

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 1234

4
5 By: Representative Bradford
6
7

For An Act To Be Entitled

9 AN ACT TO RESTRUCTURE THE ARKANSAS PSYCHOLOGY
10 BOARD; TO ESTABLISH A LICENSING BOARD FOR THE
11 REGULATION OF THE PRACTICE OF CLINICAL
12 PSYCHOTHERAPY; TO CREATE AN OVERSIGHT COMMITTEE
13 TO COORDINATE THE OPERATIONS OF THE ARKANSAS
14 PSYCHOLOGY BOARD AND THE ARKANSAS BOARD OF
15 CLINICAL PSYCHOTHERAPY; AND FOR OTHER PURPOSES.
16

Subtitle

17 AN ACT TO REDEFINE AND REGULATE
18 PSYCHOLOGICAL EXAMINERS AS CLINICAL
19 PSYCHOTHERAPISTS.
20
21
22

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

25 SECTION 1. Arkansas Code § 17-97-102(b), concerning levels of practice
26 of psychology, is amended to read as follows:

27 (b)(1)(A) Unless the context otherwise requires, ~~two (2) levels~~ one
28 (1) level of psychological practice ~~are~~ is defined for the purpose of this
29 chapter.

30 (B) The ~~levels are~~ level is to be known and ~~are~~ is
31 referred to as ~~“psychological examiner” and “psychologist”~~.

32 ~~(2)(A) A person practices as a “psychological examiner” within~~
33 ~~the meaning of this chapter when he or she holds himself or herself out to be~~
34 ~~a psychological examiner or renders to individuals or to the public for~~
35 ~~remuneration any service involving the practice of psychology.~~

36 ~~(B) Psychological examiners independently provide services~~



1 such as interviewing or administering and interpreting tests of mental
2 abilities, aptitudes, interests, and personality characteristics for the
3 purposes of psychological evaluation to assist in the determination of
4 educational or vocational selection, guidance, or placement.

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

9 (3)(2) A person practices as a "psychologist" within the meaning
10 of this chapter when he or she holds himself or herself out to be a
11 psychologist or renders to individuals or to the public for remuneration any
12 service involving the practice of psychology.

13
14 SECTION 2. Arkansas Code § 17-97-103(a), concerning exceptions to the
15 laws governing the practice of psychology, is amended to read as follows:

16 (a) Nothing in this chapter prevents:

17 (1) The teaching of psychology, or the conduct of psychological
18 research by licensed or unlicensed psychologists or other licensed or
19 unlicensed professionals under the laws of Arkansas, if the teaching or
20 research does not involve the delivery or supervision of direct services to
21 individuals who are themselves, rather than a third party, the intended
22 beneficiaries
23 of the services without regard to the source or extent of payment for
24 services rendered.

25 (2) The provision of expert testimony by psychologists who are
26 exempted by this chapter.

27 (3) Members of other professions licensed under the laws of
28 Arkansas from rendering services within the scope of practice as set out in
29 the statutes regulating their professional practices, if they do not
30 represent themselves to be psychologists or psychological examiners.

31 (4) Recognized members of the clergy from functioning in their
32 ministerial

33 capacities, if they do not represent themselves to be psychologists or
34 psychological examiners, or their services to be psychological services; ~~or~~

35 (5) Students of psychology, psychological interns, psychological
36 residents,

1 and others persons preparing for the profession of psychology from performing
2 as a part of their training the functions specified in § 17-97-102, but only
3 under qualified supervision; or

4 (6) A business entity owned and operated by an individual
5 licensed as a mental health provider other than a psychologist may continue
6 to use the title “psychology” or “psychological” if the mental health
7 practice of the individual:

8 (A) Is currently active; and

9 (B) Was established before December 31, 2004.

10
11 SECTION 3. Arkansas Code Title 17, Chapter 97, Subchapter 1 is amended
12 to read as follows:

13 17-97-106 Prior licensure.

14 (a)(1) A person who is licensed as a psychological examiner under §
15 17-97-204 as of the effective date of this section:

16 (A) Shall be deemed to have met all requirements for
17 licensure under this chapter; and

18 (B) May elect to continue to practice psychology
19 autonomously as a psychological examiner in areas such as interviewing or
20 administering and interpreting tests of mental abilities, aptitudes,
21 interests, and personality characteristics for the purposes of psychological
22 evaluation to assist in the determination of educational or vocational
23 selection, guidance, or placement.

24 (2) In the provision of psychological services other than those
25 included in subdivision (a)(1) of this section, a licensed psychological
26 examiner who elects to continue to practice psychology under this chapter may
27 provide such services only under the supervision of a licensed psychologist.

28 (3) The Arkansas Psychology Board shall apply through its rules
29 the qualifications of supervising psychologists and the restrictions and
30 reporting requirements of supervision in such a manner as to implement the
31 intent of this section without restricting the professional integrity of the
32 psychological examiner and psychologist or the ultimate responsibility of
33 the supervising psychologist.

34 (4) No individual other than an individual applying for renewal
35 of licensure shall be licensed as a psychological examiner under this chapter
36 after December 31, 2007.

1 (5) An individual who applies for licensure as a psychological
 2 examiner between the effective date of this section and December 31, 2007
 3 shall meet the same standards and requirements for licensure as applicants
 4 for psychological examiner licensure under the rules of the board as they
 5 existed before the effective date of this section.

6
 7 SECTION 4. Arkansas Code § 17-97-201(a) and (b) concerning creation
 8 and membership of the Arkansas Psychology Board, are amended to read as
 9 follows:

10 17-97-201 Creation - Members.

11 (a)(1) There is created the Arkansas Psychology Board ~~which shall~~
 12 ~~consist of nine (9) members who~~ whose members shall be appointed by the
 13 Governor for terms of five (5) years.

14 (2) The Governor shall appoint:

15 (A) One (1) academic psychologist engaged in full-time
 16 teaching of psychology at the graduate level of an approved institute of
 17 higher learning or holding an active faculty appointment in an American
 18 Psychological Association approved pre or post doctoral internship program;

19 (B)(i) Four (4) practicing psychologists engaged in the
 20 full-time practice of psychology with at least one (1) psychologist engaged
 21 in the full-time, private practice of psychology.

22 (ii) The Governor shall ensure that the psychologist
 23 members reflect a diversity of practice specialties, including but not
 24 limited to, clinical psychology, counseling psychology, healthy psychology,
 25 neuropsychology, and school psychology;

26 (C)~~(i) Two (2)~~ One (1) psychological examiners examiner
 27 engaged in the full-time practice of psychology until a time when there are:

28 (a) Fewer than five (5) persons licensed as
 29 psychological examiners; or

30 (b) Licensed psychological examiners willing
 31 to serve.

32 (ii) The psychological examiner may not participate
 33 in the examination of candidates seeking licensure as psychologists.

34 (D) ~~Two (2) persons~~ One (1) person who are is not actively
 35 engaged in or retired from the practice of psychology who shall:

36 (i) Represent consumers of psychology services; and

1 ~~(ii) shall be~~ Shall be a voting ~~members~~ member at-
 2 large.

3 (3)(A)(i) The academic psychologist, ~~the practicing~~
 4 ~~psychologists,~~ and the ~~psychological examiner practicing~~ psychologist members
 5 shall be appointed from a list of nominees provided by the Arkansas
 6 Psychological Association, ~~the Arkansas Association of Masters in Psychology,~~
 7 or from any other list with the signatures of at least twenty (20) licensed
 8 psychologists ~~or psychological examiners~~ attached.

