

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
4

As Enrolled: H2/8/05 H2/10/05 H3/29/05

A Bill

HOUSE BILL 1234

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 MENTAL HEALTH PRACTITIONERS; TO*
12 *CREATE AN OVERSIGHT COMMITTEE TO COORDINATE THE*
13 *OPERATIONS OF THE ARKANSAS PSYCHOLOGY BOARD AND*
14 *THE ARKANSAS MENTAL HEALTH PRACTITIONERS BOARD;*
15 *AND FOR OTHER PURPOSES.*

Subtitle

16
17
18 AN ACT TO REDEFINE AND REGULATE
19 *PSYCHOLOGICAL EXAMINERS AS MENTAL HEALTH*
20 *PRACTITIONERS.*
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, *health* 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) No licensed psychological examiners
31 willing to serve.

32 (ii)(a) When either of the conditions described in
33 subdivision (a)(2)(C)(i) is met, no new appointment to the board may be made
34 under subdivision (a)(2)(C).

35 (b) A person serving on the board when either
36 of the conditions described in subdivision (a)(2)(C)(i) is met may finish the

1 term for which the person was appointed.

2 (iii) The psychological examiner may not participate
 3 in the examination of candidates seeking licensure as psychologists.

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

6 (i) Represent consumers of psychology services; and
 7 (ii) shall be ~~Shall be a voting members~~ member at-
 8 large.

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

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

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

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

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

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

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

32 (iv)(i) ~~Both~~ The member representing consumers of
 33 psychology services shall be a full voting members member but shall not vote
 34 on or participate in the administration or grading examinations of applicants
 35 for licensure.

36 (D)(i) Any public member appointed under subdivision

1 (a)(2)(1)(D) of this section after July 28, 1995, ~~must~~ shall be an Arkansas
2 resident and ~~must~~ shall have resided in Arkansas for at least five (5) years
3 immediately preceding appointment.

4 (ii) Furthermore, the person ~~must~~ shall never have
5 been a psychologist or psychological examiner, an applicant or former
6 applicant for licensure as a psychologist or psychological examiner, a member
7 of another mental health profession, a member of a household that includes a
8 psychologist or psychological examiner, or otherwise have conflicts of
9 interest or the appearance of conflicts with his or her duties as a board
10 member.

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

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

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

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

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

36 ~~(B) The Governor may disregard the nominees of any~~

1 ~~association which fails to transmit the names of the nominees at least forty~~
2 ~~(40) days prior to the expiration of the term of office.~~

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

5 (i) Ceases to be qualified;

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

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

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

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

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

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

22 17-97-202. Organization and proceedings.

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

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

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

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

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

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

1 (2)(A) The membership of the Joint Administrative Oversight and
2 Budget Committee shall be composed of the chairs and treasurers of the:

3 (i) Arkansas Psychology Board; and

4 (ii) Arkansas Mental Health Practitioners Board.

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

7 (i) Arkansas Psychology Board; and

8 (ii) Arkansas Mental Health Practitioners Board.

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

14 (i) The generation of income;

15 (ii) General operations; and

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

18 (4) Personnel decisions and matters of the use of monies by both
19 the Arkansas Psychology Board and the Arkansas Mental Health Practitioners
20 Board shall be resolved within the committee.

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

23 17-97-301. Legislative intent.

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

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

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

36

1 SECTION 7. Arkansas Code § 17-97-302(b), concerning application and
2 qualifications as for licensure as a psychologist, is amended to read as
3 follows:

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

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

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

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

19 (ii) Both years of supervised experience shall:

20 (a) Be acceptable to the board; and

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

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

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

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

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

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

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

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

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

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

15 17-97-306. Reciprocity.

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

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

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

26 (b)(1) Notwithstanding the provisions of subsection (a), the Arkansas
27 Psychology Board may issue a license to any individual who qualifies for a
28 license pursuant to an agreement of reciprocity entered into by the Arkansas
29 Psychology Board with the board of another jurisdiction or with the boards of
30 multiple jurisdictions.

