10) hours for the ~~next~~ licensing period ~~(7/1 to 6/30 that follows that first year)~~. There is no exemption for the year in which the provisional license is converted to a full license unless it occurs in the initial licensing year.

9.5 Individuals who have inactive status are not required to submit a CPE report

9.6 The Board will accept, but not be limited to the following activities, that fall within Content Areas I and II:

- A. Attending scientific or educational lectures, workshops, ~~teleseminars~~ webinars, seminars, college courses, ~~interactive videos~~, or online courses.
- B. Independent study of journals, books, videotapes, audiotapes, or online courses.
- C. Any CPE offered through national speech pathology and/or audiology organizations.

9.7 Notification of Audit and Penalties

- A. A notice will be sent to all audited licensees advising that documentation must be in the possession of the Board by a specified date.
- B. Licensees who submit audit materials after the deadline will be assessed a \$50.00 per month late penalty.
- C. A committee of the Board will review the audit materials and make recommendations for action to the full Board.
- D. Failure to comply with the audit request will result in formal disciplinary action.

SECTION 10. RULES ~~AND REGULATIONS~~ FOR AUDIOLOGISTS WHO DISPENSE HEARING AIDS

10.1 The facility shall include EITHER a sound room of appropriate size which meets or exceeds ANSI standards of ambient noise levels for test environments OR instruments for the measurement of hearing aid performance on the ear of the patient. Equipment shall also include instruments for the electroacoustic measurement of hearing aid characteristics. All equipment ~~will~~ shall be calibrated and maintained annually.

10.2 Prior to hearing aid fitting

- A. All patients under the age of 12 months who have failed ~~three (3)~~ two (2) screenings in the absence of indicators of external and/or middle ear abnormalities, should receive a battery of audiological tests to minimally include a case history, high frequency tympanometry, otoacoustic emissions (OAE), and click and toneburst auditory brainstem responses (ABR). For those patients five months of age or older, developmentally appropriate behavioral assessment is also recommended.
- B. All patients 12 to 24 months should receive a battery of audiological tests to minimally include a case history, otoscopy, tympanometry and behavioral pure-tone threshold assessment appropriate to the patient's developmental abilities. Acoustic reflex testing, OAE, and ABR,

although not mandatory, are also considered appropriate to the test protocol. These tests should not, however, replace behavioral threshold assessment unless the patient is physically or developmentally unable to perform behavioral testing.

- C. All patients 25 months and older should receive a battery of audiological tests to minimally include a case history, otoscopy, tympanometry, pure-tone air and bone conduction, speech reception threshold and word recognition assessment. Measures of acoustic reflexes and loudness discomfort levels, although not mandatory, are considered appropriate to the testing protocol. Exceptions to this battery include patients who are physically or developmentally unable to perform these tasks.

10.3 Evaluation of hearing aids must be performed with the hearing aids on the patient. This shall be accomplished EITHER in sound field OR with instruments which objectively measure hearing aid performance with appropriate prescriptive techniques to account for the different means of programming the hearing aid (~~linear versus nonlinear, digital versus analog~~). The preferred verification method of fitting is to use probe microphone measures in conjunction with the patient's ear, ear mold, and personal amplification system. A real ear to coupler difference (RECD) can be obtained and probe tube measurement performed in a coupler if a patient is unwilling to tolerate probe microphone measurement in the ear. A prescriptive measure addressing gain should be in place to address the possibility of over- or underestimating gain until the patient is five (5) years of age.

10.4 First time hearing aid users under the age of 18 years MUST receive medical evaluation and clearance from ~~the~~ an otolaryngologist within 6 months prior to being fitted with a hearing aid. First time hearing aid users 18 years or older MUST be advised of the desirability of a medical evaluation. First time hearing aid users 18 years or older clearance and should be referred to a physician, preferably one specializing in disorders of the ear if any of the following conditions are present:

- Visible deformities of the ear since birth or from injury
- Fluid, pus, or blood coming out of the ear within the previous 3 months
- Sudden, quickly worsening, or fluctuating hearing loss within the previous 3 months
- Dizziness
- Hearing loss in only one ear or a large difference in hearing between ears
- Ear wax build up or feeling that something is in the ear canal
- Pain or discomfort in the ear
- Tinnitus or ringing in one or both of ears.

~~However, adult patients may choose to waive medical clearance. A written waiver of medical clearance must be included in the patient's record.~~

10.5 Appropriate educational counseling relative to use, care and maintenance of the amplification device will be provided at the time the device is fitted. Rehabilitation and management, including appropriate referrals, should be provided.

- 10.6 The patient must be given a minimum of 30 days to achieve user satisfaction. If satisfaction is unattainable during this period and the device is returned in satisfactory condition, moneys paid for the device shall be refunded. Terms of the 30-day user satisfaction agreement, including non-refundable professional fees, will be fully explained at the time of fitting. The patient must be provided with information required by federal and state guidelines relative to the device(s) dispensed.
- 10.7 Fitting outside of the dispensing facility is considered acceptable when the testing protocol outlined in Section 10.1, 10.2, 10.3 and 10.4 is met.
- 10.8 The Arkansas Board of Examiners in Speech-Language Pathology and Audiology may periodically request written documentation regarding adherence to these rules ~~and regulations~~ from the dispensing audiologists.

SECTION 11. SCOPE OF PRACTICE

Preamble

The purpose of this statement is to define the scope of practice of speech-language pathology and audiology in order to (1) inform persons of activities for which licensure in the appropriate area is required, and (2) to educate health-care and education professionals, consumers, and members of the general public of the services offered by speech-language pathologists and audiologists as qualified providers.

The scope of practice defined here, and the areas specifically set forth, are part of an effort to establish the broad range of services offered within the profession. It is recognized, however, that levels of experience, skill and proficiency with respect to the activities identified within the scope of practice will vary among the individual providers. Similarly, it is recognized that related fields and professions may have knowledge, skills, and experience which may be applied to some areas within the scope of practice. Notwithstanding, these rules strictly govern the practice described herein of speech-language pathology and audiology. By defining the scope of practice of speech-language pathologists and audiologists, there is no intention to exclude members of other professions or related fields from rendering services in common practice areas for which they are competent by virtue of their respective disciplines.

Finally, it is recognized that speech-language pathology and audiology are dynamic and continuously developing practice areas. In setting forth some specific areas as included with the scope of practice, there is no intention that the list be exhaustive or that other, new, or emerging areas be precluded from being considered as within the scope of practice.

