

ARKANSAS BOARD OF DISPENSING OPTICIANS

RULES¹

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¹ The Rules were adopted January 1, 2020

1. STATEMENT OF ORGANIZATION AND OPERATIONS

- 1.1. PURSUANT TO THE OPHTHALMIC DISPENSERS ACT originally adopted in 1981 and codified at Ark. Code Ann. § 17-89-101 et seq., the Arkansas Board of Dispensing Opticians promulgates and adopts the following rules ~~and regulations~~ of ophthalmic dispensing.

2. INFORMATION FOR PUBLIC GUIDANCE

- 2.1. THE BOARD MAKES AVAILABLE A LIST OF PERSONS holding certain responsibilities for handling FOIA request, licensing questions, and complaints against licensees so that the public may obtain information about the Board or make submissions or request. The names, mailing addresses, telephone numbers, and electronic addresses can be obtained by contacting the Board's office.
- 2.2. THE BOARD MAINTAINS A LIST OF OFFICIAL FORMS used by the Board and a list of all formal, written statement of policy and written interpretative memoranda, and orders, decisions and opinions resulting from adjudications, which may be obtained from the Board's office.
- 2.3. COPIES of all forms used by the Board, written statements of policy and written interpretative memoranda, and all orders issued by the Board, excluding materials related to written and practical testing, may be obtained from the Board's office.

3. GENERAL ORGANIZATION

- 3.1. DESCRIPTION OF ORGANIZATION. The officers of the Board of Dispensing Opticians shall be a Chairman, Vice Chairman, and Secretary-Treasurer. The Board shall elect officers from its membership at its first regular meeting of the year, and each officer shall serve for a term of one year or until his successor is elected and duly qualified. If a vacancy occurs, the Board shall elect a successor to complete the balance of the unexpired term of office.
- 3.2. MEETINGS OF THE BOARD. Regular meetings of the Board shall be held at least twice each year at a time and place determined by the Board. Other meetings of the Board shall be called by the Chairman or upon the written request of two Board members. The Secretary-Treasurer shall give timely notice of the time and place of such meetings to each member. Correspondence shall be directed to the Board's office, whose address may be obtained through the Governor's office. All meetings will be conducted

in conformity with the Arkansas Freedom of Information Act and in accordance with Robert's Rules of Order except where such rules conflict with these rules ~~and regulations~~

- 3.3. QUORUM. Five members of the Board shall constitute a quorum for the transaction of business. All official action of the Board must be approved by the majority vote of the members present and voting except where a two-thirds ($\frac{2}{3}$) or three-fourths ($\frac{3}{4}$) majority vote is required by these rules ~~and regulations~~.
- 3.4. AGENDA. The Secretary-Treasurer will prepare the agenda for regular and special meetings. The agenda will be distributed to Board members and made available to the public in advance of the meeting. The agenda should state with specificity the items that will be considered at the meeting or hearing. The order of the agenda items is tended to be flexible and may be adjusted to meet the needs of the Board. The agenda may be amended by appropriate motion.
- 3.5. AMENDMENT TO RULES ~~AND REGULATIONS~~. All requirements of the Arkansas Administrative Procedures Act shall be complied with prior to the final adoption of an amendment to these Rules ~~and Regulations~~.
- 3.6. FISCAL YEAR OF THE BOARD. The fiscal year of the Board shall be from July 1 to June 30.
- 3.7. BOOK OF LICENSURE AND BOOK OF REGISTRY. The Secretary-Treasurer of the Board shall maintain an annually updated Book of Licensure and a Book of Registry of all opticians licensed or registered to engage in the business of ophthalmic dispensing in Arkansas. In addition, a listing of all apprenticed dispensing opticians together with the licensed or registered dispensing opticians by whom they are employed shall be maintained.
- 3.8. ANNUAL REPORT. The Secretary-Treasurer shall prepare and present an annual report of administration, licensure, registry, and investigation to the Arkansas State Board of Optometry and to the Ophthalmology Section of the Arkansas Medical Society, as well as a copy of the books of Licensure and Registry listed in Section 3.7 of these rules.
- 3.9. FINANCIAL AFFAIRS. The current rules ~~and regulations~~ of the Arkansas Department of Finance and Administration shall be followed in the financial affairs of the Board.

3.10. COMPENSATION. Board members shall be compensated pursuant to Ark. Code Ann. § 25-16-903.

4. RULE MAKING AUTHORITY

4.1. AUTHORITY. The Board has been authorized by the Legislature to promulgate rules. Ark. Code Ann. § 17-89-203 (a) (6). The Board follows the procedural requirement of the Arkansas Administrative Procedures Act, in particular Ark. Code Ann. §25-15-203 and §25-15-204. Additionally, the Board is required to abide by the provisions of Ark. Code Ann. §10-3-309.

4.2. INITIATION OF RULE-MAKING. The process of adopting a new rule or amending or repealing an existing rule (hereinafter referred to “rule-making”) may be initiated by request of the Board that the staff submit proposed drafts. Additionally, staff of the Board may request permission of the Board to initiate rule-making. Third persons outside the Board may petition for the issuance, amendment, or repeal of any rule.

4.3. PETITION TO INITIATE RULE-MAKING.

4.3.1. Third parties may initiate rule-making to adopt, amend, or repeal a rule by filing a petition with the Board to initiate rule-making. The petition must contain the name, address, and telephone number of the petitioner, the specific rule or action requested, the reasons for the rule or action requested, and facts showing that the petitioner is regulated by the Board or has a substantial interest in the rule or action requested.

4.3.2. The petition to initiate rule-making shall be filed with the Secretary-Treasurer.

4.3.3. Within thirty (30) days after submission of the petition, the Board will either deny the petition, stating its reason in writing, or will initiate rule-making. A special meeting will be called if necessary to meet this time frame.

4.4. PRE-FILING WITH THE BUREAU OF LEGISLATIVE RESEARCH. Thirty (30) days before the public-comment period ends, the Board will file with the Bureau of Legislative Research the text of the proposed rule or amendment as well as a financial impact statement and a Bureau of Legislative Research questionnaire as provided by Ark. Code Ann. §10-3-309.

4.5. PUBLIC INPUT.

- 4.5.1. Before finalizing language of a proposed new rule or an amendment to, or repeal of, an existing rule, the Board will receive public input through written comments and/or oral submissions. The Board will designate in its public notice the format and timing of public comment.
- 4.5.2. Any public hearing will provide affected persons and other members of the public a reasonable opportunity for presentation of evidence, arguments, and oral statements within reasonable conditions and limitations imposed by the Board to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings.
- 4.5.3. The Board Chairman, any member of the Board, or any person designated by the Board may preside at the public hearing. The Board must ensure that the Board personnel responsible for preparing the proposed rule changes to be available to explain the proposal and to respond to questions or comments regarding the proposed rule.
- 4.5.4. The Board must preserve the comments made at the public hearing by a certified court reporter or by recording instruments.
- 4.5.5. Any person may submit written statement within the specified period of time. All timely, written statements will be considered by the Board and be made a part of the rule-making record.
- 4.6. NOTICE OF RULE-MAKING. The Board will give notice of proposed rule-making to be published pursuant to Ark. Code Ann. §25-15-204. The notice will set any written comment period and will specify the time, date, and place of any public hearing.
- 4.7. THE DECISION TO ADOPT A RULE.
 - 4.7.1. The Board will not finalize language of the rule or decide whether to adopt a rule until the period of public comment has expired.
 - 4.7.2. Before acting on a proposed rule, the Board will consider all of the written submissions and/or oral submissions received in the rule-making proceedings or any memorandum summarizing such oral submissions, and any regulatory analysis or fiscal impact statement issued in the rule-making proceedings.
 - 4.7.3. The Board may use its own experience, specialized knowledge, and judgment in the adoption of a rule.