9 (ii) The psychological examiner member shall be
 10 appointed from a list of nominees provided by the Arkansas Association of
 11 Masters in Psychology or from any other list with the signatures of at least
 12 twenty (20) licensed psychological examiners attached.

13 (B)(i) Each nomination shall be transmitted to the
 14 Governor within twenty (20) days after a vacancy occurs.

15 (ii) The Governor may disregard the nominees whose
 16 names were not transmitted prior to the expiration of the twenty-day period.

17 (C)(i) ~~Of the two (2) members~~ The member appointed
 18 pursuant to subdivision (a)(2)~~(C)(D)~~ of this section, ~~one (1) member~~ shall
 19 represent consumers, and ~~one (1) member shall be sixty (60) years of age or~~
 20 ~~older and shall represent the elderly~~ shall be appointed from the state at
 21 large, subject to confirmation by the Senate.

22 ~~(ii) Both shall be appointed from the state at~~
 23 ~~large, subject to confirmation by the Senate.~~

24 ~~(iii) The two (2) positions may not be held by the~~
 25 ~~same person.~~

26 (iv)(ii) Both The member representing consumers of
 27 psychology services shall be a full voting ~~members~~ member but shall not vote
 28 on or participate in the administration or grading examinations of applicants
 29 for licensure.

30 (D)(i) Any public member appointed under subdivision
 31 (a)(2)(1)(D) of this section after July 28, 1995, ~~must~~ shall be an Arkansas
 32 resident and ~~must~~ shall have resided in Arkansas for at least five (5) years
 33 immediately preceding appointment.

34 (ii) Furthermore, the person ~~must~~ shall never have
 35 been a psychologist or psychological examiner, an applicant or former
 36 applicant for licensure as a psychologist or psychological examiner, a member

1 of another mental health profession, a member of a household that includes a
 2 psychologist or psychological examiner, or otherwise have conflicts of
 3 interest or the appearance of conflicts with his or her duties as a board
 4 member.

5 (4)(A) Each psychologist and the psychological examiner
 6 appointed to the board after July 28, 1995, ~~must~~ shall reside within the
 7 State of Arkansas, hold a current valid license to practice, and ~~must~~ shall
 8 have been licensed to practice psychology in Arkansas for at least five (5)
 9 years immediately preceding his or her appointment to the board.

10 (B) At the time of the appointment, each such member ~~must~~
 11 shall be free of any conflict of interest and the appearance of any conflict
 12 with his or her duties as a member of the board.

13 (C) ~~To the extent possible, psychologists and~~
 14 ~~psychological examiner board members shall be members or fellows of state or~~
 15 ~~national professional organizations, such as the Arkansas Psychological~~
 16 ~~Association, the Arkansas Association of Masters in Psychology, or the~~
 17 ~~American Psychological Association. At the time of the appointment, each~~
 18 ~~such member may not also be a member of another board charged with the~~
 19 ~~responsibility of licensing mental health professionals in Arkansas.~~

20 (5)(A)(i) The Governor shall fill all vacancies on the board
 21 within thirty (30) days after the vacancy occurs.

22 (ii) The Arkansas Psychological Association, the
 23 Arkansas Association of Masters in Psychology, and other interested licensed
 24 psychologists and psychological examiners as indicated in (a)(3)(A)(i) and
 25 (ii) of this section shall transmit their nominees to the Governor no later
 26 than (40) days prior to the expiration of board members' terms, and, at least
 27 thirty (30) days before the expiration of the term of any board member, the
 28 Governor shall appoint the person to replace the board member when the term
 29 expires.

30 (B) ~~The Governor may disregard the nominees of any~~
 31 ~~association which fails to transmit the names of the nominees at least forty~~
 32 ~~(40) days prior to the expiration of the term of office. If an appointed~~
 33 ~~board member fails to maintain or no longer meets the qualifications as~~
 34 ~~outlined in this section for board membership or has plead guilty or nolo~~
 35 ~~contendere to, or been found guilty of a felony by a court of competent~~
 36 ~~jurisdiction, the board member shall immediately submit a letter of~~

1 resignation to the Governor.

2 (C) The Governor shall remove any member from the board if
3 he or she:

4 (i) Ceases to be qualified;

5 (ii) Fails to attend three (3) successive board
6 meetings without just cause as determined by the board;

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

8 (iv) Pleads guilty or nolo contendere to, or is
9 found guilty of a felony or an unlawful act involving moral turpitude by a
10 court of competent jurisdiction; or

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

14 (b) All vacancies occurring on the board by reason of resignation or
15 otherwise vacated shall be filled by the Governor for the unexpired term and
16 for the professional members from the list of those qualified, within thirty
17 (30) days after the vacancy occurs.

18
19 SECTION 5. Arkansas Code § 17-97-202 is amended to add an additional
20 subsection to read as follows:

21 17-97-202. Organization and proceedings.

22 (a) The Arkansas Psychology Board shall meet and organize by electing
23 a chair, secretary, and treasurer.

24 (b)(1) ~~The board~~ Arkansas Psychology Board shall hold at least one (1)
25 regular meeting each year.

26 (2) Called meetings may be held at the discretion of the chair
27 or at the written request of any two (2) members of the ~~board~~ Arkansas
28 Psychology Board.

29 (c) A majority of the members of the ~~board~~ Arkansas Psychology Board
30 shall at all times constitute a quorum.

31 (d) The ~~board~~ Arkansas Psychology Board shall adopt a seal which ~~must~~
32 shall be affixed to all certificates issued by the board.

33 (e)(1) The chair and treasurer of the Arkansas Psychology Board shall
34 be members of the Joint Administrative Oversight and Budget Committee created
35 in § 17-107-202.

36 (2)(A) The membership of the Joint Administrative Oversight and

1 Budget Committee shall be composed of the chairs and treasurers of the:

2 (i) Arkansas Psychology Board; and

3 (ii) Arkansas Board of Clinical Psychotherapy.

4 (B) Ad hoc members without voting privileges shall be the
 5 members of the administrative staff of the:

6 (i) Arkansas Psychology Board; and

7 (ii) Arkansas Board of Clinical Psychotherapy.

8 (3) The responsibilities of the Joint Administrative Oversight
 9 and Budget Committee shall be to provide advice and recommendations to the
 10 Arkansas Psychology Board and the Arkansas Board of Clinical Psychotherapy on
 11 matters and concerns with regard to administrative and financial issues as
 12 related to:

13 (i) The generation of income;

14 (ii) General operations; and

15 (iii) Expenditure of monies by the respective
 16 boards.

17 (4) Personnel decisions and matters of the use of monies by both
 18 the Arkansas Psychology Board and the Arkansas Board of Clinical
 19 Psychotherapy shall be resolved within the committee.

20
 21 SECTION 6. Arkansas Code § 17-97-301 is amended to read as follows:

22 17-97-301. Legislative intent.

23 (a) The General Assembly intends this section to require all
 24 psychology service providers to conform to the licensing requirements of this
 25 chapter and, by conforming, to protect the public's health and welfare by
 26 ensuring competence in the delivery of those services.

27 ~~(a)~~(b) If any person shall practice or hold himself out to the public
 28 as being engaged in the practice of psychology, such as clinical, consulting,
 29 industrial, personnel, or counseling psychology and shall not then possess in
 30 full force and virtue a valid license to practice as a licensed psychology
 31 intern, psychological examiner, or psychologist under the provisions of this
 32 chapter, he or she shall be deemed guilty of a misdemeanor.