- 11.1 The practice of speech-language pathology includes:
- A. providing prevention, screening, consultation, assessment and diagnosis, treatment, intervention, management, counseling, and follow-up services for disorders of:
 - 1. speech (i.e., articulation, fluency, resonance, and voice including aeromechanical components of respiration);

2. language (i.e., phonology, morphology, syntax, semantics, and pragmatic/social aspects of communication) including comprehension and expression in oral, written, graphic, and manual modalities; language processing, preliteracy and language-based literacy skills, including phonological awareness;
 3. swallowing or other upper aerodigestive functions such as infant feeding and aeromechanical events (evaluation of esophageal function is for the purpose of referral to medical professionals);
 4. cognitive aspects of communication (e.g., attention, memory, problem solving, executive functions);
 5. sensory awareness related to communication, swallowing, or other upper aerodigestive functions.
- B. Establishing augmentative and alternative communication techniques and strategies including developing, selecting, and prescribing of such systems and devices (e.g., speech generating devices).
- C. Providing services to individuals with hearing loss and their families/caregivers (e.g., auditory training, speechreading, speech and language intervention secondary to hearing loss, visual inspection and listening checks of amplification devices for the purpose of troubleshooting, including verification of appropriate battery voltage).
- D. Screening hearing of individuals who can participate in conventional pure-tone air conduction methods, ~~as well as~~ screening with otoacoustic emissions, and for middle ear pathology through screening tympanometry for the purpose of referral of individuals for further evaluation and management.
- E. Using instrumentation (e.g., videofluoroscopy, EMG, nasendoscopy, stroboscopy, computer technology) to observe, collect data, and measure parameters of communication and swallowing, or other upper aerodigestive functions in accordance with the principles of evidence-based practice.
- F. Selecting, fitting, and establishing effective use of prosthetic/adaptive devices for communication, swallowing, or other upper aerodigestive functions (e.g., tracheoesophageal prostheses, speaking valves, electrolarynges). This does not include sensory devices used by individuals with hearing loss or other auditory perceptual deficits.
- G. Collaborating in the assessment of central auditory processing disorders and providing intervention where there is evidence of speech, language, and/or other cognitive communication disorders.
- H. Educating and counseling individuals, families, co-workers, educators, and other persons in the community regarding acceptance, adaptation, and decision making about communication, swallowing, or other upper aerodigestive concerns.
- I. Advocating for individuals through community awareness, education, and training programs to promote and facilitate access to full participation in communication, including the elimination of societal barriers.
- J. Collaborating with and providing referrals and information to audiologists, educators,

and health professionals as individual needs dictate.

- K. Addressing behaviors (e.g., perseverative or disruptive actions) and environments (e.g., seating, positions for swallowing safety or attention, communication opportunities) that affect communication, swallowing, or other upper aerodigestive functions.
- L. Providing services to modify or enhance communication performance (e.g., accent modification, transgendered voice, care and improvement of the professional voice, personal/professional communication effectiveness).
- M. Recognizing the need to provide and appropriately accommodate diagnostic and treatment services to individuals from diverse cultural backgrounds and adjust treatment and assessment services accordingly.

11.2. The practice of audiology includes:

- A. Facilitating the conservation of auditory system function; developing and implementing environmental and occupational hearing conservation programs;
- B. Screening, identifying, assessing and interpreting, diagnosing, preventing, and rehabilitating peripheral and central auditory and peripheral and central vestibular system dysfunctions;
- C. Providing and interpreting behavioral and (electro) physiological measurements of auditory and vestibular & facial nerve functions;
- D. Selecting, fitting, programming, and dispensing of amplification, assistive listening and alerting devices and other systems (e.g., implantable devices) and providing training in their use;
- E. Providing aural rehabilitation and related counseling services to individuals with hearing loss and their families;
- F. Screening of speech-language, cognition and other factors affecting communication function;
- G. Interpreting results, implementing, and monitoring newborn hearing screening programs;
- H. Providing consultation to educators, industry, consumers, and families and the general public about the hearing and balance systems, hearing loss, and hearing conservation;
- I. Advocating for individuals through community awareness, education, and training programs to promote and facilitate access to full participation in communication, including the elimination of societal barriers;
- J. Providing education and administration in audiology and professional education programs;
- K. Cerumen management to prevent obstructions of the external ear canal and of amplification devices.

SECTION 12. TELEPRACTICE

12.1 Guidelines for Use of Telepractice

- A. Services delivered via telecommunication technology must be equivalent to the quality of services delivered face-to-face, i.e. in-person.
- B. Telepractice services must conform to professional standards including, but not limited to: Code of Ethics, scope of practice, professional policy documents and other relevant federal, state and institutional policies and requirements.
- C. Telepractitioners must have the knowledge and skills to competently deliver services via telecommunication technology by virtue of education, training and experience.
- D. The use of technology, e.g. equipment, connectivity, software, hardware and network shall address the unique needs of each client.
- E. Telepractice service delivery includes the responsibility for calibration of clinical instruments in accordance with standard operating procedures and the manufacturer's specifications.
- F. The telepractitioner is responsible for assessing the client's candidacy for telepractice including behavioral, physical and cognitive abilities to participate in services provided via telecommunications.
- G. At a minimum, notification of telepractice services should be provided to the client, the guardian, the caregiver and the multi-disciplinary team, if appropriate. The notification could include but not be limited to: the right to refuse telepractice services, options for service delivery, and instructions on filing and resolving complaints.
- H. Telepractitioners shall comply with all laws, and rules ~~and regulations~~ governing the maintenance of client records, including client confidentiality requirements, regardless of the state where the records of any client within this state are maintained.
- I. Telepractitioners located out-of-state may provide services to persons in this state providing they meet the requirements in Section 5 of the ABESPA Rules and Regulations and apply for an Arkansas license within the first 30 days of practice.

12.2 Limitations of Telepractice Services

- A. Telepractice services may not be provided by correspondence only, e.g. mail, email, faxes, although they may be adjuncts to telepractice.
- B. Interstate and intrastate telepractice may be limited by the state, state licensure boards, federal or reimbursement laws and policies.
- C. Audio and video quality should be sufficient to deliver services that are equivalent to

in-person.

12.3 Service Delivery Models

- A. Telehealth may be delivered in a variety of ways as set out in this section.
 - (1) Store-and-forward model/electronic transmission which is an asynchronous electronic transmission of stored clinical data from one location to another.
 - (2) Clinician interactive model is a synchronous, real time interaction between the provider and client or consultant that may occur via telecommunication links.
 - (3) Self-monitoring/testing model refers to when the client or consultant receiving the services provides data to the provider without a facilitator present at the site of the client or consultant.
 - (4) Live versus stored data refers to the actual data transmitted during the telepractice. Both live, real-time and stored clinical data may be included during the telepractice.

12.4 Supervision

- A. Supervision of assistants may be done through telepractice as long as client confidentiality can be maintained.
- B. Supervision rules shall remain the same as those stated for assistants.

SECTION 13. ~~RULES AND REGULATIONS~~ GOVERNING REGISTRATION OF SPEECH-LANGUAGE PATHOLOGY ASSISTANTS

- 13.1 The purpose of this document is to set minimum qualifications for the registration of speech-language pathology assistants by the Arkansas Board of Examiners in Speech-Language Pathology and Audiology (ABESPA) as specified in Ark. Code Ann. §17-100-103 to -104. ~~Regulations~~ Rules for their registration and supervision are also established.
- 13.2 The provisions of this section shall not apply to any student, intern, or trainee performing speech-language pathology services while completing supervised clinical experience as part of an accredited college or university training program.
- 13.3 This document also provides for the Arkansas Department of Education (ADE), in accordance with its statutory, general supervision authority over public agencies which provide educational services to children with disabilities birth to twenty-one years of age, in conjunction with the Department of Human Services (DHS), Developmental Disabilities Services (DDS), to regulate speech-language pathology assistants and aides performing duties in such programs. ABESPA approved the 1999 ADE guidelines for registration, training, scope of responsibilities, supervision, and review of these individuals. Any proposed revisions to the guidelines will be submitted to ABESPA for approval. The ADE will provide ABESPA, upon request, any reports and/or records with regard to these individuals in the performance of their duties as may be necessary to ensure compliance with established standards.
- 13.4 The utilization of speech-language pathology-aides in other practice settings is prohibited unless specifically approved by ABESPA for study purposes.