31 (2) The Arkansas Psychology Board may issue a license to any
32 individual whose credentials have been approved from nationally recognized
33 bodies in psychology, including, but not limited to:

34 (A) The Association of State and Provincial Psychology
35 Board's through its Agreement of Reciprocity; and

36 (B) The National Register of Health Service Providers in

1 Psychology through its health service provider credentialing in psychology.

2
3 SECTION 10. Arkansas Code § 17-97-307(a), concerning use of
4 professional titles, is amended to read as follows:

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

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

13 17-97-303 Licensure of psychology interns.

14 (a) A trainee in psychology may be licensed as a psychology intern if
15 the trainee:

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

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

20 (3) Is otherwise qualified by training, course work, and
21 supervised experiences.

22 (b)(1) Intern licensees shall be supervised by a licensed
23 psychologist.

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

27 (c) Psychology interns licensed under this section:

28 (1) Qualify for full practice privileges as licensed mental
29 health practitioners; and

30 (2) May:

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

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

34 (d) Licensure under this section is:

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

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

3
4
5 SECTION 12. Arkansas Code Title 17 is amended to add an additional
6 chapter to read as follows:

7 Subchapter 1. General Provisions.

8 17-107-101. Legislative intent.

9 The General Assembly intends that;

10 (1) The provisions of this subchapter be in accordance with and
11 consistent with the Arkansas Medical Practices Act, § 17-95-201 - 207, 17-95-
12 301 - 305, and 17-95-401 - 411; and

13 (2) The practice of mental health practice as prescribed in this
14 chapter not infringe on the practice of medicine.

15
16 17-107-102. Definitions.

17 “Practice of mental health practice” means:

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

26 (A) Preventing or eliminating symptomatic, maladaptive,
27 or undesired behavior;

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

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

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

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

36 (a) Intelligence;

1 (b) Personality;
2 (c) Abilities;
3 (d) Aptitudes;
4 (e) Achievements;
5 (f) Motives;
6 (g) Personality dynamics;
7 (h) Psychoeducational processes; and
8 (i) Other psychological attributes of
9 individuals or groups.

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

16 (ii) Treatment includes, but is not limited to
17 providing:

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

29 (C) Psychological consulting including, but not limited to
30 providing:

31 (i) Interpreting and reporting on scientific theory
32 and research in psychology;
33 (ii) Rendering expert psychological opinion;
34 (iii) Evaluating and engaging in applied
35 psychological research;
36 (iv) Program and organizational development; and

1 (v) Administration, supervision, and evaluation of
2 psychological services.

3
4 17-107-103. Levels of practice of mental health practice.

5 There shall be two (2) levels of practice of mental health practice as
6 follows:

7 (1) A licensed associate mental health practitioner is a person
8 licensed by the Arkansas Mental Health Practitioners Board to provide
9 psychological services only under the supervision of a qualified supervisor
10 as dictated by rules set forth by the board; and

11 (2) A licensed mental health practitioner is a person licensed
12 by the Arkansas Mental Health Practitioners Board to independently provide
13 psychological services under the guidelines set forth and prescribed by the
14 rules of the board.

15
16 17-107-104. Exceptions generally.

17 (a) Nothing in this chapter prevents:

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

25 (2) The provision of expert testimony by licensed mental health
26 practitioners who are exempted by this chapter;

27 (3) Members of other professions licensed under the laws of
28 Arkansas for rendering psychotherapy and other services within the scope of
29 practice as set out in the laws regulating their professional practices, if
30 they do not represent themselves to be licensed by the Arkansas Mental Health
31 Practitioners Board as licensed associate mental health practitioners or
32 licensed mental health practitioners.

33 (4) Recognized members of the clergy from functioning in their
34 ministerial capacities, if they do not represent themselves to be licensed
35 associate mental health practitioners or licensed mental health
36 practitioners, or their services to be psychological services; or

1 (5) Students of psychology, psychological interns, psychological
2 residents, and others persons preparing for the profession of psychology and
3 mental health practice from performing as a part of their training the
4 functions of mental health practitioners as defined in this chapter and the
5 rules of the Arkansas Mental Health Practitioners Board.

6
7 17-107-105. Existing laws and rules regarding licensed psychological
8 examiners.

9 All state laws and state agency rules that authorize practice by
10 licensed psychological examiners shall be deemed to authorize practice by
11 licensed associate mental health practitioners and licensed mental health
12 practitioners.

13
14 17-107-106. Privileged communications.