33 ~~(b)~~(c) Upon conviction he or she shall be fined not less than one
 34 hundred dollars (\$100) nor more than five hundred dollars (\$500).

35
 36 SECTION 7. Arkansas Code § 17-97-302(b), concerning application and

1 qualifications as for licensure as a psychologist, is amended to read as
 2 follows:

3 (b)(1) A candidate for license shall furnish the board with
 4 satisfactory evidence that he or she;

5 (A) Is at least twenty-one (21) years of age and of good
 6 moral character;

7 (B) Has received a doctoral degree in psychology from ~~an a~~
 8 regionally accredited educational institution recognized by the board as
 9 maintaining satisfactory standards at the time the degree was granted ~~or, in~~
 10 ~~lieu of degree, a doctoral degree in a closely allied field, if it is the~~
 11 ~~opinion of the board that the training required therefore is substantially~~
 12 ~~similar;~~

13 (C)(i) ~~Has had at least two (2) years of experience in~~
 14 ~~psychology of a type considered by the board to be qualifying in nature with~~
 15 ~~at least one (1) of those years being postdoctoral work~~ completed two (2)
 16 years of supervised professional experience, one (1) year of which shall be
 17 an internship program, and one (1) year of which shall be postdoctoral.

18 (ii) Both years of supervised experience shall:

19 (a) Be acceptable to the board; and

20 (b) Comply with the specific guidelines set
 21 out in the board's rules;

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

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

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

29 (G) Has not failed an examination given by the board
 30 within the preceding six (6) months; and

31 (H) If he or she trained in institutions outside the
 32 United States or Canada, demonstrate to the satisfaction of the board that he
 33 or she possesses a doctoral degree in psychology the requirements for which
 34 were substantially similar to the requirements for a doctoral degree in
 35 professional psychology as defined in this chapter.

36 (2) The board may at its discretion accept satisfactory

1 substitute training and experience in lieu of that prescribed in subdivision
 2 (b)(1) of this section.

3
 4 SECTION 8. Arkansas Code § 17-97-303(a), concerning applications by
 5 and qualifications of psychological examiners, is amended to read as follows:

6 (a) Any person wishing to obtain the right to practice as a
 7 psychological examiner who has not heretofore been licensed to do so shall
 8 make application before December 31, 2007, to the Arkansas Psychology Board
 9 through the Chair of the Arkansas Psychology Board upon a form and in the
 10 manner as shall be adopted and prescribed by the board and shall obtain from
 11 the board a license to do so.

12
 13 SECTION 9. Arkansas Code § 17-97-306 is amended to read as follows:
 14 17-97-306. Reciprocity.

15 (a) At its discretion, the Arkansas Psychology Board may grant a
 16 certificate without an assembled examination to any person residing or
 17 employed in the state who:

18 (1) At the time of application is licensed or certified by a
 19 similar board of another state whose standards, in the opinion of the ~~board~~
 20 Arkansas Psychology Board, are not lower than those required by this chapter
 21 or who has been practicing psychology in another state and has qualifications
 22 not lower than those required by this chapter; and

23 (2) Is able to satisfy the ~~board~~ Arkansas Psychology Board that
 24 to grant him or her a license would be in the public interest.

25 (b) Notwithstanding the provisions of subsection (a) of this section,
 26 the Arkansas Psychology Board may issue a license to any individual who
 27 qualifies for a license:

28 (1) Under an agreement of reciprocity entered into by the
 29 Arkansas Psychology Board according to the Association of State and
 30 Provincial Psychology Board Agreement of Reciprocity, with the boards of one
 31 (1) or more other states; or

32 (2) Because the applicant is currently credentialed as a health
 33 service provider in psychology by the National Register of Health Service
 34 Providers in Psychology.

35
 36 SECTION 10. Arkansas Code § 17-97-307(a), concerning use of

1 professional titles, is amended to read as follows:

2 (a) Except as otherwise provided ~~herein~~ in this chapter, it is
 3 specifically prohibited that any individual or organization, other than those
 4 licensed ~~pursuant to~~ under this chapter, shall present himself or herself or
 5 be presented as licensed to the public by any title incorporating the name
 6 “psychological,” “psychologist,” or “psychology.”

7
 8 SECTION 11. Arkansas Code Title 17, Chapter 97, Subchapter 3 is
 9 amended to read as follows:

10 17-97-303 Licensure of psychology interns.

11 (a) A trainee in psychology may be licensed as a psychology intern if
 12 the trainee:

13 (1) Has completed a master’s degree or the equivalent of a
 14 master’s degree in psychology;

15 (2) Is participating in a formal, pre-doctoral psychology
 16 internship that meets national criteria; and

17 (3) Is otherwise qualified by training, course work, and
 18 supervised experiences.

19 (b)(1) Intern licensees shall be supervised by a licensed
 20 psychologist.

21 (2) The supervising psychologist shall be qualified under
 22 rules of the Arkansas Psychology Board to act as a supervisor in the
 23 psychology intern’s training program.

24 (c) Psychology interns licensed under this section:

25 (1) Qualify for full practice privileges as licensed mental
 26 health practitioners; and

27 (2) May:

28 (A) Be licensed for a two-year period; and

29 (B) In cases of hardship, renew the license for one (1)
 30 additional year with board approval.

31 (d) Licensure under this section is:

32 (1) Contingent upon the trainee’s enrollment in a formal,
 33 recognized training program in psychology at the graduate level; and

34 (2) Limited to activities within the formal pre-doctoral
 35 internship.

36

1
 2 SECTION 12. Arkansas Code Title 17 is amended to add an additional
 3 chapter to read as follows:

4 Subchapter 1. General Provisions.

5 17-107-101. Legislative intent.

6 The General Assembly intends that;

7 (1) The provisions of this Act be in accordance with and
 8 consistent with the Arkansas Medical Practices Act, § 17-95-201 - 207, 17-95-
 9 301 - 305, and 17-95-401 - 411; and

10 (2) The practice of clinical psychotherapy as prescribed in this
 11 chapter not infringe on the practice of medicine.

12
 13 17-107-102. Definitions.

14 “Practice of clinical psychotherapy” means:

15 (1) The observation, description, evaluation, interpretation, or
 16 modification of human behavior by a person who holds a master’s degree in
 17 psychology or related degree and meets the requirements mandated by the
 18 Arkansas Board of Clinical Psychotherapy and is trained in the application of
 19 psychological principles, methods, or procedures rendered to individuals,
 20 families, groups, organizations, institutions and the public whether or not
 21 payment is received for services, for one (1) or more of the following
 22 purposes:

23 (A) Preventing or eliminating symptomatic, maladaptive,
 24 or undesired behavior;

25 (B) Enhancing interpersonal relationships, work and life
 26 adjustment, personal effectiveness, behavioral health and mental health; and

27 (C) Consultation, teaching, and research; and

28 (2) Practices include, but are not limited to:

29 (A)(i) Psychological evaluation including psychological
 30 testing and measuring consisting of the administration and interpretation of
 31 objective tests measuring personal characteristics, including, but not
 32 limited to, tests of:

33 (a) Intelligence;

34 (b) Personality;

35 (c) Abilities;

36 (d) Aptitudes;

- 1 (e) Achievements;
- 2 (f) Motives;
- 3 (g) Personality dynamics;
- 4 (h) Psychoeducational processes; and
- 5 (i) Other psychological attributes of
- 6 individuals or groups.