- 13.5 Nothing in these rules ~~and regulations~~ prohibits other individuals from performing non-clinical duties such as patient transport or positioning, room preparation, construction, preparation or repair of treatment materials, or clerical activities.
- 13.6 Nothing in these rules ~~and regulations~~ shall be construed as preventing or restricting a person who provides parenting and daily living skills for enrichment purposes from performing as “direct care staff” at residential programs, such as Human Development Centers, or as “paraprofessionals” who provide direct student supervision and instructional support to classroom teachers in public agencies providing educational services to children, such as public schools.
- 13.7 For all purposes, ABESPA retains regulatory authority for speech-language pathology services, unless specifically exempted by statute. The Board may at any time, for good cause, revoke all exceptions and exemptions, granted in these rules ~~and regulations~~; and at such time may require registration of all SLP-Assistants and SLP-Aides through ABESPA.

13.8 DEFINITIONS

- A. **SPEECH-LANGUAGE PATHOLOGY ASSISTANT** - A speech-language pathology assistant (SLP-Assistant) is an individual who, following academic and on-the-job training, performs tasks as prescribed, directed, and supervised by licensed speech-language pathologists.
- B. **SPEECH-LANGUAGE PATHOLOGY AIDE** - A speech-language pathology aide (SLP-Aide) is an individual with a high school diploma and on the job training who performs tasks as prescribed, directed, and supervised by licensed speech-language pathologists.
- C. **SUPERVISING SPEECH-LANGUAGE PATHOLOGIST** - A speech-language pathologist who holds a current Arkansas license and has two (2) years of professional experience as a speech-language pathologist, following successful completion of the clinical fellowship experience (See Section 2.10) may be approved by ABESPA as a supervising speech-language pathologist.
- D. **DIRECT SUPERVISION** - Direct supervision means on-site, in-view observation and guidance by a speech-language pathologist while an assigned clinical activity is performed by a speech language pathology assistant or speech-language pathology aide.
- E. **INDIRECT SUPERVISION** - Indirect supervision means those activities other than direct observation and guidance conducted by a speech-language pathologist that may include demonstration, record review, review and evaluation of audio or videotaped sessions, and/or interactive television.
- F. **SCREENING** - A pass-fail procedure to identify people who may require further assessment.

13.9 REGISTRATION OF SPEECH-LANGUAGE PATHOLOGY ASSISTANTS

- A. Individuals desiring to register as a speech-language pathology assistant under Act 826 of

1995, § 2, codified at Ark. Code Ann. § 17-100-202(b)(2) must submit an application for registration to ABESPA, except that, individuals will register with the Division of Elementary and Secondary Education~~ADE~~ who desire to perform the duties of a speech-language pathology assistant in a public agency, or a community program licensed by DHS, DDS, which provides educational services to children with disabilities birth to twenty-one years of age under the general supervision of the ADE. Further, Section 13.9, subsections B, C, and D shall not apply to those individuals. Therefore, if an assistant is working in a public agency only, the assistant will register with the Division of Elementary and Secondary Education~~ADE~~. If an assistant is working in a public agency and another agency, the assistant will register with ABESPA. In this instance, ABESPA will collaborate with Division of Elementary and Secondary Education~~ADE~~ to determine approval. The ABESPA application must be completed by both the prospective supervising speech-language pathologist and the prospective assistant. The prospective assistant and supervisor must attend an initial training session prior to registration approval.

- B. This application must be approved before employment of the SLP-Assistant can begin. At no time may an SLP-Assistant work without both a current approved registration and approved supervisor.
- C. The following must be submitted in the registration process.
 - 1. An application obtained from the Board office which shall contain:
 - (a) specific information regarding personal data, employment and nature of professional practice, social security number, other state licenses and certifications held, disciplinary proceedings, felony and misdemeanor convictions.
 - (b) educational background including an original or certified copy of transcript(s) showing evidence of a bachelor's degree in speech-language pathology or required academic training as specified in Requirements for a Speech-Language Pathology- Assistant, Section 13.10, subsection A.2.
 - (c) documentation of thirty (30) clinical practicum hours as a SLP-Assistant trainee signed by the Chair of the speech-language pathology department at the educational institution that provided this training. This requirement is applicable only to individuals without a bachelor's degree in speech-language pathology.
 - (d) a statement that the applicant for SLP-Assistant and supervising speech-language pathologist have read Ark. Code Ann. §17-100-103 to -104 and the Board rules, and that they agree to abide by them.
 - (e) a statement that the applicant understands that fees submitted in the registration process are non-refundable.
 - (f) the dated signature of the applicant.
 - 2. The non-refundable application fee (See section 13.14)
 - 3. A supervisory responsibility statement form obtained from the Board office which contains:
 - (a) the name, address, employer, area of licensure, and license number of the supervisor.
 - (b) the employment history substantiating at least two (2) years of clinical experience, after completion of the clinical fellowship experience (CFY), of the supervising speech- language pathologist.
 - (c) a statement that the supervisor is responsible for notifying the Board office within

- 10 working days of any change in the supervisory arrangements.
 - (d) a list of facilities in which the SLP-Assistant will be utilized. The location of work settings must be kept current. Any change must be reported in writing to ABESPA within twenty-one (21) days. Based on information received, the Board may limit the number of practice sites.
 - (e) the dated signature of the supervisor
- D. If the application process for registration is not completed within twelve (12) months, the application shall be considered abandoned and a new application must be submitted.

13.10 REQUIREMENTS FOR A SPEECH-LANGUAGE PATHOLOGY ASSISTANT

- A. A speech-language pathology assistant must:

1. Complete a bachelor's degree in speech-language pathology OR
2. Complete a speech-language pathology assistant training program culminating in an Associate Degree from an institution accredited by the Arkansas ~~Department~~ Division of Higher Education. Programs must meet the specified curriculum content and fieldwork experience listed below. Applicants from out of state will be reviewed on a case-by-case basis to ensure equivalency.

a. Curriculum Content

The curriculum must be consistent with the ASHA-approved Criteria for the Registration of Speech-Language Pathology Assistants (Section III-A)

The curriculum content must include 60 semester credit hours with the following content:

- ⇒20-40 semester credit hours in general education
- ⇒20-40 semester credit hours in technical content areas
- ⇒a minimum of 100 clock hours fieldwork experience*

b. General education (20-40 semester credit hours)

The general education sequence should include, but is not limited to, the following:

- ⇒Oral and written communication
- ⇒Mathematics
- ⇒Computer applications
- ⇒Social and natural sciences

c. Technical knowledge (20-40 semester credit hours)

Course content must provide students with knowledge and skills to assume the job responsibilities and core technical skills for speech-language pathology assistants, and must include the following:

- overview of normal processes of communication
- ⇒overview of communication disorders
- ⇒instruction in assistant-level service delivery practices

- ⇒ instruction in workplace behaviors
- ⇒ cultural and linguistic factors in communication
- ⇒ observation
- ⇒ fieldwork experiences

d. The program describes how course content provides instruction in the following workplace behaviors of the speech-language pathology assistant:

- ⇒ relating to clients/patients in a supportive manner
- ⇒ following supervisor's instructions
- ⇒ maintaining confidentiality and other appropriate workplace behaviors
- ⇒ communicating in oral and written forms
- ⇒ following health and safety precautions

*Fieldwork Experience

The minimum of 100 hours of fieldwork experience must provide the student with opportunities for carrying out speech-language pathology assistant responsibilities. This training must be supervised by a speech-language pathologist who holds a current and valid license from ABESPA or the ASHA Certificate of Clinical Competence (CCC) in Speech-Language Pathology. These experiences are not intended to develop independent practice.