4.8. VARIANCE BETWEEN ADOPTED RULE AND PUBLISHED NOTICE OF PROPOSED RULE.

4.8.1. The Board may not adopt a rule that differs from the rule proposed in the published notice of the intended rule-making on which the rule is based unless:

4.8.1.1. The final rule is in character with the original scheme and was a logical outgrowth of the notice and comments stemming from the proposed rule, or

4.8.1.2. The notice fairly apprised interested persons of the subject and the issues that would be considered so that those persons had an opportunity to comment.

4.8.2. In determining whether the final rule is in character with the original scheme and was a logical outgrowth of the notice and comments, and that the notice of the intended rule-making provided fair warning that the outcome of that rule-making proceeding could be the rule in question, the Board must consider the following factors:

4.8.2.1. The extent to which persons who will be affected by the rule should have understood that the rule-making proceeding on which it is based could affect their interest; and

4.8.2.2. The extent to which the subject matter of the rule or issues determined by the rule are different from the subject matter or issues contained in the notice of intended rule-making; and

4.8.2.3. The extent to which the effects of the rule differ from the effects of the proposed rule contained in the notice of intended rule-making.

4.9. CONCISE STATEMENT OF REASONS.

4.9.1. When requested by an interested person, either prior to the adoption of a rule or within thirty (30) days after its adoption, the Board shall issue a concise statement of the principal reasons for and against its adoption of the rule. Request for such a statement must be in writing and be delivered to the Secretary-Treasurer. The request should indicate whether the statement is sought for all or only a specified part of a rule. A request will be considered to have been submitted on the date on which it is received by the Secretary-Treasurer.

4.9.2. The concise statement of reasons must contain:

4.9.2.1. The Board's reasons for adopting the rule;

- 4.9.2.2. An indication of any change between the text of the proposed rule and the text of the rule as finally adopted, with explanations for any such change; and
- 4.9.2.3. The principal reasons urged in the rule-making procedure for and against the rule, and the Board's reasons for overruling the arguments made against the rule.

4.10. CONTENTS.

4.10.1. The Board shall cause its rules to be published and made available to interested persons. The publication must include:

4.10.1.1. The text of the rule; and

4.10.1.2. A note containing the following;

4.10.1.2.1. The date(s) the Board adopted or amended the rule;

4.10.1.2.2. The effective date(s) of the rule;

4.10.1.2.3. Any findings required by any provisions of law as a prerequisite to adoption for effectiveness of the rule; and

4.10.1.2.4. Citations to the entire specific statutory or other authority authorizing the adoption of the rule;

4.10.1.3. The publication of the rule(s) must state the date of publication.

4.11. FORMAT. The published rules of the Board will be organized substantially in the following format;

4.11.1. Statement of Organization and Operations

4.11.2. Information for Public Guidance

4.11.3. General Organization

4.11.4. Rule-making

4.11.5. Emergency Rule-making

4.11.6. Declaratory Orders

4.11.7. Adjudicative Hearings

4.11.8. Licensing

4.11.9. Et seq. Substantive rules and other rule of the Board

4.12. INCORPORATED BY REFERENCE. By reference in a rule, the Board may incorporate all or any part of a code, standard, rule, or other matter if the Board finds that copying the matter in the Board's rule would be unduly cumbersome, expensive, or

otherwise inexpedient. The reference in the Board rule must fully and precisely identify the incorporated matter by title, citation, date, and edition, if any; briefly indicate the precise subject and general contents of the incorporated matter; and state that the rule does not include any later amendments or editions of the incorporated matter. The Board may incorporate such a matter by reference in a proposed or adopted rule only if the Board makes copies of the incorporated matter readily available to the public. The rules must state how and where copies of the incorporated matter may be obtained at cost from this Board, and how and where copies may be obtained from an Board of the United States, this state, another state, or the organization, association, or persons originally issuing that matter. The Board must retain permanently a copy of any materials incorporated by reference in a rule of the Board.

4.13. FILING.

4.13.1. After the Board formally adopts a new rule or amends a current rule or repeals and existing rule, and after the rule change has been reviewed by the Legislative Counsel, the staff will file final copies of the rule with the Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research, or as otherwise provide by Ark. Code Ann. §25-15-204(d).

4.13.2. Proof of filing a copy of the rule, amendment, or repeal with the Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research will be kept in a file maintained by the Secretary-Treasurer.

5. **EMERGENCY RULE-MAKING**

5.1. REQUEST FOR EMERGENCY RULE-MAKING. The proponent of a rule may request the Board to adopt an emergency rule. In addition to the text of the proposed rule or amendment to an existing rule and any other information required by Section 4.3 of these rules, the proponent will provide a written statement setting out the facts or circumstances that would support a finding of imminent peril to the public health, safety, or welfare.

5.2. FINDING OF AN EMERGENCY. Upon receipt of the written statement requesting an emergency rule-making and documents or other evidence submitted in support of the assertion that an emergency exists, the Board will make an independent judgment as to whether the circumstances and facts constitute an imminent peril to the public health,

safety, or welfare requiring adoption of the rule upon fewer than 30 days notice. If the Board determines that the circumstances warrant emergency rule-making, it will make a written determination that sets out the reasons for the Board's finding that an emergency exists. Upon making this finding, the Board may proceed to adopt the rule without any prior notice or hearing, or it may determine to provide an abbreviated notice and hearing.

- 5.3. EFFECTIVE DATE OF EMERGENCY RULE. The emergency rule will be effective immediately upon filing, or at a stated time less than ten (10) days thereafter, if the Board finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. The Board will file with the rule its written findings justifying the determination that emergency rule-making is appropriate and, if applicable, the basis for the effective date of the emergency rule being less than ten days after the filing of the rule pursuant to A.C.A. §25-15-204(e). The Board will take appropriate measures to make emergency rules known to persons who may be affected by them.

6. DECLARATORY ORDERS

- 6.1. PURPOSE AND USE. A declaratory order is a means of resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the Board has authority. A petition for declaratory order may be used only to resolve questions or doubts as to how the statutes, rules or orders may apply to the petitioner's particular circumstances. A declaratory order is not the appropriate means of determining the conduct of another person or for obtaining a policy statement of general applicability from a Board. A petition or declaratory order must describe the potential impact of statutes, rules or orders upon the petitioner's interest.
- 6.2. THE PETITION. The process to obtain a declaratory order is begun by filing with the Board a petition that provides the following information:
- 6.2.1. The caption shall read: Petition for Declaratory Order before the Arkansas Board of Dispensing Opticians.
- 6.2.2. The name, address, telephone number and facsimile number of the petitioner.
- 6.2.3. The name, address, telephone number, and facsimile number of the attorney of the petitioner.
- 6.2.4. The statutory provision(s), Board rule(s), or Board order(s) on which the declaratory order is sought.

6.2.5. A description of whom the statute, rules, or orders may substantially affect the petitioner and the petitioner's particular set of circumstances, and the question or issue on which petitioner seeks a declaratory order.

6.2.6. The signature of the petitioner or petitioner's attorney.

6.2.7. The date.

6.2.8. A request for a formal hearing, if desired.

6.3. BOARD DISPOSITION.

6.3.1. The Board may hold a hearing to consider a petition for declaratory statement. If a hearing is held, it shall be conducted in accordance with Ark. Code Ann. § 25-15-208 and §25-15-213, and the Board's rules for adjudicatory hearing.

6.3.2. The Board may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. Within ninety (90) days of the filing of the petition, the Board will render a final order denying the petition or issuing a declaratory order.

7. **ADJUDICATIVE HEARINGS**

7.1. SCOPE OF THIS CHAPTER. This chapter applies in all administrative adjudications conducted by the Arkansas Board of Dispensing Opticians. This procedure is developed to provide a process by which the Board formulates orders (for example, an order revoking a license to practice, or imposing civil penalties).

7.2. PRESIDING OFFICER. The Board shall preside at the hearing or may designate one or more members of the Board or one or more examiners, referees, or hearing officers to preside at a hearing.

7.3. APPEARANCES. Any party appearing in any Board proceeding has the right, at his or her own expense, to be represented by counsel.

7.3.1. The respondent may appear on his or her own behalf.

7.3.2. Any attorney representing a party to an adjudicatory proceeding must file notice of appearance as soon as possible.