7 (B)(i) Diagnosis and treatment of mental, behavioral, and
 8 emotional disorders consisting of the appropriate diagnosis of mental
 9 disorders consistent with the Diagnostic and Statistical Manual of Mental
 10 Disorders IV-TR, as it existed on January 1, 2005, and according to standards
 11 of the profession and the ordering or providing of treatments according to
 12 need.

13 (ii) Treatment includes, but is not limited to
 14 providing:

- 15 (a) Counseling;
- 16 (b) Psychotherapy;
- 17 (c) Marital and family therapy;
- 18 (d) Group therapy;
- 19 (e) Behavior therapy;
- 20 (f) Hypnosis;
- 21 (g) Biofeedback;
- 22 (h) Other psychological interventions that aim
 23 to modify and adjust perceptions, habits, or conduct; and
- 24 (i) The psychological aspects of physical
 25 illness, pain, injury, or disability; and

26 (C) Psychological consulting including, but not limited to
 27 providing:

- 28 (i) Interpreting and reporting on scientific theory
 29 and research in psychology;
- 30 (ii) Rendering expert psychological opinion;
- 31 (iii) Evaluating and engaging in applied
 32 psychological research;
- 33 (iv) Program and organizational development; and
- 34 (v) Administration, supervision, and evaluation of
 35 psychological services.

36

1 17-107-103. Levels of practice of clinical psychotherapy.

2 There shall be two (2) levels of practice of clinical psychotherapy as
3 follows:

4 (1) A licensed associate clinical psychotherapist is a person
5 licensed by the Arkansas Board of Clinical Psychotherapy to provide
6 psychological services only under the supervision of a qualified supervisor
7 as dictated by rules set forth by the board; and

8 (2) A licensed clinical psychotherapist is a person licensed by
9 the Arkansas Board of Clinical Psychotherapy to independently provide
10 psychological services under the guidelines set forth and prescribed by the
11 rules of the board.

12
13 17-107-104. Exceptions generally.

14 (a) Nothing in this chapter prevents:

15 (1) The teaching of psychology, or the conduct of psychological
16 research by a licensed associate clinical psychotherapist, a licensed
17 clinical psychotherapist or other licensed or unlicensed professionals under
18 the laws of Arkansas, if the teaching or research without regard to the
19 source or extent of payment for services rendered does not involve the
20 delivery or supervision of direct services to individuals who are themselves,
21 rather than a third party, the intended beneficiaries of the services;

22 (2) The provision of expert testimony by licensed clinical
23 psychotherapists who are exempted by this chapter;

24 (3) Members of other professions licensed under the laws of
25 Arkansas from rendering services within the scope of practice as set out in
26 the laws regulating their professional practices, if they do not represent
27 themselves to be licensed associate clinical psychotherapists or licensed
28 clinical psychotherapists;

29 (4) Recognized members of the clergy from functioning in their
30 ministerial capacities, if they do not represent themselves to be licensed
31 associate clinical psychotherapists or licensed clinical psychotherapists, or
32 their services to be psychological services; or

33 (5) Students of psychology, psychological interns, psychological
34 residents, and others persons preparing for the profession of psychology and
35 clinical psychotherapy from performing as a part of their training the
36 functions of clinical psychotherapists as defined in this chapter and the

1 rules of the Arkansas Board of Clinical Psychotherapy.

2
 3 17-107-105. Existing laws and rules regarding licensed psychological
 4 examiners.

5 All state laws and state agency rules that authorize practice by
 6 licensed psychological examiners shall be deemed to authorize practice by
 7 licensed associate clinical psychotherapists and licensed clinical
 8 psychotherapists.

9
 10 17-107-106. Privileged communications.

11 (a) For purposes of this chapter, the confidential relations and
 12 communications between a licensed clinical psychotherapist or licensed
 13 associate clinical psychotherapist and a client shall be the same as those
 14 provided by law between an attorney and a client.

15 (b) Nothing in this chapter may be construed to require any
 16 communication privileged under this section to be disclosed.

17
 18 Subchapter 2 – Arkansas Board of Clinical Psychotherapy.

19 17-107-201 Creation - Members.

20 (a)(1)(A) There is created the Arkansas Board of Clinical
 21 Psychotherapy which shall consist of six (6) members who shall be appointed
 22 by the Governor for terms of five (5) years.

23 (B) Appointments shall be for staggered terms so that no
 24 more than one (1) position will expire in a given year.

25 (2) The Governor shall appoint:

26 (A) One (1) academic member engaged in full-time teaching
 27 of psychology at an institution of higher learning approved by the Arkansas
 28 Board of Clinical Psychotherapy.

29 (B) Four (4) practicing licensed clinical psychotherapist
 30 members engaged in full-time practice with:

31 (i) At least one (1) member being engaged in full-
 32 time, private practice; and

33 (ii) One (1) member employed full-time by a state-
 34 funded agency or private non-profit mental health provider;

35 (C)(i) One (1) member to represent consumers appointed
 36 from the state at large and subject to confirmation by the Senate.

1 (ii) The consumer representative shall:

2 (a) Be a full voting member but shall not vote
 3 on or participate in the administration or grading of examinations of
 4 applicants for licensure;

5 (b) Have resided in Arkansas for at least five
 6 (5) years immediately preceding appointment;

7 (c) Never have been a psychologist, licensed
 8 psychological examiner, licensed clinical psychotherapist, licensed
 9 professional counselor, or licensed clinical social worker; and

10 (d) Not otherwise have conflicts with his or
 11 her duties as a board member.

12 (b)(1) The Governor shall ensure that the professional members
 13 appointed under this section reflect a diversity of practice specialties,
 14 including but not limited to, clinical, psychology, health, and school
 15 psychology.

16 (2) All positions shall be appointed from a list of nominees
 17 provided by the Arkansas Association of Masters in Psychology, any other
 18 interested organizations, and or from a list with at least twenty (20)
 19 signatures of licensees by the Arkansas Board of Clinical Psychotherapy.

20 (c)(1) Each member appointed to the board under subdivisions (a)(2)(A)
 21 and (B) of this section shall:

22 (A) Reside within the State of Arkansas;

23 (B) Hold a current valid license to practice clinical
 24 psychotherapy; and

25 (C) Have been licensed by the Arkansas Psychology Board,
 26 the Arkansas Board of Clinical Psychotherapy, or both to practice for at
 27 least five (5) years immediately preceding his or her appointment to the
 28 board.

29 (2) At the time of the appointment, each member appointed to the
 30 board under subdivisions (a)(2)(A) and (B) of this section shall be free of
 31 any conflict of interest and the appearance of any conflict with his or her
 32 duties as a member of the board.

33 (3) A board member shall immediately submit a letter of
 34 resignation to the Governor if the board member:

35 (A) Fails to maintain or no longer meets the
 36 qualifications as outlined in this statute for board membership; or

1 (B) Pleads guilty or nolo contendere to, or is found guilty
 2 of a felony or other unlawful act involving moral turpitude by a court of
 3 competent jurisdiction.

4 (c)(1) At least thirty (30) days before the expiration of the term of
 5 any board member, the Governor shall appoint a person to replace that board
 6 member.

7 (2) If the Arkansas Association of Masters in Psychology, other
 8 interested organizations, or licensed clinical psychotherapists choose to
 9 submit nominees to the Governor, they shall do so no later than (40) days
 10 before the expiration of a board member's term.