3. Complete and sign an application for registration. An assistant may not begin work before the registration application has been approved nor may the SLP-Assistant continue work after the registration has expired.
4. Be employed in a setting in which direct and indirect supervision are provided on a regular and systematic basis by an approved supervising speech-language pathologist.
5. Wear a name tag at all times during employment identifying title as registered speech-language pathology assistant. The title must contain the entire word "assistant" and not an abbreviation. Facilities may apply to ABESPA for exemption from this requirement.
6. Meet continuing education requirements which total at least one (1) hour for every month of registration (maximum of ten [10] hours per fiscal year). Activities must pertain to the Scope of Responsibilities of the assistant (Section 13.15). At least 1/2 of the hours must fall within Content Area I as defined below:

Content Area I for Assistants

- (a) Anatomic and physiologic bases for the normal development and use of speech, language and hearing and balance
- (b) Physical bases and processes of the production and perception of speech, language and hearing
- (c) Linguistic and psycho-linguistic variables related to normal development and use of speech, language and hearing
- (d) Technological, biomedical, engineering and instrumentation information which would enable expansion of knowledge in the basic communication processes
- (e) Various types of disorders of communication, their manifestations, classification

and cause

- (f) Principles in habilitation and rehabilitation of communication disorders

Content Area II for Assistants

- (a) Regulations and implementation of federal and/or state regulated programs
- (b) Service delivery models
- (c) Ethical practices
- (d) Related disciplines which interface with delivery of speech-language pathology and audiology services
- (e) Reimbursement issues
- (f) Technology training that will enhance clerical skills (i.e. computer programs, software education, etc.)
- (g) Technology training that will enhance use of technology to assist in making augmentative/assistive devices (i.e. Boardmaker, PECS, etc.)

13.11 REQUIREMENTS FOR A SUPERVISING SPEECH-LANGUAGE PATHOLOGIST

A. A supervising speech-language pathologist:

1. Must be licensed as a speech-language pathologist in the state of Arkansas and have two (2) years of full-time professional speech-language pathology experience, after completion of the paid professional experience (CFY). The Board reserves the right to decline or delay approval of registration if the licensed SLP has prior or pending disciplinary action against him or her. An individual with a provisional license may not supervise an assistant. However, an individual exempted from licensure under Ark. Code Ann. § 17-100-104, subsection 4 and who holds a Master's Degree in Speech-Language Pathology and a valid certificate/license issued by the Arkansas State Board of Education prior to August 1, 1997, shall not be required to procure ABESPA licensure in order to supervise speech-language pathology assistants and aides. Individuals who are issued initial speech-language pathology certification/licensure by the Arkansas State Board of Education (or Division of Elementary and Secondary Education) after August 1, 1997, shall be required to hold ABESPA licensure in order to supervise speech-language pathology assistants and aides.
2. May not supervise more that two (2) full-time or three (3) part-time assistants. (Three part-time assistants may not exceed the number of hours for two full-time assistants or 80 hours.) Based on information received, the Board may limit the number of supervisors.
3. Must institute a training program for each assistant encompassing all the procedures to be performed. Documentation of such training in formal substance acceptable to ABESPA shall be retained in the assistant's file.
4. Must inform the consumer about the use of an assistant and document informed consent.
5. Must provide and document appropriate supervision of the assistant.

6. Is required to maintain original documents for three (3) years and submit within thirty (30) days when requested by the Board.
- B. Although the speech-language pathologist may delegate specific tasks to the speech-language pathology assistant, the legal (i.e., professional liability) and ethical responsibility to the patient/client for all services provided or omitted must remain the full responsibility of the supervising speech-language pathologist. The legal and ethical responsibility cannot be delegated.

13.12 SUPERVISION GUIDELINES FOR A SPEECH-LANGUAGE PATHOLOGY ASSISTANT

- A. A total of at least 30% direct and indirect supervision is required and must be documented for the first ninety (90) workdays. (For a 40 hour work week, this would be 12 hours for both direct and indirect supervision.) Documented direct supervision of patient/client care shall be required no less than 20% of the actual patient/client contact time weekly for each speech-language pathology assistant. During each week, data on every patient/client seen by the speech-language pathology assistant must be reviewed by the supervisor. In addition, the 20% direct supervision must be scheduled so that all patients/clients seen by the assistant are directly supervised in a timely manner. Supervision days and time of day (morning/afternoon) must be alternated to ensure that all patients/clients receive direct contact with the speech-language pathologist at least once every two (2) weeks. Information obtained during direct supervision must include data relative to (a) agreement (reliability) between the assistant and the supervisor on correct/incorrect recording of target behavior, (b) accuracy in implementation of screening and treatment procedures, (c) accuracy in recording data, and (d) ability to interact effectively with the patient/client.
- B. Indirect supervision is required no less than 10% of the actual patient/client contact time and may include demonstration, record review, review and evaluation of audio or videotaped sessions, interactive television, and/or supervisory conferences that may be conducted by telephone. Treatment data must be reviewed at least weekly or every five (5) sessions for each case. The speech-language pathologist will review each plan of care as needed for timely implementation of modifications.
- C. After the initial ninety (90) day work period, the amount of supervision may be adjusted depending on the competency of the assistant, the needs of the patients/clients served, and the nature of the assigned tasks. The minimum is 20% documented supervision, with no less than 10% being direct supervision. (For a 40-hour work week, this is 8 hours of supervision, at least 4 of which is direct supervision.) Supervision days and time of day (morning/afternoon) must be alternated to ensure that all patients/clients receive direct contact with the speech-language pathologist at least once every two (2) weeks.
- D. A supervising speech-language pathologist must be able to be reached by personal contact, phone, pager, or other immediate means at all times when direct patient/client care is being

rendered. If, for any reason (i.e., extended leave, illness, change of jobs), the supervisor is no longer available to provide the level of supervision stipulated, the speech-language pathology assistant may not perform direct patient/client care until a qualified and licensed speech-language pathologist has been designated as the speech-language pathology assistant's supervisor and ABESPA has advised approval of the change.

- E. Whenever the SLP-Assistant's performance is judged by the supervising speech-language pathologist to be unsatisfactory over two (2) consecutive observations, the SLP-Assistant shall be retrained in the necessary skills and direct observations shall be increased to 50% of all clinical sessions until the SLP-Assistant's performance is judged to be satisfactory, through written documentation, over two (2) consecutive observations.

13.13 ANNUAL AUDIT

On or before January 30 of each calendar year, at least ten percent (10%) of the assistants currently registered will be audited by ABESPA. The SLP-Assistants audited will be chosen in a random manner.

13.14 PENALTIES *

- A. A civil penalty of up to \$1,000.00 per violation in addition to revocation or suspension may be imposed on a registrant and/or supervisor if:
 - 1. registrant begins work as a SLP-Assistant before they are technically approved for registration or continues to work after the registration has expired;
 - 2. registrant practices outside the scope of responsibility as set forth in the following section titled "Scope of Responsibility of the Speech-Language Pathology Assistant";
 - 3. registrant practices without adequate supervision;
 - 4. registrant and/or supervisor fails to notify ABESPA of change (supervisor, schedule, work setting, etc).
- B. A penalty of \$200.00 per month to a maximum of \$1000.00 may be incurred by the supervising speech-language pathologist for failure to submit supervision documents upon request by ABESPA.