7.3.3. Service on counsel of record is the equivalent of service on the party represented.

7.3.4. On written motion served on the party represented and all other parties of record, the presiding officer may grant counsel of record leave to withdraw for good cause shown.

- 7.4. CONSOLIDATION. If there are separate matters that involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party.
- 7.5. NOTICE TO INTERESTED PARTIES. If it appears that the determination of the rights of parties in a proceeding will necessarily involve a determination of the substantial interests of persons who are not parties, the presiding officer may enter an order requiring that an absent person be notified of the proceeding and be given an opportunity to be joined as a party of record.
- 7.6. SERVICE OF PAPERS. Unless the presiding officer otherwise orders, every pleading and every other paper filed for the proceeding, except applications for witness subpoenas and the subpoenas, shall be served on each party or the party's representative at the last address of record.
- 7.7. INITIATION & NOTICE OF HEARING. An administrative adjudication is initiated by the issuance by the Board of a notice of hearing. The notice of hearing will be sent to the respondent by U.S. Mail, return receipt requested, restricted delivery to the named recipient or his agent. Notice shall be sufficient when it is so mailed to the respondent's latest address on file with the Board. Notice will be mailed at least 20 days before the scheduled hearing. The notice will include:
- 7.7.1. A statement of the time, place, and nature of the hearing;
 - 7.7.2. A statement of the legal authority and jurisdiction under which the hearing is to be held; and
 - 7.7.3. A short and plain statement of the matters of fact and law asserted.
- 7.8. MOTIONS. All requests for relief will be by motion. Motions must be in writing or made on the record during a hearing. A motion must fully state the action requested and the grounds relied upon. The original written motion will be filed with the Board. When time allows, the other parties may, within seven (7) days of the service of the written motion, file a response in opposition. The presiding officer may conduct such proceedings and enter such orders as are deemed necessary to address issues raised by the motion. However, a presiding officer, other than the Board, will not enter a dispositive order unless expressly authorized in writing to do so.

7.9. ANSWER. A respondent may file an answer.

7.10. DISCOVERY. Upon written request, the Board will provide the information designated in A.C.A §25-15-208 (a) (3). Such requests should be received by the Board at least 10 days before the scheduled hearing.

7.11. CONTINUANCES

7.11.1. The Complaint Committee may grant a continuance of hearing for good cause shown. Requests for continuances will be made in writing. The request must state the grounds to be considered and be made as soon as practicable and, except in cases of emergencies, no later than five (5) days prior to the date noticed for the hearing. In determining whether to grant a continuance, the Complaint Committee may consider:

7.11.1.1. Prior continuances;

7.11.1.2. The interests of all parties;

7.11.1.3. The likelihood of informal settlements;

7.11.1.4. The existence of an emergency;

7.11.1.5. Any objection;

7.11.1.6. Any applicable time requirement;

7.11.1.7. The existence of a conflict of the schedules of counsel, parties, or witnesses;

7.11.1.8. The time limits of the request; and

7.11.1.9. Other relevant factors.

7.11.2. The Complaint Committee may require documentation of any grounds for continuance.

7.12. HEARING PROCEDURES

7.12.1. The presiding officer presides at the hearing and may rule on motions, require briefs, and issue such orders as will ensure the orderly conduct of the proceedings; provided, however, any presiding officer other than the Board shall not enter a dispositive order or proposed decision unless expressly authorized in writing to do so.

7.12.2. All objections must be made in a timely manner and stated on the record.

7.12.3. Parties have the right to participate or to be represented by counsel in all hearings or pre-hearing conferences related to their case.

7.12.4. Subject to terms and conditions prescribed by the Administrative Procedure Act, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and, upon request by the Board, may submit briefs and engage in oral argument.

7.12.5. The presiding officer is charged with maintaining the decorum of the hearing and may refuse to admit, or may expel, anyone whose conduct is disorderly.

7.13. ORDER OF PROCEEDINGS. The presiding officer will conduct the hearing in the following manner:

7.13.1. The presiding officer will give an opening statement, briefly describing the nature of the proceedings.

7.13.2. The parties are to be given the opportunity to present opening statements.

7.13.3. The parties will be allowed to present their cases in the sequence determined by the presiding officer.

7.13.4. Each witness must be sworn or affirmed by the presiding officer, or the court reporter, and be subject to examination and cross-examination as well as questioning by the Board. The presiding officer may limit questioning in a manner consistent with the law.

7.13.5. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

7.14. EVIDENCE

7.14.1. The presiding officer shall rule on the admissibility of evidence and may, when appropriate, take official notice of facts in accordance with all applicable requirements of law.

7.14.2. Stipulation of facts is encouraged. The Board may make a decision based on stipulated facts.

7.14.3. Evidence in the proceeding must be confined to the issues set forth in the hearing notice, unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer

decides to admit evidence outside the scope of the notice, over the objection of a party who did not have actual notice of those issues, that party, upon timely request, will receive a continuance sufficient to prepare for the additional issue and to permit amendment of pleadings.

7.14.4. A party seeking admission of an exhibit must provide 12 copies of each exhibit at the hearing. The presiding officer must provide the opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. All exhibits admitted into evidence must be appropriately marked and be made part of the record.

7.14.5. Any party may object to specific evidence or may request limits on the scope of the examination or cross-examination. A brief statement of the grounds upon which it is based shall accompany such an objection. The objection, the ruling on the objection, and the reasons for the ruling will be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve the ruling until the written decision.

7.14.6. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony will briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

7.14.7. Irrelevant, immaterial, and unduly repetitive evidence will be excluded. Any other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonably prudent men and women in the conduct of their affairs.

7.14.8. Reasonable inferences. The finder of fact may base its findings of fact upon reasonable inferences derived from other evidence received.

7.15. DEFAULT. If a party fails to appear or participate in an administrative adjudication after proper service of notice, the Board may proceed with the hearing and render a decision in the absence of the party.

7.16. SUBPOENAS

7.16.1. At the request of any party, the Board shall issue subpoenas for the attendance of witnesses at the hearing. The requesting party shall specify whether the witness is also requested to bring documents and reasonably identify said documents.

7.16.2. A subpoena may be served by any person specified by law to serve process or by any person who is not a party and who is eighteen (18) years of age or older.

Delivering a copy to the person named in the subpoena shall make service. Proof of service may be made by affidavit of the person making service. The party seeking the subpoena shall have the burden of obtaining service of the process and shall be charged with the responsibility of tendering appropriate mileage fees and witness fees pursuant to Rule 45, Arkansas Rules of Civil Procedure. The witness must be served at least two days prior to the hearing. For good cause, the Board may authorize the subpoena to be served less than two days before the hearing.

7.16.3. Any motion to quash or limit the subpoena shall be filed with the Board and shall state the grounds relied upon.

7.17. RECORDING THE PROCEEDINGS. The responsibility to record the testimony heard at a hearing is borne by the Board. Upon the filing of a petition for judicial review, the Board will provide a verbatim transcript of testimony taken before the Board.

7.18. FACTORS TO BE CONSIDERED IN IMPOSING SANCTIONS. In addition to any other considerations permitted by Ark. Code Ann. § 17-89-101 et seq., if applicable, the Board in imposing any sanction may consider the following:

7.18.1. The nature and degree of the misconduct for which the licensee is being sanctioned.

7.18.2. The seriousness and circumstances surrounding this misconduct.

7.18.3. The loss or damage to clients or others.

7.18.4. The assurance that those who seek similar professional services in the future will be protected from the type of misconduct found.

7.18.5. The profit to the licensee.

7.18.6. The avoidance of repetition.

7.18.7. Whether the conduct was deliberate, intentional, or negligent.

7.18.8. The deterrent effect on others.

7.18.9. The conduct of the individual during the course of the disciplinary proceeding.

7.18.10. The professional's prior disciplinary record, including warnings.

7.18.11. Matters offered by the professional in mitigation or extenuation, except that a claim of disability or impairment resulting from the use of alcohol or drugs may not be considered unless the professional demonstrates that he or she is successfully pursuing in good faith a program of recovery.