11 (d) The Governor shall fill all vacancies on the board within thirty
 12 (30) days after the vacancy occurs.

13 (e) The Governor shall remove any member from the board if he or she:

14 (i) Ceases to be qualified;

15 (ii) Fails to attend three (3) successive board
 16 meetings without just cause as determined by the board;

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

18 (iv) Pleads guilty or nolo contendere to, or is
 19 found guilty of a felony or other unlawful act involving moral turpitude by a
 20 court of competent jurisdiction; or

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

24 (f) All vacancies occurring on the board by reason of resignation or
 25 otherwise shall be filled by the Governor for the unexpired term, the
 26 professional members from the list of qualified persons, within thirty (30)
 27 days after the vacancy occurs.

28 (g)(1) Terms of each member shall expire on December 31 of the year in
 29 which the term expires.

30 (h)(1) Immediately and before entering upon the duties of office, the
 31 members of the board shall

32 (A) Take and subscribe to the constitutional oath of
 33 office; and

34 (B) File the oath in the office of the Governor.

35 (2) Upon receiving the oath, the Governor shall issue to each
 36 member a certificate of appointment.

1 (i) Members shall be eligible to receive reimbursement for mileage and
 2 reimbursement for expenses in accordance with § 25-16-902.

3 (2) However, the reimbursements shall not exceed the fees
 4 collected by the board.

5 (j) The Governor shall call the first meeting of the board within
 6 sixty (60) days of the appoint of the members of the board.

7
 8 17-107-202 Organization and proceedings.

9 (a) The Arkansas Board of Clinical Psychotherapy shall elect a chair,
 10 a secretary, and a treasurer.

11 (b)(1) The board shall hold at least one (1) regular meeting each
 12 year.

13 (2) Special meetings may be held at the discretion of the chair
 14 or at the written request of any two (2) members of the board.

15 (c) A majority of the members of the board shall constitute a quorum.

16 (d)(1) The board shall adopt a seal.

17 (2) The seal shall be affixed to all certificates issued by the
 18 board.

19 (e) There is established within the board the Joint Administrative
 20 Oversight and Budget Committee.

21 (1)(A) Membership of the Joint Administrative Oversight and
 22 Budget Committee shall be:

23 (i) The chair and treasurer of the Arkansas Psychology
 24 Board; and

25 (ii) The chair and treasurer of the Arkansas Board of
 26 Clinical Psychotherapy.

27 (2) Ad hoc members without voting privileges shall be the
 28 administrative staff members employed by the Arkansas Board of Psychology and
 29 the Arkansas Board of Clinical Psychotherapy.

30 (3) The Joint Administrative Oversight and Budget Committee
 31 shall:

32 (A) Provide advice and recommendations to the Arkansas
 33 Psychology Board and the Arkansas Board of Clinical Psychotherapy on matters
 34 of administration and finance that relate to the generation of income,
 35 general operations, and expenditures of monies by the two (2) boards; and

36 (B) Make decisions concerning personnel matters and

1 utilization of monies.

2
3 17-107-203. Powers and duties.

4 (a) The Arkansas Board of Clinical Psychotherapy may:

5 (1) Hire assistance as necessary to carry on its activities
6 within the limits of funds available to the board as directed by the Joint
7 Administrative Oversight and Budget Committee; and

8 (2) Accept grants from foundations or institutions; the monies
9 to be managed by the Joint Oversight and Budget Committee.

10 (b) The board shall:

11 (1) Examine and pass upon the qualifications of applicants for
12 the practice of clinical psychotherapy; and

13 (2)(A) Adopt a code of conduct consistent with national
14 standards set forth by the North American Association of Masters in
15 Psychology as they existed on January 1, 2005 to govern appropriate practices
16 and behavior for the practice of clinical psychotherapy.

17 (B) The board shall file the code with the Secretary of
18 State not less than thirty (30) days before the effective date of the code of
19 conduct.

20
21 17-107-204. Collection and disposition of fees.

22 (a) The Arkansas Board of Clinical Psychotherapy may establish and
23 collect fees and penalties for administrative services, including, but not
24 limited to:

25 (1) The issuance of temporary permits and other printed
26 materials;

27 (2) Handling returned checks;

28 (3) Costs incurred in processing delinquent payments; and

29 (4) Other reasonable services as the board may determine.

30 (b) The fees, along with other cash funds made available to the board,
31 shall be used to supplement the board with adequate income to provide for the
32 efficient and necessary operations of the board.

33 (c)(1) The board shall set fees and penalties in accordance with
34 recommendations from the Joint Oversight and Budget Committee.

35 (2) Fees and penalties shall be added to the amount collected by
36 the Arkansas Psychology Board for the joint operation of the two (2)

1 respective boards.

2
3 Subchapter 3. Licensing

4 17-107-301. Legislative intent.

5 The General Assembly intends that all licensed associate clinical
6 psychotherapists and licensed clinical psychotherapists conform to the
7 licensing requirements of this subchapter in order to protect the public
8 health and welfare by insuring competence in the delivery of services.

9
10 17-107-302. Penalties.

11 If any person practices as or hold himself or herself out to the public
12 as being licensed to engage in the practice of clinical psychotherapy, but
13 does not then possess a valid license to practice as a licensed associate
14 clinical psychotherapist or licensed clinical psychotherapist, he or she
15 shall be guilty of a misdemeanor punishable by a fine of not less than one
16 hundred dollars (\$100) nor more than five hundred dollars (\$500).

17
18 17-107-303. Licensed associate clinical psychotherapist --Application
19 - Qualifications.

20 (a) No person may practice as or hold himself or herself out as a
21 licensed associate clinical psychotherapist unless that person possesses a
22 valid license issued by the Arkansas Board of Clinical Psychotherapy.

23 (b)(1) A person who seeks to be licensed to practice as a licensed
24 associate clinical psychotherapist who has not previously been licensed to do
25 so shall apply to the board for licensure.

26 (2) The application shall be:

27 (A) Addressed to the chair of the board; and

28 (B) On a form and in the manner adopted by the board.

29 (c)(1) A candidate for licensure shall furnish the board with
30 satisfactory evidence that he or she:

31 (A) Is of good moral character;

32 (B) Has received a master's degree in psychology or
33 related field from a regionally accredited educational institution recognized
34 by the board as maintaining satisfactory standards;

35 (C) Has passed written or oral examinations, or both as
36 the board requires to show competence to practice as a licensed associate

1 clinical psychotherapist;

2 (D) Has not violated ethical rules promulgated by the
 3 board;

4 (E) Has applied to the Identification Bureau of the
 5 Department of Arkansas State Police for a state and national criminal
 6 background check to be conducted by the Federal Bureau of Investigation;

7 (F) Has not been found guilty of or pleaded guilty or nolo
 8 contendere to any of the offenses listed in §17-97-313; and

9 (G) Has not failed an examination given by the board within
 10 the preceding six (6) months.

11 (d) The board shall promulgate rules regarding the qualifications,
 12 restrictions, and reporting requirements of supervisors to implement the
 13 intent of this chapter to avoid restricting the professional integrity of
 14 licensed associate clinical psychotherapists.

15
 16 17-107-304. Licensed clinical psychotherapist -- Application --
 17 Qualifications.

18 (a) No person may practice as or hold himself or herself out as a
 19 licensed clinical psychotherapist unless that person possesses a valid
 20 license issued by the Arkansas Board of Clinical Psychotherapy.