13.15 SCOPE OF RESPONSIBILITIES OF THE SPEECH-LANGUAGE PATHOLOGY ASSISTANT

- A. Provided that the training, supervision, documentation and planning are appropriate (i.e., consistent with these guidelines), the following tasks may be designated to a speech-language pathology assistant:
 - 1. Conduct speech-language screenings (without interpretation) following specified screening protocols developed by the supervising speech-language pathologist.
 - 2. Provide routine maintenance/generalization tasks as prescribed by the supervising speech-

language pathologist. The SLP shall be solely responsible for performing all tasks associated with the assessment and diagnosis of communication and swallowing disorders, for design of all intervention plans, and for directly implementing such plans through the acquisition stage of intervention.

3. Follow documented treatment plans or protocols developed by the supervising speech- language pathologist, not to exceed the activities delineated in #2 above.
4. Perform pure-tone hearing screenings (without interpretation).
5. Document patient/client progress toward meeting established objectives as stated in the treatment plan, and report this information to the supervising speech-language pathologist.
6. Assist the speech-language pathologist during assessment of patients/clients, such as those judged to be difficult to test.
7. Assist with informal documentation (e.g., tallying notes for the speech-language pathologist to use), prepare materials, and assist with other clerical duties as directed by the speech- language pathologist.
8. Perform checks and maintenance of equipment.
9. Participate with the speech-language pathologist in research projects, in-service training, and public relations programs.

There is a potential for possible misuse of the speech-language pathology assistant, particularly when responsibilities are delegated by administrative staff or nonclinical staff without the knowledge and approval of the supervising speech-language pathologist. **Therefore, the speech-language pathology assistant should not perform any task without the express knowledge and approval of the supervising speech-language pathologist.** An individual's communication or related disorder or other factors may preclude the use of services from anyone other than a licensed speech-language pathologist.

The SLP-Assistant may **not**:

10. Perform standardized or non-standardized diagnostic tests, formal or informal evaluation, or interpret test results;
11. Perform intervention tasks associated with skill acquisition;
12. Participate in parent conferences, case conferences, or in any interdisciplinary team without the presence of the supervising speech-language pathologist or other ASHA-certified speech-language pathologist designated by the supervising speech-language pathologist;
13. Provide patient/client or family counseling;
14. Write, develop, or modify a patient/client's individualized treatment plan in any way;

15. Assist with patients/clients without following the individualized treatment plan prepared by the speech-language pathologist or without access to supervision (See Supervision Guidelines);
16. Sign any formal documents (e.g., treatment plans, reimbursement forms, or reports) (The assistant may sign treatment notes for review and co-signature by the supervising professional.);
17. Select patients/clients for services;
18. Discharge a patient/client from services;
19. Disclose clinical or confidential information either orally or in writing to anyone not designated by the supervising speech-language pathologist;
20. Make referrals for additional services;
21. Communicate with the patient/client, family or others regarding any aspect of the patient/client status regarding diagnosis, prognosis, treatment, and progress;
22. Represent himself or herself as a speech-language pathologist.

13.16 EXCLUSIVE RESPONSIBILITIES OF THE SUPERVISING SPEECH-LANGUAGE PATHOLOGIST

- A. Complete initial supervision training prior to accepting an assistant for supervision and upgrade supervision training on a regular basis.
- B. Participate significantly in hiring the assistant.
- C. Document preservice training and credentials of the assistant.
- D. Inform patients/clients and families about the level (professional vs. support personnel), frequency, and duration of services as well as supervision.
- E. Represent the speech-language pathology team in all collaborative, interprofessional, interagency meetings, correspondence, and reports. This would not preclude the assistant from attending meetings along with the speech-language pathologist as a team member or drafting correspondence and reports for editing, approval, and signature by the speech-language pathologist.
- F. Make all clinical decisions, including determining patient/client selection for inclusion/exclusion in the case load, and dismissing patients/clients from treatment.
- G. Communicate with patients/clients, parents, and family members about diagnosis, prognosis, treatment plan and progress.
- H. Conduct diagnostic evaluations, assessments, or appraisals, and interpret obtained data in reports.

- I. Review each treatment plan with the assistant at least weekly or every five (5) sessions.
- J. Delegate specific tasks to the assistant while retaining legal and ethical responsibility for all patient/client services provided or omitted.
- K. Prepare an individualized treatment plan and make modifications prior to or during implementation.
- L. Discuss the case with or refer the patient/client to other professionals.
- M. Sign all formal documents (e.g., treatment plans, reimbursement forms, reports). The supervisor should indicate on documents that the assistant performed certain activities.
- N. Review and sign all informal progress notes prepared by the assistant.
- O. Provide ongoing training to the assistant on the job.
- P. Provide and document appropriate supervision of the assistant.
- Q. Ensure that the assistant only performs tasks that are within the scope of responsibility of the speech-language pathology assistant.
- R. Participate in the performance appraisal of the speech-language pathology assistant.

13.17 REVOCATION, SUSPENSION, AND DENIAL OF REGISTRATION OF SLP-ASSISTANTS AND SUPERVISORS

- A. The Board reserves the right to decline or delay approval of application for supervisory status if the licensed SLP has prior or pending disciplinary action against him or her.
- B. In any adverse action concerning a registrant, assistant, or supervisor, the Board will adhere to the provisions of Section 7 of the rules ~~and regulations~~.

State of Arkansas

As Engrossed: S3/28/19

92nd General Assembly

A Bill

Regular Session, 2019

SENATE BILL 564

By: Senators Irvin, T. Garner, J. Hendren, D. Wallace

By: Representative Bentley

For An Act To Be Entitled

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

Subtitle

TO AMEND THE LAW CONCERNING THE
OCCUPATIONAL LICENSURE OF ACTIVE DUTY
SERVICE MEMBERS, RETURNING MILITARY
VETERANS, AND THEIR SPOUSES; TO PROVIDE
AUTOMATIC LICENSURE; TO REQUIRE REVIEW
AND APPROVAL OF RULES SUBMITTED.

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

SECTION 1. DO NOT CODIFY. Legislative Intent.

The General Assembly finds that:

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

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



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

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

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

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

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

13 (a) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 licensure; and

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

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

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

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

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

18 (f) An occupational licensing entity shall:

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

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

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

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

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

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

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

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8 /s/Irvin

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11 APPROVED: 4/9/19
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State of Arkansas *As Engrossed: S3/18/19 H4/3/19*
92nd General Assembly **A Bill**
Regular Session, 2019

SENATE BILL 451

By: Senator J. Cooper
By: Representative Dalby

For An Act To Be Entitled

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

Subtitle

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

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

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

(a) The General Assembly finds that:

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

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

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



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

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

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

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

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

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

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

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

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

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

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

27 CHAPTER 2

28 OCCUPATIONAL CRIMINAL BACKGROUND CHECKS

29
30 17-2-101. Definitions.

31 As used in this subchapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(36) All other crimes referenced in this title.

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

(A) An affected applicant for a license; or

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

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

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

(B) The circumstances surrounding the offense;

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

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

(E) Employment references since the offense was committed;

(F) Character references since the offense was committed;

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

and

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

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

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

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

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

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

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

2 (2) Consider arrests without a subsequent conviction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17-2-103. Prelicensure criminal background checks.

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

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

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

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

17-2-104. Rules.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17-12-301. Requirements generally – Definition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 accountant.

2
3 SECTION 8. Arkansas Code § 17-12-303(d), concerning the criminal
4 background check for initial licensure of accountants, is amended to read as
5 follows:

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

11
12 SECTION 9. Arkansas Code § 17-12-303(e), concerning the criminal
13 background check for initial licensure of accountants, is repealed.