7.19. FINAL ORDER. The Board will serve on the respondent a written order that reflects the action taken by the Board. The order will include a recitation of facts found based on testimony and other evidence presented and reasonable inferences derived from the evidence pertinent to the issues of the case. It will also state conclusions of law and directives or other disposition entered against or in favor of the respondent. The order will be served personally or by mail on the respondent. If counsel represents respondent, service of the order on respondent's counsel shall be deemed service on the respondent.

8. DEFINITIONS

8.1. THE BOARD DEFINES the following major terms used in Ark. Code Ann. §17-89-101 et seq. within the Rules ~~and Regulations~~ promulgated by the Board:

8.1.1. "Ophthalmic Dispensing" means the preparation of laboratory work orders, verification, and dispensing of spectacle lenses, spectacles, eyeglasses, and/or parts thereof to the intended wearer thereof on a written prescription from a licensed physician skilled in disease of the eye or licensed optometrist. It shall include; the measuring, fitting, adapting, and adjusting of such spectacle lenses, spectacles, eyeglasses, and/or parts thereof to the human face; the preparation and delivery of work orders to laboratory technicians engaged in grinding lenses and fabrication of eyewear; the verification of the quality of finished spectacle lenses, spectacle or eyeglasses; and the adjustment or repair of spectacle frames to the human face. The prescribing, adapting, fitting, duplicating, dispensing, modifying, selling or supplying of contact lenses for or to the human eye is specifically excluded.

8.1.2. "Licensed Dispensing Opticians" means any person licensed by the Arkansas Board of Dispensing Opticians to engage in ophthalmic dispensing.

8.1.3. "Registered Dispensing Optician" means any person registered by the Arkansas Board of Dispensing Opticians to engage in ophthalmic dispensing.

- 8.1.4. “Apprentice Dispensing Optician” means an individual registered with the Arkansas Board of Dispensing Opticians to work under the supervision of a licensed or registered dispensing optician or a physician skilled in disease of the eye or optometrist licensed by this State.
- 8.1.5. “Supervision” means the direct personal physical provision of direction and control through personal inspection.
- 8.1.6. “Direct personal physical provision of direction and control” means in the optical dispensary and immediately available to address through personal inspection the actions of an apprentice or student optician.
- 8.1.7. The term “Board” as used in this Act means the Arkansas Board of Dispensing Opticians.
- 8.1.8. The term “person” as used in this Act shall be interpreted to include individuals, partnerships, firms, corporations, professional corporations, unincorporated associations, or any of the foregoing.
- 8.1.9. A “full service optical laboratory” fabricates prescription lenses from unfinished or semi-finished lenses.
- 8.1.10. “Side-by-side” operation means one in which a registered, licensed or apprenticed dispensing optician directly or indirectly controls or attempts to control the professional judgment, manner of practice or the practice of a licensed optometrist or physician skilled in the disease of the eye. For the purpose of this subsection, “controlling or attempting to control the professional judgment, manner of practice, or the practice of a licensed optometrist or physician skilled in the disease of the eye” may include or relate to but not be limited to:
- 8.1.10.1. Setting or attempting to influence the professional fees or office hours of a licensed optometrist or physician skilled in disease of the eye.
- 8.1.10.2. Termination or threatening to terminate any lease, agreement, or other relationship in an effort to control, the professional judgment, manner of practice, or practice of a licensed optometrist or physician skilled in disease of the eye.
- 8.1.10.3. Defining the scope of or time limits for vision examinations.

- 8.1.10.4. Where more than one optometrist or physician skilled in disease of the eye is generally available, the repeated directing of persons seeking vision care to a particular optometrist or physician skilled in disease of the eye, group practitioner or professional association, for the purpose of splitting fees, receive a kickback or rebate.
- 8.1.10.5. Distributing or causing to be distributed professional business cards or like materials of a particular optometrist or physician skilled in the disease of the eye, group, or professional association.
- 8.1.10.6. Advertising in any way that indicated vision examinations might be scheduled or arranged through or by the dispensing optician's office.
- 8.1.10.7. Advertising that indicated vision examinations can be secured "nearby" or similar statements.
- 8.1.11. "Capping and Steering" is defined as the practice of a licensed, registered, or apprenticed dispensing optician or their employees repeatedly referring prospective customers to a specific optometrist or physician skilled in the disease of the eye, for the purpose of securing a current prescription for eye glasses.

9. LICENSURE, REGISTRY OR OFFICE PERMIT REQUIREMENTS AND QUALIFICATIONS

- 9.1. GENERAL. All board action regarding licensure shall be governed by Ark. Code Ann. §§ 17-89-101 et seq. and, when applicable Ark. Code Ann. §§ 25-15-208 to 213.
- 9.2. REQUIREMENT TO KEEP CURRENT ADDRESSES ON FILE. All persons holding a license issued by the board are required to provide the board with information so that the board can remain in contact and provide notice of complaints and/or hearings. The licensee is required to provide is required to provide written notice to the board of any change in business and/or residential address within 10 working days of the change. Service of notices of hearing sent by mail will be addressed to the latest address on file with the board.
- 9.3. LICENSURE OR REGISTRY REQUIREMENTS. Except as otherwise provided in Ark. Code. Ann. §17-89-101 et seq., any person not licensed to practice medicine or optometry in Arkansas who shall perform or purport to perform any act described in

Section 8.1.1, Ophthalmic Dispensing definition, must be licensed or registered by the Arkansas Board of Dispensing Opticians.

9.4. QUALIFICATIONS FOR LICENSURE OR REGISTRY. Each applicant for licensure or registry shall make application to the Board upon a form and in such a manner as the Board may require. Each applicant shall:

9.4.1. Verify that he or she is over the age of 21 years;

9.4.2. Be of good moral character;

9.4.3. Be a high school graduate or the equivalent thereof; and provide a certified copy of the high school transcript or Graduate Equivalency Diploma (GED).

9.4.4. Submit written proof that he or she possesses the experience and/or education requirements which are specified in Ark. Code. Ann §17-89-302 and §17-89-303.

9.4.4.1. Provide a certified copy of transcript from a nationally accredited organization approved by this Board or;

9.4.4.2. Apprenticed Dispensing Opticians shall submit copies of all Supervision Agreements and Quarterly Supervision Reports as written proof that they have met the experience requirements, or

9.4.4.3. Applicants submitting experience for three (3) years' dispensing experience under the direct supervision of any Arkansas-licensed optometrist or Arkansas-licensed physician skilled in disease of the eye shall submit the Board approved Supervision Report forms attested to by the optometrist or physician skilled in disease of the eye. Said supervised period of time shall consist of no less than four thousand eight hundred hours in the last five (5) years to qualify for the examination.

9.4.5. Enclose the examination fee of two hundred fifty dollars (\$250.00) for the National Practical Examination. Applicants for Licensure or Registry must successfully complete the National Practical Examination with a score of 70% (Seventy) percent.

9.4.6. Enclose a current photograph approximately one inch by one inch (1" x 1") of the Applicant.

9.5. REVIEW OF APPLICATION.

9.5.1. The application and supporting documentation will be reviewed by the Secretary-Treasurer. Applicants will be notified by the Secretary Treasurer of the applicant's approval to test. Qualified applicants will be notified by the Secretary –Treasurer of the procedure to take the National Practical Examination. Applicants who fail to pass the National Practical Examination must submit a written request to re-take the examination and submit the fee of two hundred fifty dollars (\$250.00).

9.5.2. Incomplete applications will be returned to the applicant.

9.6. DENIAL OF APPLICATION FOR LICENSURE.

9.6.1. If a preliminary determination is made that the application should be denied, the Board will inform the application of the opportunity for a hearing on the application.

9.6.2. The grounds or basis for the proposed denial of a license will be set for in writing by the Board. Any hearing on the denial of a license will be conducted in accordance with Ark. Code Ann. §25-15-208 and Ark. Code Ann. §25-15-213, and unless otherwise provide by law, the applicant has the burden of establishing entitlement to the license.