21 (b)(1) A person who has been licensed for three (3) years or practiced
 22 clinical psychotherapy for the full-time equivalent of three (3) years as a
 23 licensed associate clinical psychotherapist may petition the Arkansas Board
 24 of Clinical Psychotherapy to be licensed as a licensed clinical
 25 psychotherapist with independent practice privileges.

26 (2)(A) The Arkansas Board of Clinical Psychotherapy shall
 27 promulgate rules for granting petitions for licensure under subdivision
 28 (b)(1) of this section.

29 (B) The rules shall be based upon experience, training,
 30 and adherence to the rules of the Arkansas Board of Clinical Psychotherapy.

31 (3) Applications shall be accompanied by:

32 (A) Three (3) letters of reference as follows:

33 (i) One (1) letter shall be from the applicant's
 34 current or most recent clinical supervisor;

35 (ii) One (1) letter shall attest to the applicant's
 36 clinical competence; and

1 (iii) One (1) letter shall be a non-academic
 2 character reference;

3 (B) A revised statement of intent to practice; and

4 (C) Other materials required by the Arkansas Board of
 5 Clinical Psychotherapy.

6 (c)(1) After a review of all submitted documentation, the Arkansas
 7 Board of Clinical Psychotherapy may issue a license to practice as a licensed
 8 clinical psychotherapist.

9 (2)(A) However, the Arkansas Board of Clinical Psychotherapy may
 10 decline to issue a license to practice as a licensed clinical psychotherapist
 11 if the Arkansas Board of Clinical Psychotherapy finds that the applicant has
 12 shown insufficient proficiency.

13 (B) If the Arkansas Board of Clinical Psychotherapy
 14 declines to issue a license to practice as a licensed clinical
 15 psychotherapist, the applicant shall continue to practice under a supervisor
 16 approved by the Arkansas Board of Clinical Psychotherapy until the
 17 deficiencies are corrected.

18 (d)(1) Upon request from the Arkansas Board of Clinical Psychotherapy,
 19 the applicant shall furnish evidence that he or she:

20 (A) Is of good moral character;

21 (B) Has received a master's degree in psychology or a
 22 related degree from a regionally accredited educational institution
 23 recognized by the Arkansas Board of Clinical Psychotherapy as maintaining
 24 satisfactory standards;

25 (C) Has passed such examinations written or oral or both
 26 as required by the Arkansas Board of Clinical Psychotherapy to show competent
 27 to practice as a licensed clinical psychotherapist;

28 (D) Has not violated ethical rules promulgated by the
 29 Arkansas Board of Clinical Psychotherapy;

30 (E) Has applied to the Identification Bureau of the
 31 Department of Arkansas State Police for a state and national criminal
 32 background check to be conducted by the Federal Bureau of Investigation; and

33 (E) Has not been found guilty of or pleaded guilty or nolo
 34 contendere to any of the offenses listed in §17-97-313; and

35 (F) Has not failed an examination given by the Arkansas
 36 Board of Clinical Psychotherapy within the preceding six (6) months.

1 (e)(1) A person who has been licensed as a psychological examiner for
 2 at least three (3) years is immediately eligible to apply for licensure as a
 3 licensed clinical psychotherapist with independent practice privileges.

4 (2) The Arkansas Board of Clinical Psychotherapy may grant the
 5 applicant independent practice privileges after consideration and evaluation
 6 of the applicant's previous statement of intent, experience, training, and
 7 adherence to rules of the Arkansas Board of Clinical Psychotherapy.

8 (3)(A) A persons who was granted independent practice privileges
 9 by the Arkansas Psychology Board as indicated by statement of dated before
 10 December 31, 2005, shall be deemed a licensed clinical psychotherapist with
 11 independent practice privileges by the Arkansas Board of Clinical
 12 Psychotherapy.

13 (B) Individuals granted practice privileges for
 14 neuropsychology and projective personality assessment as indicated by the
 15 statement of intent and approved by the Arkansas Psychology Board before
 16 October 1, 2004, shall be authorized by the Arkansas Board of Clinical
 17 Psychotherapy to continue those practice privileges under the supervision
 18 indicated by the statement of intent as licensed clinical psychotherapists or
 19 licensed associate clinical psychotherapists approved by the Arkansas
 20 Psychology Board before October 2004.

21 (C) No other privileges under this chapter may be granted
 22 to persons granted privileges under subdivisions (e)(3)(A) or (e)(3)(B) of
 23 this section.

24
 25 17-107-305. Examinations.

26 (a)(1)(A) The Arkansas Board of Clinical Psychotherapy shall
 27 promulgate rules for examinations for licensure to practice as a licensed
 28 associate clinical psychotherapist.

29 (B) The examination shall include, but not be limited to:

30 (i) Subject matter in the filed of clinical
 31 psychotherapy;

32 (ii) Methods of practice of clinical psychotherapy;

33 (iii) Basic psychological sciences; and

34 (iv) Ethics in the practice of clinical
 35 psychotherapy.

36 (2) The examinations shall be offered at least one (1) time each

1 year.

2 (3)(A) The examinations may be written, oral, or both.

3 (B) In any written examination, the applicant shall be
4 designated by a number rather than by his or her name so that his or her
5 identity will not be available to the members of the board until the
6 examination has been scored.

7 (4) The board shall:

8 (A) Grade the written examinations returned by the
9 candidate; and

10 (B) Retain the written examinations for a
least one (1) year.

11 (b) A candidate shall have passed the examination upon the affirmative
12 vote of three (3) or more members of the board.

13 (c) Upon written request to the board, any unsuccessful candidate may
14 see the candidate's own graded examination.

15

16 17-107-306. Issuance.

17 (a)(1) The Arkansas Board of Clinical Psychotherapy shall be the sole
18 agency empowered to:

19 (A) Examine candidates concerning competence as a licensed
20 clinical psychotherapist or licensed associate clinical psychotherapist; and

21 (B) Grant licenses for the practice of clinical
22 psychotherapy at the appropriate level.

23 (2)(A) The license shall be signed by the Chair of the Arkansas
24 Board of Clinical Psychotherapy and attested by the Secretary of the Arkansas
25 Board of Clinical Psychotherapy under the seal of the board.

26 (B) After the license is signed and attested to and the
27 seal attached as required in subdivision (a)(2)(B) of this section, the
28 secretary shall issue the license.

29 (b)(1) The board shall issue a provisional license to an applicant who
30 has:

31 (A) Passed the examinations prescribed by the board for
32 provisional licensure;

33 (B) Satisfied the preliminary requirements of §§ 17-107-
34 303 and 17-107-304; and

35 (C) Paid the fee for a provisional license.

36 (2) A provisional license holder is entitled to practice as a

1 licensed associate clinical psychotherapist under the supervision of a
 2 qualified supervisor approved by the board.

3 (3) The board shall adopt rules concerning provisional license
 4 holders that identify:

5 (A) The activities that provisional license holders may
 6 engage in; and

7 (B) Services that may be provided by provisional license
 8 holders.

9 (4) The board may refuse to renew the provisional license of a
 10 person who does not meet the requirements prescribed by law and rules
 11 promulgated by the board.

12 (c)(1) An applicant for examination for a provisional license shall:

13 (A) Apply on forms prescribed by the board; and

14 (B) Submit the required fees with the application.

15 (2) The board may require that the applicant verify the
 16 application.