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

18
19 SECTION 10. Arkansas Code § 17-12-601(a)(5) and (6), concerning the
20 grounds for revocation or suspension of licensure of accountants, are amended
21 to read as follows:

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

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

27
28 SECTION 11. Arkansas Code § 17-12-601, concerning the grounds for
29 revocation or suspension of licensure of an accountant, is amended to add an
30 additional subsection to read as follows:

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

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

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

9 ~~(a) Moral turpitude;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 17-20-302. Qualifications of applicants.

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

13 (1) Is qualified under this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 registration of a contractor under this subchapter:

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

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

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

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

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

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

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

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

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

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

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

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

1 the time of appointment;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 applicant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 ~~(E) Employment references;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (2) The board shall investigate such charges.

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

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

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

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

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

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

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

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

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

9 (a) An applicant for licensure shall:

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

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

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

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

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

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

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

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

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

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

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

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

1 the imposition of sentence has been deferred or suspended;

2 (4) Making any substantial misrepresentation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 17-43-307. Reciprocity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 of:

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

9
10 SECTION 53. Arkansas Code § 17-48-203(a), concerning the
11 qualifications for certification as a surveyor, is amended to read as
12 follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 two (2) years.

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

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

7
8 SECTION 56. Arkansas Code § 17-50-301(a)(2), concerning applicant
9 qualifications for registration as a certified water well driller or
10 certified pump installer, is repealed.

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

12
13 SECTION 57. Arkansas Code § 17-52-308(b)(3), concerning complaints
14 against and disciplinary procedures for a home inspector, is amended to read
15 as follows:

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

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

20
21 SECTION 58. Arkansas Code § 17-52-315(a), concerning the application
22 for registration as a home inspector, is amended to read as follows:

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

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

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

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

35
36 SECTION 59. Arkansas Code § 17-81-304(a)(2), concerning the

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

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

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

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

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

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

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

23 (b) An applicant:

24 (1) ~~Must~~ Shall:

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

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

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

32 (2) ~~Must~~ Shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28
29 SECTION 71. Arkansas Code § 17-86-303(a)(1), concerning qualifications
30 for licensure as a massage therapist, is amended to read as follows:

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

33
34 SECTION 72. Arkansas Code § 17-86-311(a), concerning the disciplinary
35 actions and penalties for massage therapists, is amended to read as follows:

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

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

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

6 (2) Malpractice or gross incompetency;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 education program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 months.

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

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

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

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

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

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

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

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

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

18 ~~(E) Employment references;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (B) Providing services as a medication assistive person

1 without a valid certificate; ~~or~~

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

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

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

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

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

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

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

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

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

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

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

36 (ii) Providing ophthalmic dispensing services under

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (1) ~~Over~~ At least twenty-one (21) years of age;
2 (2) A successful candidate having passed all parts of the
3 National Board of Examiners in Optometry examination since January 1, 1997;
4 and

5 ~~(3) Of good moral character; and~~
6 ~~(4)~~(3) A graduate of a college of optometry that has been
7 accredited by the Accreditation Council on Optometric Education of the
8 American Optometric Association.

9
10 SECTION 86. Arkansas Code § 17-90-302(c)(3), concerning licensure by
11 endorsement for optometrists, is amended to read as follows:

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

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

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

24
25 SECTION 88. Arkansas Code § 17-91-101(a), concerning the licensing
26 requirements for an osteopathic physician, is amended to read as follows:

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

29 (1) Is at least twenty-one (21) years of age;
30 (2) Is a citizen of the United States;
31 ~~(3) Is of good moral character;~~
32 ~~(4)~~(3) Has not been guilty of acts constituting unprofessional
33 conduct as defined in the Arkansas Medical Practices Act, § 17-95-201 et
34 seq., § 17-95-301 et seq., and § 17-95-401 et seq.;

35 ~~(5)~~(4) Is a graduate of an osteopathic college of medicine whose
36 course of study has been recognized by the Department of Education of the

1 American Osteopathic Association; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (b) Each physical therapist applicant shall:

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

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

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

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

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

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

35 (b) Each physical therapist assistant applicant shall:

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

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

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

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

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

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

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

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

(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 the person has not been sufficiently rehabilitated to warrant the public trust~~ listed under § 17-2-102;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 meetings without just cause as determined by the board;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(D) Subsequent work history;~~

~~(E) Employment references;~~

~~(F) Character references; and~~

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

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

(2) No record, file, or document shall be removed from the custody of the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 5 ~~(1) Is a person of good moral character;~~
6 ~~(2)~~(1) Meets the minimum educational requirements;
7 ~~(3)~~(2) Meets the minimum specialized training requirements, as
8 determined by the board;
9 ~~(4)~~(3) Has had two (2) years of field experience in human
10 immunodeficiency virus/sexually transmitted disease intervention; and
11 ~~(5)~~(4) Is actively engaged in the field of human
12 immunodeficiency virus/sexually transmitted disease intervention at the time
13 he or she makes application.
14

15 SECTION 113. Arkansas Code § 17-98-303 is amended to read as follows:
16 17-98-303. Issuance of certificate without examination.

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

- 22 ~~(1) Is of good moral character;~~
23 ~~(2)~~(1) Has had at least two (2) years' experience in the field
24 of human immunodeficiency virus/sexually transmitted disease intervention;
25 and
26 ~~(3)~~(2) Is registered as a disease intervention specialist in a
27 state in which the qualifications for registration are not lower than the
28 qualifications for registration in this state at the time he or she applies
29 for registration.
30

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

33 17-98-305. Application for reinstatement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 ~~(3) Has been convicted of any crime involving moral turpitude;~~

34
35 SECTION 117. Arkansas Code § 17-100-302(b), concerning qualifications
36 of an applicant for licensure as a speech-language pathologist or

1 audiologist, is amended to read as follows:

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

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

5 ~~(2)(1)~~ Possess at least a master's degree in the area of speech-
6 language pathology or a master's degree in audiology obtained on or before
7 December 30, 2006, or a doctoral degree obtained after January 1, 2007, from
8 an educational institution recognized by the board;

9 ~~(3)(2)~~ Submit evidence of the completion of the educational,
10 clinical experience, and employment requirements, which shall be based on
11 appropriate national standards and prescribed by the rules adopted under this
12 chapter; and

13 ~~(4)(3)~~ Pass an examination approved by the board before the
14 board approves a license.

15
16 SECTION 118. Arkansas Code § 17-100-302(d), concerning qualifications
17 of an applicant for provisional licensure as a speech-language pathologist or
18 audiologist, is amended to read as follows:

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

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

22 ~~(2)(1)~~ Possess at least a master's degree in the area of speech-
23 language pathology or audiology, as the case may be, from an educational
24 institution recognized by the board;

25 ~~(3)(2)~~ Be in the process of completing the postgraduate
26 professional experience requirement; and

27 ~~(4)(3)~~ Pass an examination approved by the board.