9.7. WRITTEN EXAMINATION FOR LICENSURE OR REGISTRY. The Board adopts the National _Practical examination for Registry or Licensure. Examinations shall be conducted pursuant to the guidelines established by the national testing service. Applicants shall be examined in the areas of mechanical optics, occupational vision requirements, the taking of facial measurements for proper frame sizing, ophthalmic lens type, fitting and adjusting of glasses to the face, and any other areas deemed necessary by the Board.

9.8. CERTIFICATES. Every Applicant successfully passing the examination of the Board and satisfying the qualifications required under Ark. Code. Ann. § 17-89-304 and these Board rules ~~and regulations~~ shall receive from the Board a "Certificate of Licensure", or a "Certificate of Registry" to provide ophthalmic dispensing services to the public as a registered or licensed dispensing optician in Arkansas.

9.9. OFFICE PERMIT REQUIREMENTS. Pursuant to Ark. Code Ann. § 17-89- 408 (a), it is unlawful for any person or legal entity to conduct an office or place of business in this State, where ophthalmic dispensing services are offered or performed without an office permit.

9.10. QUALIFICATIONS FOR OFFICE PERMIT. All Applicants for an office permit must complete the Board approved application form and enclose an application fee of \$60.00 each location where an office permit is being sought.

9.11. OFFICE PERMIT TO BE DISPLAYED. Each office permit obtained shall be prominently displayed in each office or place of business in this State where ophthalmic dispensing services are offered or performed.

10 APPRENTICES

10.1 USE OF APPRENTICES APPROVED. Except as limited in Section 10.9 of these rules, licensed or registered dispensing opticians may utilize no more than three (3) apprentice dispensing opticians to engage in ophthalmic dispensing under their direct personal physical supervision and at the same location where the licensed or registered optician dispenses.

10.2 APPRENTICE APPLICATION. Apprentice dispensing opticians shall be approved by the Board upon receipt of a properly completed application, a current photograph of himself/herself approximately one inch by one inch (1"x1") and the payment of a sixty dollar (\$60.00) fee to the Board.

10.3 APPRENTICE SUPERVISION. Apprentice dispensing opticians must submit with their application request a Supervision Agreement in the form and format provided by the Board and signed by the Licensed or Registered Dispensing Optician under whose supervision they will work during their apprenticeship. Quarterly, and at the termination of any supervision agreement, the apprenticed dispensing optician shall submit a Supervision Report in the form and format provided by the Board attested to by the Supervising Licensed or Registered Dispensing Optician. Apprenticed Licensed Opticians shall keep copies of all Supervision Agreements and Quarterly Supervision Reports for submission with application to test for licensure.

10.4 TERMINATION OF SUPERVISION.

10.4.1 If a supervision agreement is terminated for any reason and the Apprenticed dispensing opticians has not obtained the required supervision time for licensure as a Registered Dispensing Optician, a new Supervision Agreement must be submitted to the Board within ten (10) days.

- 10.4.2 Termination of the supervision agreement occurs when for any reason the supervisor is no longer able to provide direct personal physical provisions of direction and control to the supervisee.
- 10.4.3 The Apprentice and the Supervisor are responsible for notifying the Board in writing of the termination of the supervision agreement.
- 10.5 FAILURE TO SUBMIT SUPERVISION AGREEMENT. Failure to submit a Supervision Agreement in the time required shall result in immediate suspension of the Apprentice license without hearing.
- 10.6 REINSTATEMENT OF APPRENTICE LICENSE. The Apprenticed optician license shall be eligible for reinstatement for a period of 180 days upon the following conditions.
- 10.6.1 Submission of a signed Supervision Agreement.
- 10.6.2 Payment of any and all annual renewal fees and/or late payment penalties accruing during the suspension.
- 10.6.3 Payment of a reinstatement fee of \$60.00.
- 10.7 FAILURE TO REINSTATE SUSPENDED APPRENTICED LICENSE. Any apprenticed dispensing optician license not reinstated within the prescribed time period will be considered revoked without hearing. Any person for whom their apprenticed dispensing optician license has been revoked for failure to reinstate shall be required to reapply for licensure. Any hours of supervision earned prior to the re-application process may be considered under the new apprentice license provided the hours are earned within the previous five (5) years before applications for testing for licensure is made.
- 10.8 APPRENTICED SUPERVISION REQUIREMENTS. Apprenticed dispensing opticians must obtain four thousand eight hundred (4800)² actual hours of supervision to qualify as three (3) years of supervision. These hours must be submitted on the Board approved form and certified by the Licensed or Registered dispensing optician under whose supervision the apprentice is acting.

² Hours computed on a basis of 32 hours per week for a period of 50 weeks in a twelve month period of time times 3 years.

- 10.9 SUPERVISING APPRENTICED A Licensed or Registered Optician may not supervise more than three (3) full time Apprenticed Dispensing Opticians

11 ANNUAL RENEWAL

11.1 RENEWAL OF A LICENSE, REGISTRATION OR APPRENTICESHIP.

Application for renewal of Licensed, Registered or Apprenticed dispensing opticians shall be received or postmarked no later than June 10th of each year. Each application for renewal shall include a renewal fee in the amount of sixty dollars (\$60.00) payable to the Arkansas Board of Dispensing Opticians. Each applicant shall submit a current photograph of himself/herself approximately one inch by one inch (1"x 1").

Furthermore, each licensed or registered dispensing optician shall attest to his or her compliance with all of the provisions of Ark. Code. Ann. § 17-89-101 et seq., and the Arkansas Board of Dispensing Optician's Rules ~~and Regulations~~ on the annual licensure and registry renewal forms. Upon submission of the photograph and payment of such renewal fee and in absence of a Board finding against renewal under these rules ~~and regulations~~, such person shall have his Certificate of Licensure, Registry or Apprenticeship renewed for an additional year commencing on July 1 of that year.

- 11.2 CONTINUING EDUCATION. Pursuant to Ark. Code. Ann. §17-89-308, each licensed, registered, or apprenticed optician registered under the provisions of Ark. Code. Ann. §17-89-101 *et seq.* applying for the renewal of his license, shall furnish to the Arkansas State Board of Dispensing Opticians satisfactory evidence that he successfully completed four (4) hours in even numbered years and five (5) hours including one hour of jurisprudence in odd numbered years of continuing education hours approved by either the Arkansas State Board of Dispensing Opticians or the American Board of Opticianry in the year preceding the expiration date of the license being renewed pursuant to Ark. Code. Ann. § 17-89-307. In order to obtain credit for hours that are received, a licensed, registered or apprenticed optician must submit all evidence establishing the approved hours completed to the Board on or before ninety (90) days after the completion of the hours. Continuing education hours shall be obtained in person with the presenter. The Board will not accept continuing education hours obtained by correspondence. Continuing education hours through any form of

live media broadcast must receive prior approval by the Board. The Board shall recognize those schools which are accredited by an organization recognized by the United State Department of Education or by the Council on Postsecondary Accreditation.