17 (d) An applicant may take an examination for a provisional license if
 18 the applicant:

19 (1)(A) Has received a master's degree in psychology or a related
 20 field from a regionally accredited educational institution.

21 (B) In determining whether a degree is substantially
 22 equivalent to the requirements for licensure, the board shall consider
 23 whether at the time the degree was conferred the graduate program met the
 24 prevailing standards for training in the area of psychology;

25 (2) Has attained the age of majority;

26 (3) Has good moral character;

27 (4) Is physically and mentally competent to provide
 28 psychological services with reasonable skill and safety, as determined by the
 29 board;

30 (5) Is not afflicted with a mental or physical disease or
 31 condition that would impair the applicant's competence to provide
 32 psychological services;

33 (6) Has not been plead guilty or pleads guilty or nolo
 34 contendere to, or is found guilty of contendere to or been found guilty of a
 35 crime involving moral turpitude or a felony;

36 (7) Does not use drugs or alcohol to an extent that affects the

1 applicant's professional competence;

2 (8) Has not engaged in fraud or deceit in making the
 3 application; and

4 (9) Has not:

5 (A) Aided or abetted the practice of clinical
 6 psychotherapy by a person not licensed under this chapter in representing
 7 that the person is licensed under this chapter;

8 (B) Represented that the applicant is licensed under this
 9 chapter to practice clinical psychotherapy when the applicant is not
 10 licensed; or

11 (C) Practiced clinical psychotherapy in this state without
 12 a license under this chapter or without being exempt under this chapter.

13
 14 17-107-307. Reciprocity.

15 At its discretion, the Arkansas Board of Clinical Psychotherapy may
 16 grant a certificate without an assembled examination to any person residing
 17 or employed in the state who:

18 (1)(A) At the time of application is licensed or certified by a
 19 similar board of another state whose standards in the opinion of the board
 20 are not lower than those required by this chapter; or

21 (B) Has been practicing psychology or related clinical
 22 services in another state that has qualifications the board has determined to
 23 be not lower than those required by this chapter; and

24 (2) Satisfies the board that to grant him or her a license
 25 would:

26 (A) Be in the public interest; and

27 (B) Meet the requirements of the rules promulgated by the
 28 board.

29
 30 17-107-308. Professional titles.

31 (a) Except as otherwise provided in this section, no individual or
 32 organization, other than those licensed under this chapter, may present
 33 himself, herself, or itself to the public or allow himself, herself, or
 34 itself to be presented to the public by any title incorporating the name
 35 "Licensed Associate Clinical Psychotherapist" or "Licensed Clinical
 36 Psychotherapist".

1 (b)(1)(A) Any psychological scientist employed by a research
2 laboratory, college, or university recognized by the Arkansas Board of
3 Clinical Psychotherapy may represent himself or herself by the academic or
4 research title conferred upon him or her by the administration of the
5 laboratory, college, or university.

6 (B) This section does not permit a psychological scientist
7 employed by a research laboratory, college, or university recognized by the
8 board to offer services to any other persons or organizations as consultants
9 or to accept remuneration for any licensed clinical psychotherapy services
10 other than his or her institutional salaries unless he or she has been
11 licensed under this chapter.

12 (2) A visiting lecturer from a laboratory, college, or
13 university recognized by the board is exempt from the provisions of this
14 section and may represent himself or herself by the academic or research
15 title conferred upon him or her by the administration of the laboratory,
16 college, or university when presenting lectures to similar institutions or
17 organizations.

18 (3) Students of psychology, psychological interns, and other
19 persons preparing for the profession of psychologist or licensed associate
20 clinical psychotherapist under qualified supervision in recognized training
21 institutions or facilities may use such titles as "psychological intern,"
22 "psychological trainee," or other titles approved by the board that clearly
23 indicate such a training status.

24 (4)(A) A person who has been certified as a school psychology
25 specialist by the Department of Education may use the title "School
26 Psychology Specialist."

27 (B) A person who uses the title "School Psychology
28 Specialist" may only practice within settings under the purview of the State
29 Board of Education.

30 (c) Nothing in this chapter precludes the practice of psychotherapy by
31 licensed social workers, licensed professional counselors, licensed marriage
32 and family therapists, or other advanced licensed practitioners.

33
34 17-107-309. Annual registration – Failure to reregister.

35 (a)(1) The Arkansas Board of Clinical Psychotherapy may adopt and
36 enforce rules requiring each person licensed by the board to pay an annual

1 registration fee.

2 (2) The board shall set the fee as recommended by the Joint
 3 Oversight and Budget Committee.

4 (b) The board shall set the due date for the fee as recommended by the
 5 Joint Oversight and Budget Committee.

6 (c)(1) The board shall suspend the right of any person licensed by the
 7 board if the person fails to timely pay the annual registration fee.

8 (2) The suspension shall continue until the person pays the fee
 9 and any penalty the board may by rule adopt.

10 (d)(1) If any licensee fails for three (3) consecutive years to pay
 11 the fee, the board shall, without hearing or notice, cancel his or her
 12 license subject to reinstatement.

13 (2) If application for reinstatement is made, the board shall
 14 consider the moral character and professional qualifications of the applicant
 15 as in the case of an original application.

16 (e)(1)(A) A person licensed by the board shall participate in forty
 17 (40) hours of continuing education each biennium.

18 (B) The board shall not consider an application for annual
 19 renewal of a license if the applicant does not supply evidence acceptable to
 20 the board of forty (40) hours of continuing education for the previous
 21 biennium.

22 (f)(1) All programs of continuing education shall be subject to the
 23 approval of the board.

24 (2) The board may establish:

25 (A) Minimum standards and requirements for continuing
 26 education programs for licensees;

27 (B) Procedures and policies for administering continuing
 28 education programs; and

29 (C) The manner and conditions under which credit may be
 30 granted for participation in continuing education programs.

31
 32 17-107-310. Fees.

33 (a)(1) The fees authorized under § 17-107-309 shall be paid to the
 34 Chair of the Arkansas Board of Clinical Psychotherapy by each applicant for a
 35 permanent license.

36 (2) An additional fee to be determined by the Joint Oversight

1 and Budget Committee shall be paid as deemed necessary to defray the cost of
 2 acquiring and administering the examination test and related expenses in
 3 connection with those costs.

4 (b) An additional fee set by the Joint Oversight and Budget Committee
 5 shall be paid to the Chair of the Arkansas Board of Clinical Psychotherapy
 6 when the initial license is issued.

7 (c)(1) No part of any fee shall be returnable under any circumstances
 8 other than failure of the board to hold examinations at the time originally
 9 announced.

10 (2) If the board fails to hold examinations at the time
 11 originally announced, the entire fee may be returned at the option of the
 12 candidate.

13
 14 17-107-311. Denial, suspension, revocation, fine, letter of reprimand,
 15 or additional education – Grounds – Reinstatement.

16 (a) The Arkansas Board of Clinical Psychotherapy may:

- 17 (1) May refuse to grant a license or may suspend or revoke any
- 18 license for a period to be determined by the board;
- 19 (2) Impose a fine of up to five thousand dollars (\$5,000);
- 20 (3) Issue a letter of reprimand; and
- 21 (4) Require additional hours of education for a licensee.