28
29 SECTION 119. Arkansas Code § 17-100-307(a)(3), concerning the grounds
30 for denial, suspension, or revocation of a license, or other disciplinary
31 action for speech-language pathologists and audiologists, is amended to read
32 as follows:

33 (3)(A) Being convicted of a felony listed under § 17-2-102 in
34 ~~any court of the United States if the acts for which the licensee or~~
35 ~~applicant is convicted are found by the board to have a direct bearing on~~
36 ~~whether he or she should be entrusted to serve the public in the capacity of~~

1 ~~a speech language pathologist or audiologist.~~

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

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

9 (i) The time for appeal has elapsed;

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

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

17
18 SECTION 120. Arkansas Code § 17-101-305(a)(4)(A), concerning the
19 grounds for denial, suspension, or revocation of a veterinarian license, is
20 amended to read as follows:

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

23
24 SECTION 121. Arkansas Code § 17-102-304(a)(3), concerning
25 qualifications of an applicant for provisional licensure as an acupuncturist,
26 is amended to read as follows:

27 (3) Before any applicant shall be eligible for an examination,
28 the applicant shall furnish satisfactory proof to the board that he or she:

29 ~~(A) Is of good moral character by filing with his or her~~
30 ~~application the affidavits of at least two (2) reputable acupuncturists who~~
31 ~~attest to his or her character;~~

32 ~~(B)~~(A) Has successfully completed not fewer than sixty
33 (60) semester credit hours of college education, to include a minimum of
34 thirty (30) semester credit hours in the field of science; and

35 ~~(C)~~(B) Has completed a program in acupuncture and related
36 techniques and has received a certificate or diploma from an institute

1 approved by the board as described in this section. The training received in
2 the program shall be for a period of no fewer than four (4) academic years
3 and shall include a minimum of eight hundred (800) hours of supervised
4 clinical practice.

5
6 SECTION 122. Arkansas Code § 17-102-304(c)(4), concerning
7 qualifications of an applicant for provisional licensure as an acupuncturist,
8 is amended to read as follows:

9 (4) Not have been convicted of a felony listed under § 17-2-102;
10 and

11
12 SECTION 123. Arkansas Code § 17-103-305(b), concerning the grounds for
13 renewal, revocation, or suspension of a social worker license, is amended to
14 read as follows:

15 (b) The board shall refuse to issue or shall revoke the license of a
16 person who has been found guilty of a felony, ~~any crime involving moral~~
17 ~~turpitude,~~ listed under § 17-2-102 or criminal offense involving violence,
18 dishonesty, fraud, deceit, breach of client trust, or abuse of the vulnerable
19 unless the person requests and the board grants a waiver under § 17-103-
20 307(f).

21
22 SECTION 124. Arkansas Code § 17-103-306(a)(1)(D), concerning
23 qualifications of an applicant for licensure as a licensed social worker, is
24 repealed.

25 ~~(D) Has good moral character;~~

26
27 SECTION 125. Arkansas Code § 17-103-306(a)(1)(G), concerning
28 qualifications for a Licensed Social Worker license, is amended to read as
29 follows:

30 (G) Has not pleaded guilty or nolo contendere to or been
31 found guilty of a felony, ~~any crime involving moral turpitude,~~ listed under §
32 17-2-102 or criminal offense involving violence, dishonesty, fraud, deceit,
33 breach of client trust, or abuse of the vulnerable;

34
35 SECTION 126. Arkansas Code § 17-103-306(b)(1)(G), concerning the
36 qualifications for a Licensed Master Social Worker license, is amended to

1 read as follows:

2 (G) Has not pleaded guilty or nolo contendere to or been
3 found guilty of a felony, ~~any crime involving moral turpitude, listed under §~~
4 ~~17-2-102~~ or criminal offense involving violence, dishonesty, fraud, deceit,
5 breach of client trust, or abuse of the vulnerable;

6
7 SECTION 127. Arkansas Code § 17-103-306(c)(1)(H), concerning the
8 qualifications for a Licensed Certified Social Worker license, is amended to
9 read as follows:

10 (H) Has not pleaded guilty or nolo contendere to or been found
11 guilty of a felony, ~~any crime involving moral turpitude, listed under § 17-2-~~
12 ~~102~~ or criminal offense involving violence, dishonesty, fraud, deceit, breach
13 of client trust, or abuse of the vulnerable;

14
15 SECTION 128. Arkansas Code § 17-103-307(d)-(k), concerning criminal
16 background check requirements for social workers, are amended to read as
17 follows:

18 (d) Upon completion of the criminal background check, the
19 Identification Bureau of the Department of Arkansas State Police shall
20 forward to the board all releasable information obtained concerning the
21 applicant ~~in the commission of any offense listed in subsection (e) of this~~
22 ~~section.~~

23 (e) For purposes of this section, the board shall follow the licensing
24 restrictions based on criminal records under § 17-2-102. Except as provided
25 ~~in subdivision (k)(1) of this section, a person is not eligible to receive or~~
26 ~~hold a license issued by the board if that person has pleaded guilty or nolo~~
27 ~~contendere to or been found guilty of a felony, any crime involving moral~~
28 ~~turpitude, or criminal offense involving violence, dishonesty, fraud, deceit,~~
29 ~~breach of client trust, or abuse of the vulnerable, including without~~
30 ~~limitation:~~

- 31 ~~(1) Capital murder as prohibited in § 5-10-101;~~
32 ~~(2) Murder in the first degree as prohibited in § 5-10-102 and~~
33 ~~murder in the second degree as prohibited in § 5-10-103;~~
34 ~~(3) Manslaughter as prohibited in § 5-10-104;~~
35 ~~(4) Negligent homicide as prohibited in § 5-10-105;~~
36 ~~(5) Kidnapping as prohibited in § 5-11-102;~~

- 1 ~~(6) False imprisonment in the first degree as prohibited in § 5-~~
2 ~~11-103;~~
- 3 ~~(7) Permanent detention or restraint as prohibited in § 5-11-~~
4 ~~106;~~
- 5 ~~(8) Robbery as prohibited in § 5-12-102;~~
- 6 ~~(9) Aggravated robbery as prohibited in § 5-12-103;~~
- 7 ~~(10) Battery in the first degree as prohibited in § 5-13-201;~~
- 8 ~~(11) Aggravated assault as prohibited in § 5-13-204;~~
- 9 ~~(12) Introduction of a controlled substance into the body of~~
10 ~~another person as prohibited in § 5-13-210;~~
- 11 ~~(13) Aggravated assault upon a law enforcement officer or an~~
12 ~~employee of a correctional facility, § 5-13-211, if a Class Y felony;~~
- 13 ~~(14) Terroristic threatening in the first degree as prohibited~~
14 ~~in § 5-13-301;~~
- 15 ~~(15) Rape as prohibited in § 5-14-103;~~
- 16 ~~(16) Sexual indecency with a child as prohibited in § 5-14-110;~~
- 17 ~~(17) Sexual extortion, § 5-14-113;~~
- 18 ~~(18) Sexual assault in the first degree, second degree, third~~
19 ~~degree, and fourth degree as prohibited in §§ 5-14-124—5-14-127;~~
- 20 ~~(19) Incest as prohibited in § 5-26-202;~~
- 21 ~~(20) Offenses against the family as prohibited in §§ 5-26-303—~~
22 ~~5-26-306;~~
- 23 ~~(21) Endangering the welfare of an incompetent person in the~~
24 ~~first degree as prohibited in § 5-27-201;~~
- 25 ~~(22) Endangering the welfare of a minor in the first degree as~~
26 ~~prohibited in § 5-27-205;~~
- 27 ~~(23) Permitting abuse of a minor as prohibited in § 5-27-221(a);~~
- 28 ~~(24) Engaging children in sexually explicit conduct for use in~~
29 ~~visual or print media, transportation of minors for prohibited sexual~~
30 ~~conduct, pandering or possessing a visual or print medium depicting sexually~~
31 ~~explicit conduct involving a child, or use of a child or consent to use of a~~
32 ~~child in a sexual performance by producing, directing, or promoting a sexual~~
33 ~~performance by a child as prohibited in §§ 5-27-303—5-27-305, 5-27-402, and~~
34 ~~5-27-403;~~
- 35 ~~(25) Computer child pornography as prohibited in § 5-27-603;~~
- 36 ~~(26) Computer exploitation of a child in the first degree as~~