- 11.3 DOCUMENTATION OF CONTINUING EDUCATION. Documentation of said continuing education shall be a condition precedent for the renewal of licenses for registered, licensed and apprentice opticians. Provided, however, the board shall reinstate any license not renewed for failure to comply with this ~~regulation~~ rule upon the subsequent presentation of satisfactory evidence of said continuing education and payment of all fees due on or before October 1 of each year.
- 11.4 EXCEPTION TO CONTINUING EDUCATION REQUIREMENT. Provided, however, that any optician who, because of illness or other unavoidable circumstances, is unable to comply herewith may make application to the Board, reasonably documenting the circumstances as to why he or she is unable to comply, and the Board in its discretion may relieve the applicant from so complying for such time and under such circumstances as the Board deems proper.
- 11.5 RENEWAL FEE FOR OPTICIAN. Upon receipt of the sixty dollars (\$60.00) renewal fee each licensed, registered, and apprenticed optician will be issued a photo badge to wear at all times they are performing duties of a registered, licensed or apprentice optician.
- 11.6 LOST OR DESTROYED BADGES. Replacement badges will be provided by the Board for all lost or destroyed badges at a fee of ten dollars (\$10.00).
- 11.7 FAILURE OF LICENSEE, REGISTRANT OR APPRENTICE TO PAY RENEWAL. Any licensed, registered or apprentice dispensing optician who has not paid his or her renewal fee in full by July 1 of that year shall be required to pay the following renewal penalty.
- | | |
|----------------------------|---------|
| July 1 – July 31 | \$25.00 |
| August 1 – August 31 | \$50.00 |
| September 1 – September 30 | \$75.00 |
- 11.8 FAILURE OF LICENSEE, REGISTRANT OR APPRENTICE TO PAY RENEWAL BY SEPTEMBER 30. Any licensed, registered or apprenticed dispensing optician

who fails to renew their license on or before September 30 of each year and continues to provide ophthalmic dispensing services shall be deemed to have committed a violation of Ark. Code Ann. §17-89-309 (a) and may result in action by the Board pursuant to Ark. Code Ann. 17-89-309 (b).

11.9 INACTIVE STATUS.

11.9.1 A licensed or registered dispensing optician who fails to renew their license shall be placed on inactive status. The Board shall notify the licensed or registered dispensing optician 15 days prior to placing an optician on inactive status. The optician shall be notified of their inactive status and inability to continue to provide ophthalmic dispensing services by regular first class mail at the last address provided by the licensee. Mailing will constitute service.

11.9.2 A licensed or registered dispensing optician may request to be placed upon inactive status by providing a written statement to the Board.

11.9.3 The Board may approve inactive status for a period of no longer than two (2) years and shall notify the requesting licensed or registered dispensing optician in writing of the approval.

11.9.4 Licensed or registered dispensing opticians who are placed on inactive status for failure to renew may return to active status within 2 years upon payment of all renewal fees, late penalties and submission of Continuing Education hours. Licensed or registered dispensing opticians who have been granted Board approved inactive status shall only be required to pay the annual renewal fee to reinstate their license or registration. Failure to return from inactive status after two (2) years shall be considered voluntary surrender of the license by the licensee without further notice.

11.10 RENEWAL FEE FOR OFFICE PERMIT. Each office permit must be renewed on or before July 1 of each year. Application for renewal should be received or postmarked no later than June 10th of each year. Such renewal shall include a completed renewal form along with \$60.00 renewal fee.

11.11 FAILURE TO RENEW OFFICE PERMIT AND PAY RENEWAL FEE. Any office which fails to renew its Office Permit and pay the renewal fee by July 1 shall be considered delinquent and subject to the following penalty.

July 1 – July 31	\$25.00
August 1 – August 31	\$50.00
September 1 – September 30	\$75.00

11.12 FAILURE TO RENEW OFFICE PERMIT BY SEPTEMBER 30. Any individual, partnership, corporation or other business entity who fails to renew an office permit by September 30 including the payment of the renewal fee and any appropriate penalty and continues to provide ophthalmic dispensing services shall be deemed to have committed a violation of Ark. Code Ann. § 17-89-408 (a) and may result in action by the Board pursuant to Ark. Code Ann. § 9-89-408 (d).

12 BRANCH OFFICES

12.1 OPTICIAN PRESENT. All open optical businesses which are subject to the provision of Ark. Code Ann. § 17-89-101 et seq. must have physically present within the place of business at all times a licensed or registered dispensing optician.

12.2 BRANCH OFFICE LIMIT. No licensed or registered dispensing optician or person in this state shall establish more than two ophthalmic dispensing branch offices in addition to his principal office unless he shall first have secured a branch office permit from the Board.

12.3 FACTORS FOR BOARD TO CONSIDER. The Board shall consider, but, not be limited to, the following factors when ruling on an application for a permit for additional branch offices:

12.3.1 The availability of qualified personnel to staff the proposed ophthalmic dispensing office;

12.3.2 The established standards of service of the applicant;

12.3.3 The assurance of adequate supervision of the service provided by the proposed branch office;

12.3.4 The applicant's established record of compliance with the provisions of Ark. Code. Ann. § 17-89-101 et seq. and the rules ~~and regulations~~ of the Arkansas Board of Dispensing Opticians.

12.4 NAME OF OPTICIAN DISPLAYED. The name and Certificate of Registry or Licensure of the supervising dispensing optician shall be prominently displayed at all times in each ophthalmic dispensing office.

13 CERTIFICATE OF OWNERSHIP

- 13.1 ANNUAL FILING OF CERTIFICATE OF OWNERSHIP. Each optical dispensary in the State of Arkansas whose title does not contain the proper name of an Arkansas optometrist or Arkansas physician skilled in the diseases of the eye, or a licensed or registered dispensing optician holding a certificate of licensure or registry in the State of Arkansas must file a certificate of ownership each year with the Arkansas Board of Dispensing Opticians between June 1 and June 30. Each certificate of ownership must give the name and address of the dispensary, the optometrist or physician skilled in diseases of the eye, or licensed or registered dispensing optician or person who owns or maintains legal responsibility of the dispensary.
- 13.2 FAILURE TO FILE CERTIFICATE OF OWNERSHIP. When the Board determines that a violation of this requirement has occurred, the Board may undertake an investigation to determine ownership. If ownership is determined to be an optometrist or a physician skilled in diseases of the eye, the Board shall report the failure to file the Certificate of Ownership to the appropriate governing board of the optometrist or physician skilled in diseases of the eye. If the ownership is determined to be a licensed or registered optician, the Board shall initiate a complaint for violation of the rule of this Board and the law of the State of Arkansas.

14 COMPLAINTS

- 14.1 COMPOSITION OF THE COMPLAINT COMMITTEE:
- 14.1.1 The Complaint Committee shall consist of the Secretary/Treasurer of the Board.
- 14.2 PROCEDURE FOR INITIATION OF COMPLAINTS:
- 14.2.1 Initiation. The formal investigation of a complaint against a licensed, registered, apprentice or student optician may be initiated when the complaint is in writing and filed with the board. The complaint must contain a brief statement setting forth the allegations of fact and naming the optician against whom the complaint is filed.
- 14.2.2 Prima Facie Determination. Upon receipt of a complaint, the Complaint Committee shall review same to determine whether the complaint states a prima facie violation of any provision of A.C.A §17-89-201 or Board ~~rules~~regulations. Should the Complaint Committee determine that the complaint does not state a

prima facie violation of the law or other Board Rules ~~and Regulations~~ the Secretary/Treasurer shall submit the complaint to the Board at the first available opportunity for the Board's determinations whether a prima facie case is stated in the complaint. Should the Board determine the complaint fails state a prima facie violation; the Board shall notify the complainant the complaint has been dismissed.

14.2.3 Board Initiation. The Board may initiate an investigation upon its own motion when it has reason to believe a violation of A.C.A. § 17-89-201 et seq. or Board ~~regulation rule~~ may have occurred. Individual board members should utilize the written complaint method for complaints against individual dispensing opticians.

14.2.4 Time Limit for Filing of Complaint. The Complaint committee may consider complaints only if the complaint was filed within one (1) year from the time the alleged complaint either occurred or was discovered. Any complaint not received within this time limit shall not be considered and the complainant shall be so notified.

14.3 PROCEDURE FOR INVESTIGATION OF COMPLAINTS

14.3.1 Notification of the Respondent. If the complaint appears to state a prima facie violation of the law and/or other Board rules ~~and regulations~~ the Complaint Committee shall notify the dispensing optician named in the complaint by certified or registered mail of the complaint and request a written response to the allegation/s.

14.3.2 Investigation. Upon receipt of the licensee's response or upon the expiration of the time period permitted for the licensee's response, the Complaint Committee may conduct any further inquiry or investigation which appears to be appropriate based upon the circumstances of the individual case.

14.3.3 Investigative Officer. The Investigative Officer shall be a person designated by the Chair of the Board. The Chair of the Board shall agree, or contract, to pay compensation to, or reimburse the expenses of, any person serving as investigative officer authorized by the Board.