22 (b) The sanctions authorized in subsection (a) of this section may be
 23 imposed on the following grounds:

24 (1) Fraud or deception in applying for a license or in passing
 25 the examination provided for this chapter;

26 (2) The practice of clinical psychotherapy under a false or
 27 assumed name or the impersonation of another practitioner of a like or
 28 different name;

29 (3) Habitual intemperance in the use of alcohol, narcotics, or
 30 stimulants to such an extent as to incapacitate the licensee or applicant for
 31 the performance of his or her duties;

32 (4) Violation of the Arkansas Medical Practices Act §§ 17-95-201
 33 et seq., 17-95-301 et seq., 17-95-401 et seq. and § 17-97-101 through § 17-
 34 97-312;

35 (5) Practice of a level of clinical psychotherapy inappropriate
 36 to the particular license held by the licensee;

1 (6) Negligence or wrongful actions in the performance of his or
 2 her duties; or

3 (7) Violation of any rule of the board including the rules of
 4 ethics adopted by the board.

5 (c) The board shall refuse to issue a license to or shall revoke the
 6 license of any person who has been found guilty of or pleaded guilty or nolo
 7 contendere to any of the offenses listed in § 17-107-313(f) unless the person
 8 requests and the board grants a waiver pursuant to § 17-107-313(h).

9 (d)(1) If the board receives satisfactory proof that any applicant or
 10 licensee has been found guilty of or pleaded guilty or nolo contendere to any
 11 of the offenses listed in subsection (b) of this section, the board may
 12 refuse to grant a certificate to the applicant or may revoke a license of the
 13 licensee upon a vote of three (3) or more members of the board.

14 (2) An application for reinstatement may be made to the board
 15 and the board may upon favorable vote by three (3) of its members reinstate
 16 the applicant.

17
 18 17-107-312. Denial, suspension, revocation, other penalty -
 19 Proceedings.

20 (a)(1)(A) The Arkansas Board of Clinical Psychotherapy may investigate
 21 or cause to be investigated any allegation or evidence that appears to show
 22 that a person:

23 (i) Is practicing clinical psychotherapy without a
 24 license; or

25 (ii) Is licensed to practice in Arkansas and anyone
 26 under his or her supervision is or may be in violation of this chapter or of
 27 any of the rules adopted by the board.

28 (B) The board shall adopt rules to ensure that:

29 (i) Any individual selected by the board to conduct
 30 an investigation does not have a conflict of interest that would disqualify
 31 the individual from being an impartial investigator in the matter being
 32 investigated; and

33 (ii) Any investigation of a respondent in an
 34 investigated matter involves the input of an advisor who possesses
 35 qualification, experience, or both substantially comparable to or greater
 36 than that of the investigated respondent.

1 (2) The board may not recommend suspension, revocation, or any
 2 other penalty described in § 17-107-311 affecting a certificate or license or
 3 refuse to issue or to renew any certificate for any cause listed in this
 4 chapter unless the person accused has been given;

5 (A)(i) At least twenty (20) days' notice in writing by
 6 registered mail with return receipt demanded of the charges against the
 7 person.

8 (ii) The written notice shall be mailed to the
 9 person's last known address; and

10 (B)(i) An opportunity for a public hearing by the board.

11 (ii) The nonappearance of the person shall not
 12 prevent such a hearing.

13 (b) At the hearing the board may administer an oath and procure by its
 14 subpoenas the attendance of witnesses and the production of relevant books,
 15 papers and other relevant materials, including, but not limited to,
 16 electronic data and communications.

17 (c) Any action of, or ruling or order made or entered by, the board
 18 declining to issue a certificate, declining to recommend licensure, or
 19 recommending suspension, revocation, or other penalty described in § 17-107-
 20 311 that affects a certificate or license shall be subject to review by the
 21 courts of this state in the same manner and subject to the same powers and
 22 conditions that are now provided by law in regard to rulings, orders, and
 23 findings of other quasi-judicial bodies in Arkansas where not otherwise
 24 specifically provided.

25
 26 17-107-313. Criminal background checks.

27 (a) Each first-time applicant for a license issued by the Arkansas
 28 Board of Clinical Psychotherapy shall apply to the Identification Bureau of
 29 the Department of Arkansas State Police for a state and national criminal
 30 background check to be conducted by the Federal Bureau of Investigation.

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

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

36 (d) Upon completion of the criminal background check, the

1 Identification Bureau of the Department of Arkansas State Police shall
 2 forward to the board all information obtained concerning the applicant in the
 3 commission of any offense listed in subsection (f) of this section.

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

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

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

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

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

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

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

18 (6) False imprisonment in the first degree, as prohibited in §
 19 5-11-103;

20 (7) Permanent detention or restraint, as prohibited in § 5-11-
 21 106;

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

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

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

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

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

28 (13) Terroristic threatening in the first degree, as prohibited
 29 in § 5-13-301;

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

31 (15) Sexual indecency with a child, as prohibited in § 5-14-110;

32 (16) Sexual assault in the first degree, second degree, third
 33 degree, and fourth degree, as prohibited in §§ 5-14-124 - 5-14-127;

34 (17) Incest, as prohibited in § 5-26-202;

35 (18) Offenses against the family, as prohibited in §§ 5-26-303 -
 36 5-26-306;

1 (19) Endangering the welfare of an incompetent person in the
 2 first degree, as prohibited in § 5-27-201;

3 (20) Endangering the welfare of a minor in the first degree, as
 4 prohibited in §§ 5-27-203;

5 (21) Permitting abuse of a child, as prohibited in §§ 5-27-
 6 221(a)(1) and (3);

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

14 (23) Felony adult abuse, as prohibited in § 5-28-103;

15 (24) Theft of property, as prohibited in § 5-36-103;

16 (25) Theft by receiving, as prohibited in § 5-36-106;

17 (26) Arson, as prohibited in § 5-38-301;

18 (27) Burglary, as prohibited in § 5-39-201;

19 (28) Felony violation of the Uniform Controlled Substances Act,
 20 §§ 5-64-101 - 5-64-608, as prohibited in § 5-64-401;

21 (29) Promotion of prostitution in the first degree, as
 22 prohibited in § 5-70-104;

23 (30) Stalking, as prohibited in § 5-71-229;

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

28 (32) Computer child pornography, as prohibited in § 5-27-603;
 29 and

30 (33) Computer exploitation of a child in the first degree, as
 31 prohibited in § 5-27-605.

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

35 (2) Upon receipt of information from the Identification Bureau
 36 of the Department of Arkansas State Police that the person holding a letter

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

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

6 (A) An affected applicant for licensure; or

7 (B) A person holding a license subject to revocation.

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

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

11 (B) The circumstances surrounding the crime;

12 (C) The length of time since the crime;

13 (D) Subsequent work history;

14 (E) Employment references;

15 (F) Character references; and

16
 17 (G) Other evidence demonstrating that the applicant does
 18 not pose a threat to the health or safety of children.

19 (i)(1) Any information received by the board from the Identification
 20 Bureau of the Department of Arkansas State Police under this section shall
 21 not be available for examination except by the affected applicant for
 22 licensure or his or her authorized representative or the person whose license
 23 is subject to revocation, or his or her authorized representative.

24 (2) No record, file, or document shall be removed from the
 25 custody of the department.

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

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

32 (l) The board shall adopt the necessary rules to fully implement the
 33 provisions of this section.

34
 35 17-9-107-314. Application.

36 Nothing in this chapter shall be construed as permitting the practice

1 of clinical psychotherapy to infringe on the practice of medicine as defined
2 by the Arkansas Medical Practices Act, §§ 17-95-201, et seq., 17-95-301 et
3 seq., 17-95-401 et seq. and 17-97-101 et seq.

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