1 ~~prohibited in § 5-27-605;~~

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

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

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

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

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

7 ~~(32) Felony violation of the Uniform Controlled Substances Act,~~
8 ~~§ 5-64-101 et seq., as prohibited in the former § 5-64-401 and §§ 5-64-419—~~
9 ~~5-64-442;~~

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

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

13 ~~(35) Criminal attempt, criminal complicity, criminal~~
14 ~~solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-~~
15 ~~3-301, and 5-3-401, to commit any of the offenses listed in this subsection.~~

16 ~~(f)(1) The provisions of subsection (e) of this section may be waived~~
17 ~~by the board upon the request of:~~

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

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

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

22 ~~(A) The applicant's age at the time the crime was~~
23 ~~committed;~~

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

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

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

27 ~~(E) Employment references;~~

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

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

31 ~~(g)(1)(f)(1)~~ Information received by the board from the Identification
32 Bureau of the Department of Arkansas State Police under this section shall
33 not be available for examination except by the affected applicant for
34 licensure or his or her authorized representative or the person whose license
35 is subject to revocation or his or her authorized representative.

36 (2) No record, file, or document shall be removed from the

1 custody of the department.

2 ~~(h)~~(g) Information made available to the affected applicant for
3 licensure or the person whose license is subject to revocation shall be
4 information pertaining to that person only.

5 ~~(i)~~(h) Rights of privilege and confidentiality established in this
6 section do not extend to any document created for purposes other than the
7 criminal background check.

8 ~~(j)~~(i) The board shall adopt the necessary rules to fully implement
9 the provisions of this section.

10 ~~(k)(1) As used in this section, an expunged record of a conviction or~~
11 ~~plea of guilty or nolo contendere to an offense listed in subsection (c) of~~
12 ~~this section shall not be a felony, any crime involving moral turpitude, or a~~
13 ~~criminal offense involving violence, dishonesty, fraud, deceit, breach of~~
14 ~~client trust, or abuse of the vulnerable unless the offense is also listed in~~
15 ~~subdivision (k)(2) of this section.~~

16 ~~(2) Because of the serious nature of the offenses and the close~~
17 ~~relationship to the type of work that is to be performed, a conviction,~~
18 ~~guilty plea, or nolo contendere plea to any of the following offenses shall~~
19 ~~result in permanent disqualification for licensure:~~

- 20 ~~(A) Capital murder as prohibited in § 5-10-101;~~
21 ~~(B) Murder in the first degree as prohibited in § 5-10-102~~
22 ~~and murder in the second degree as prohibited in § 5-10-103;~~
23 ~~(C) Kidnapping as prohibited in § 5-11-102;~~
24 ~~(D) Aggravated assault upon a law enforcement officer or~~
25 ~~an employee of a correctional facility, § 5-13-211, if a Class Y felony;~~
26 ~~(E) Rape as prohibited in § 5-14-103;~~
27 ~~(F) Sexual extortion, § 5-14-113;~~
28 ~~(G) Sexual assault in the first degree as prohibited in §~~
29 ~~5-14-124 and sexual assault in the second degree as prohibited in § 5-14-125;~~
30 ~~(H) Endangering the welfare of an incompetent person in~~
31 ~~the first degree as prohibited in § 5-27-201;~~
32 ~~(I) Endangering the welfare of a minor in the first degree~~
33 ~~as prohibited in § 5-27-205 and endangering the welfare of a minor in the~~
34 ~~second degree as prohibited in § 5-27-206;~~
35 ~~(J) Engaging children in sexually explicit conduct for use~~
36 ~~in visual or print media, transportation of minors for prohibited sexual~~

1 ~~conduct, or pandering or possessing a visual or print medium depicting~~
2 ~~sexually explicit conduct involving a child, or use of a child or consent to~~
3 ~~use of a child in a sexual performance by producing, directing, or promoting~~
4 ~~a sexual performance by a child, as prohibited in §§ 5-27-303—5-27-305, 5-~~
5 ~~27-402, and 5-27-403;~~

6 ~~(K) Adult abuse that constitutes a felony as prohibited in~~
7 ~~§ 5-28-103; and~~

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

9
10 SECTION 129. Arkansas Code § 17-104-312(3)(F), concerning violations
11 of the Perfusionist Licensure Act, is amended to read as follows:

12 (F) A plea of guilty, nolo contendere, or a finding of
13 guilt of a felony listed under § 17-2-102 or any offense substantially
14 related to the qualifications, functions, or duties of a perfusionist, in
15 which event the record shall be conclusive evidence; or

16
17 SECTION 130. Arkansas Code § 17-105-102(b)(6), concerning
18 qualifications of an applicant for licensure as a physician assistant, is
19 repealed.

20 ~~(6) Is of good moral character;~~

21
22 SECTION 131. Arkansas Code § 17-105-113 is amended to read as follows:
23 17-105-113. Violation.

24 Following the exercise of due process, the Arkansas State Medical Board
25 may discipline any physician assistant who:

26 (1) Fraudulently or deceptively obtains or attempts to obtain a
27 license;

28 (2) Fraudulently or deceptively uses a license;

29 (3) Violates any provision of this chapter or any regulations
30 adopted by the board pertaining to this chapter;

31 (4) Is convicted of a felony listed under § 17-2-102;

32 (5) Is a habitual user of intoxicants or drugs to such an extent
33 that he or she is unable to safely perform as a physician assistant;

34 (6) Has been adjudicated as mentally incompetent or has a mental
35 condition that renders him or her unable to safely perform as a physician
36 assistant; or

1 ~~(7) Has committed an act of moral turpitude; or~~

2 ~~(8)~~(7) Represents himself or herself as a physician.

3
4 SECTION 132. Arkansas Code § 17-106-107(a)(2), concerning the
5 licensing requirements for healthcare professionals who use radioactive
6 materials or medical equipment emitting or detecting ionizing radiation on
7 human beings for diagnostic or therapeutic purposes, is amended to read as
8 follows:

9 (2) Submit satisfactory evidence verified by oath or affirmation
10 that the applicant:

11 (A) Is qualified to administer radioactive materials or
12 operate medical equipment emitting or detecting ionizing radiation upon human
13 beings;

14 ~~(B) Is of good moral character;~~

15 ~~(C)~~(B) Is at least eighteen (18) years of age at the time
16 of application; and

17 ~~(D)~~(C) Has been awarded a high school diploma or has
18 passed the General Educational Development Test or the equivalent.

19
20 SECTION 133. Arkansas Code § 17-106-110(a)(2), concerning discipline
21 for healthcare professionals who use radioactive materials or medical
22 equipment emitting or detecting ionizing radiation on human beings for
23 diagnostic or therapeutic purposes, is amended to read as follows:

24 (2) Has been convicted of a felony listed under § 17-2-102 ~~in a~~
25 ~~court of competent jurisdiction either within or outside of this state unless~~
26 ~~the conviction has been reversed and the holder of the license has been~~
27 ~~discharged or acquitted or if the holder has been pardoned with full~~
28 ~~restoration of civil rights, in which case the license shall be restored;~~

29
30 SECTION 134. Arkansas Code § 17-107-310(1), concerning disciplinary
31 action for orthotists, prosthetists, and pedorthists, is amended to read as
32 follows:

33 (1) Has pleaded guilty or nolo contendere to or has been found
34 guilty of a felony listed under § 17-2-102;

/s/J. Cooper

APPROVED: 4/15/19

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