- 14.3.4 Investigative Report. Upon completion of the investigation, the investigative officer shall provide a written report to the Complaint Committee the results of the investigation. The Complaint Committee will recommend to the Board whether to conduct a hearing, take other action or dismiss the complaint. The report of the Complaint Committee shall be a summary of the results of the investigation and shall be presented to the Board without naming the licensee.
- 14.4 ACTION BY BOARD. A majority vote of the board shall be required to support the recommendation of the Complaint Committee.
- 14.4.1 If the board agrees with the determination of the Complaint Committee that the case should be dismissed, the complainant and the respondent shall be so notified.
- 14.4.1.1 Additional Evidence. If additional evidence of conduct contrary to the laws, or Rules ~~and/or Regulations~~ governing Dispensing Opticians is presented within sixty (60) days after the matter has been closed with no action, the case may be reopened and acted upon under regular procedures.
- 14.4.2 If the board determines that the complaint presents sufficient evidence of a violation; it may decide to resolve the matter through an informal meeting, an offer of consent agreement or through a formal disciplinary hearing.
- 14.4.2.1 If the board votes to hold a formal hearing, the board shall comply with the requirements of the Administrative Procedure Act.
- 14.4.2.2 The Board may offer or the Respondent may request an informal hearing of a complaint before the Board consisting of a face to face meeting with the Respondent to discuss the allegations of the complaint. Prior to an informal hearing the Respondent must sign a consent statement agreeing to the terms and conditions of an informal hearing.
- 14.4.2.3 If the Board determines that a consent agreement may be appropriate, the Board shall authorize its Attorney to enter into negotiations for a consent agreement subject to the Board's final approval. The Board may recommend terms for a consent agreement offer by the attorney to the

respondent based only upon the anonymous report presented to the Board by the Complaint Committee.

14.5 DISQUALIFICATION. During a formal disciplinary hearing, any members of the Board who served on the Complaint Committee, was involved in the investigation or who initiated the complaint shall be disqualified from participation in the hearing.

14.6 COUNTER COMPLAINTS. The Arkansas Board of Dispensing Opticians will not accept formal complaints from a respondent against a complainant during the course of an investigation of the initial complaint. Counter charges will only be considered after the disposition of the initial complaint.

15 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE, REGISTRATION OR OFFICE PERMIT

15.1 SUSPENSION, REVOCATION, ANNULMENT OR WITHDRAWAL. Prior to the entry of a final order to suspend, revoke, annul or withdraw a license, registration, or office permit, or to impose other sanctions upon a licensee or permit holder, the board will serve the licensee or permit holder a notice of hearing in the manner set out in Ark. Code Ann. §25-15-208 and Section 7.7 of these rules.

15.1.1 The board has the burden of proving the alleged facts and violations of law stated in the notice.

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

15.3 BASIS OF SUSPENSION, REVOCATION OR DENIAL. The board shall revoke, suspend or refuse to issue a license or registration of any dispensing optician or apprenticeship for any violation of any provision of Ark. Code. Ann. §17-89-201 et seq., as amended, or of any of these rules ~~and regulations~~, including, but not limited to, the following:

15.3.1 The applicant, licensee, registrant, apprentice or person obtaining a license, registration, apprenticeship or office permit by means of fraud, misrepresentation, or concealment of material facts;

- 15.3.2 The applicant, licensee, registrant or apprentice engaging in conduct, including, but not limited to, engaging in the advertising practice commonly known as “bait and switch,” or establishing an ophthalmic dispensing business immediately adjacent to the office of a licensed optometrist or physician skilled in the disease of the eye in what is commonly known as a “side-by-side” operation, or engaging in the referral procedure commonly known as “capping and steering”;
- 15.3.3 Any licensed, registered or apprenticed dispensing optician, either directly or indirectly, to participate in any manner in the division, assignment, rebate, kickback, splitting or refunding of service fees or costs of completed eyeglasses with a physician skilled in the disease of the eye or optometrist. Nothing in the above is to be construed so as to interfere with the ownership, profit sharing programs, pensions, or retirement programs of any optometrist’s or ophthalmologist’s office where the professional is incorporated.
- 15.3.4 Any licensed, registered or apprenticed dispensing optician or person requesting, encouraging, or enticing a licensed optometrist or physician skilled in disease of the eye to locate an office for the purpose of conducting his professional practice adjacent to an Opticianry for the purpose of capping and steering as defined by these ~~regulations~~ rules.
- 15.3.5 The applicant, licensee, registrant, apprentice or person being convicted of a felony in any state or federal court, and not pardoned, if the acts for which the person is convicted are found by the board to have a direct bearing on whether he should be entrusted to serve the public in the capacity of a dispensing optician.
- 15.3.6 The applicant, licensee, registrant, apprentice or person violating any prohibitive provision under this chapter;
- 15.3.7 The applicant, licensee, registrant, apprentice or person engaging in any fraudulent, misleading, or deceptive advertising³;

³ All advertising must conform to the provisions of Ark. Code. Ann. §§17-89-405 & 406. The following examples are provided to assist in determining whether an advertisement is considered to be fraudulent, misleading or deceptive:

1. Advertisements which include prices of prescription glasses may be considered fraudulent, misleading or deceptive if they do not meet the following standards:

(a) A statement of whether or not the quoted cost includes an examination by a licensed optometrist or physician skilled in the

15.3.8 The applicant, licensee, registrant, apprentice or person failing to qualify for the license, registration, apprenticeship or office permit;

15.3.9 The applicant, licensee, registrant, apprentice or person violating any other rule ~~or regulation~~ promulgated by the board; or

15.3.10 The applicant, licensee, registrant, apprentice or person using any narcotic drug, psychoactive drug or alcohol which impairs his or her ability to perform the work as an ophthalmic dispenser.

15.4 HEARING AND SANCTIONS. After due notice and hearing, a person licensed or registered as an optician or apprentice or an applicant or person holding or seeking to hold an office permit, found to have violated any provision of Ark. Code Anno. § 17-89-101 et seq. also known as the Ophthalmic Dispensing Act and/or the Rules promulgated by the Board of Dispensing Opticians may have any one or more of the following sanctions imposed upon him by the board:

15.4.1 Suspension, revocation or denial of the license, registration, apprenticeship or office permit or the renewal thereof;

15.4.2 A penalty not to exceed one thousand dollars (\$1,000.00) for each violation;

15.4.3 Conditions or restrictions placed upon the person's license, registration, apprenticeship or practice; or

15.4.4 Such other requirements or penalties as may be appropriate to the circumstances or the case, and which would achieve the desired disciplinary purposes, but which would not impair the public welfare and morals.

15.5 FAILURE TO PAY PENALTY. Unless the penalty assessed under this section is paid within fifteen (15) days following the date for an appeal from the order, the board shall have the power to file suit in the Circuit Court of Pulaski County to obtain the judgment for the amount of penalty not paid.

diseases of the eye.

(b) If the advertised price is for a limited period of time, the advertisement shall state the expiration date of the offer.

(c) Any limits on a customer's rights to purchase the advertised product shall be stated in the advertisement.

(d) If a reduced price is offered on a specific item or items, the regular retail price of the specific item or items must be included in the advertisement.

(e) Knowingly and repeatedly advertising a manufacturer's discontinued item, whether or not prices are given, must so state the item has been discontinued.

2. Any licensee or registrant who fails to satisfy the requirements of this section shall be deemed to have committed fraudulent, misleading, or deceptive advertising.

- 15.6 DUTY OF A SANCTIONED PROFESSIONAL. In every case in which a professional shall, within thirty (30) days of the revocation, suspension, or surrender, do the following;
- 15.6.1 Return his or her license and any license badge to the Board's office;
 - 15.6.2 Notify all clients to make arrangements for other professional services, calling attention to any urgency in seeking the substitution of another licensed professional;
 - 15.6.3 Deliver to all clients any papers or property to which they are entitled, or notify the client of a suitable time and place where the papers or other property may be obtained, calling attention to any urgency for obtaining the papers or other property;
 - 15.6.4 Refund any part of the fees paid in advance that have not been earned;
- 15.7 EMERGENCY ACTION. If the board finds that the public health, safety, or welfare imperatively requires emergency action and incorporates that finding in its order, the board can summarily suspend, limit, or restrict a license. The notice requirement in Section 7.7 of these rules does not apply and must not be construed to prevent a hearing at the earliest time practicable.
- 15.7.1 Emergency Order: An emergency adjudicative order must contain findings that the public health, safety, and welfare imperatively required emergency action to be taken by the board. The written order must include notification of the date on which the board proceedings are scheduled for completion.
 - 15.7.2 Written Notice. The written emergency adjudicative order will be immediately delivered to persons who are required to comply with the order. One or more of the following procedures will be used:
 - 15.7.2.1 Personal Delivery
 - 15.7.2.2 Certified mail, return receipt requested, to the last address on file with the board
 - 15.7.2.3 First class mail to the last address on file with the Board;
 - 15.7.2.4 Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that Board orders be sent by fax and has provided a fax number for that purpose.
 - 15.7.2.5 Oral Notice. Unless the written emergency order is served by personal delivery on the same day that the order issues, the Board shall make

breasonably immediate efforts to contact by telephone the persons who are required to comply with the order.

15.7.3 Unless otherwise provided by law, within ten (10) days after emergency action taken pursuant to Section 16.1 of these rules, the board must initiate a formal suspension or revocation proceeding.

15.8 REINSTATEMENT AFTER SUSPENSION. An order suspending a license may provide that a person desiring reinstatement may file with the Secretary-Treasurer a verified petition requesting reinstatement.

15.8.1 The petition for reinstatement must set out the following:

15.8.1.1 That the individual has fully and promptly complied with the requirements of Section 15.6 of these rules pertaining to the duty of a sanctioned professional;

15.8.1.2 That the individual has refrained from practicing in this profession during the period of suspension;

15.8.1.3 That the individual's license fee is current or has been tendered to the Board; and

15.8.1.4 That the individual has fully complied with any requirements imposed as conditions for reinstatement.

15.8.2 Any knowing misstatement of fact may constitute grounds for denial or revocation of reinstatement.

15.8.3 Failure to comply with the provisions of Sections 15.6.7 and 15.6.8 of these Rules precludes consideration for reinstatement.

15.8.4 No individual will be reinstated unless the Board approves reinstatement by majority vote.

15.9 RE-LICENSURE FOR REVOKED OR SURRENDERED LICENSE. No individual who has had his or her license revoked or who has surrendered his or her license will be licensed, except on petition made to the Board. The application for re-licensure is not allowed until at least two (2) years after the revocation or surrender of license took effect.

15.9.1 The applicant bears the burden of proof that he is rehabilitated following the revocation or surrender of his license, that he can engage in the conduct authorized by

the license without undue risk to the public health, safety, and welfare, and that he is otherwise qualified for the license pursuant to Ark. Code Ann. §§ 17-89-101 et seq..

15.9.2 The Board may impose any appropriate conditions or limitations on a license to protect the public health, safety, and welfare.

16. Waiver Request

- A. If an individual has been convicted of an offense listed in A.C.A. § 17-3-102, 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:
 - 1. An affected applicant for a license; or
 - 2. An individual holding a license subject to revocation.
- B. The Board may grant a waiver upon consideration of the following, without limitation:
 - 1. The age at which the offense was committed;
 - 2. The circumstances surrounding the offense;
 - 3. The length of time since the offense was committed;
 - 4. Subsequent work history since the offense was committed;
 - 5. Employment references since the offense was committed;
 - 6. Character references since the offense was committed;
 - 7. Relevance of the offense to the occupational license; and
 - 8. Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.
- C. A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees.
- D. The Board will respond with a decision in writing within thirty (30) days 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.

17 DISCLOSURE

17.9REQUIREMENTS TO PROVIDE INFORMATION TO THE BOARD. Every person licensed or registered under the provisions Ark. Code. Ann §17-89-101 et seq., shall upon request make available to the Arkansas Board of Dispensing Opticians or its duly authorized representative any information which the Board requires to verify compliance of the Licensee or Registrant with all provisions of Ark. Code. Ann. § 17-89-101 et seq., and these Board rules ~~and regulations~~.

18 OPTHALMIC STANDARDS

- a. BOARD TO PROVIDE OPTHALMIC STANDARDS. The Board shall provide a copy of the American National Standards Institute Z-80.1 Ophthalmic Materials Standards to each person who is licensed or registered as a dispensing optician in the State of Arkansas.

19 PROHIBITED PRACTICE

- a. It shall be unlawful for any dispensing optician or person engaged in the business of manufacturing, selling, or dispensing regular and/or safety ophthalmic materials to fill or duplicate an ophthalmic prescription without having a written prescription signed by the licensed optometrist or licensed physician skilled in disease of the eye who conducted the examination from which the prescription was prepared; or fail to comply with the written instructions when such instructions are included on a written prescription signed by a licensed optometrist or licensed physician skilled in disease of the eye. No change or alteration from the prescription of the prescribing optometrist or physician shall be made, except that changes may be made in tint or material of the lenses unless such changes are specifically prohibited on the written prescription.
- b. Nothing in these rules ~~and regulations~~ shall be construed to authorize or permit any licensed or registered dispensing optician or any other person, except a licensed optometrist or licensed physician skilled in disease of the eye, to undertake or hold himself out as being able (1) to examine eyes by any objective or subjective method or exercises eyes; (2) to undertake by any method or means the measurement of the cornea of the human eye; or (3) to examine, prescribe, diagnose, treat, or correct for visual deficiency. The prescribing, adapting, fitting, duplicating, dispensing, modifying, selling, or supplying of contact lenses for or to the human eye is specifically prohibited except when done by a licensed optometrist or licensed physician skilled in disease of the eye.

20 ~~Returning Military Veteran Licensure~~

- A. ~~As used in this subsection, “returning military veteran” means a former member of the United States Armed Forces who was discharged from active duty under~~

circumstances other than dishonorable.

- B. The Board shall grant automatic licensure to an individual who holds a substantially equivalent license in another U.S. jurisdiction and is:
1. An active duty military service member stationed in the State of Arkansas;
 2. A returning military veteran applying for licensure within one (1) year of his or her discharge from active duty; or
 3. The spouse of a person under B (1) or (2) above.
- C. The Board shall grant such automatic licensure upon receipt of all the below:
1. Payment of the initial licensure fee;
 2. Evidence that the individual holds a substantially equivalent license in another state; and
 3. Evidence that the applicant is a qualified applicant under Section B.

21 RECIPROCITY

- a. RECIPROCITY. The Board will only consider a grant of reciprocity to an individual from a state which grants reciprocity to Arkansas licensees. The Board shall require that any person requesting reciprocity of the State of Arkansas shall meet the requirements as set forth in Ark. Code. Ann. §17-89-305 and §17-89-306 and provide written proof from the appropriate board or agency of reciprocity to Arkansas licensees from the state they are currently licensed.

22 SEVERABILITY

- a. SEVERABILITY. These rules being for the regulation of the business of ophthalmic dispensing and the protection of the public, the provisions hereby are declared to be severable and the invalidity of any rule, clause, sentence, paragraph or section hereof shall not affect the validity of the remainder thereof.

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~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (2) Malpractice or gross incompetency;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 education program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 (e) of this section shall not be considered a conviction, guilty~~
6 ~~plea, or nolo contendere plea to the offense unless the offense is also~~
7 ~~listed in subdivision (1)(2) of this section.~~

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

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

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

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

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

36 (B) Providing services as a medication assistive person

1 without a valid certificate; ~~or~~

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

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

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

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

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

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

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

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

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

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

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

36 (ii) Providing ophthalmic dispensing services under

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 American Osteopathic Association; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (b) Each physical therapist applicant shall:

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

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

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

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

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

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

35 (b) Each physical therapist assistant applicant shall:

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

~~(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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