15 (a) For purposes of this chapter, the confidential relations and
16 communications between a licensed mental health practitioner or licensed
17 associate mental health practitioner and a client shall be the same as those
18 provided by law between an attorney and a client.

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

21
22 Subchapter 2 – Arkansas Mental Health Practitioners Board.

23 17-107-201 Creation - Members.

24 (a)(1)(A) There is created the Arkansas Mental Health Practitioners
25 Board which shall consist of six (6) members who shall be appointed by the
26 Governor for terms of five (5) years.

27 (B) Appointments shall be for staggered terms so that no
28 more than two (2) positions will expire in a given year.

29 (2) The Governor shall appoint:

30 (A) One (1) academic member engaged in full-time teaching
31 of psychology at an institution of higher learning approved by the Arkansas
32 Mental Health Practitioners Board.

33 (B) Four (4) practicing licensed mental health
34 practitioner members engaged in full-time practice with:

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

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

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

5 (ii) The consumer representative shall:

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

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

11 (c) Never have been a psychologist, licensed
12 psychological examiner, licensed mental health practitioner, licensed
13 professional counselor, or licensed clinical social worker; and

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

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

20 (2) All positions shall be appointed from a list of nominees
21 provided by the Arkansas Association of Masters in Psychology, any other
22 interested organizations, and or from a list with at least twenty (20)
23 signatures of licensees by the Arkansas Mental Health Practitioners Board.

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

26 (A) Reside within the State of Arkansas;

27 (B) Hold a current valid license to practice mental health
28 practice; and

29 (C) Have been licensed by the Arkansas Psychology Board,
30 the Arkansas Mental Health Practitioners Board, or both to practice for at
31 least five (5) years immediately preceding his or her appointment to the
32 board.

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

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

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

5 (B) Pleads *guilty* or *nolo contendere* to, or is found
6 guilty of a felony or other unlawful act involving moral turpitude by a court
7 of competent jurisdiction.

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

11 (2) If the Arkansas Association of Masters in Psychology, other
12 interested organizations, or licensed *mental health practitioner* choose to
13 submit nominees to the Governor, they shall do so no later than (40) days
14 before the expiration of a board member's term.

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

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

18 (i) Ceases to be qualified;

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

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

22 (iv) Pleads *guilty* or *nolo contendere* to, or is
23 found guilty of a felony or other unlawful act involving moral turpitude by a
24 court of competent jurisdiction; or

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

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

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

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

36 (A) Take and subscribe to the constitutional oath of

1 office; and

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

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

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

7 (2) However, the reimbursements shall not exceed the fees
8 collected by the board.

9 (j) The Governor shall call the first meeting of the board within
10 sixty (60) days of the appointment of the members of the board.

11
12 17-107-202 Organization and proceedings.

13 (a) The Arkansas Mental Health Practitioners Board shall elect a
14 chair, a secretary, and a treasurer.

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

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

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

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

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

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

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

27 (i) The chair and treasurer of the Arkansas Psychology
28 Board; and

29 (ii) The chair and treasurer of the Arkansas Mental Health
30 Practitioners Board.

31 (2) Ad hoc members without voting privileges shall be the
32 administrative staff members employed by the Arkansas Board of Psychology and
33 the Arkansas Mental Health Practitioners Board.

34 (3) The Joint Administrative Oversight and Budget Committee
35 shall:

36 (A) Provide advice and recommendations to the Arkansas

1 Psychology Board and the Arkansas Mental Health Practitioners Board on
2 matters of administration and finance that relate to the generation of
3 income, general operations, and expenditures of monies by the two (2) boards;
4 and

5 (B) Make decisions concerning personnel matters and
6 utilization of monies.

7
8 17-107-203. Powers and duties.

9 (a) The Arkansas Mental Health Practitioners Board may:

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

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

15 (b) The board shall:

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

18 (2)(A) Adopt a code of conduct consistent with national
19 standards set forth by the North American Association of Masters in
20 Psychology as they existed on January 1, 2005 to govern appropriate practices
21 and behavior for the practice of mental health practice.

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

25
26 17-107-204. Collection and disposition of fees.

27 (a) The Arkansas Mental Health Practitioners Board may establish and
28 collect fees and penalties for administrative services, including, but not
29 limited to:

30 (1) The issuance of temporary permits and other printed
31 materials;

32 (2) Handling returned checks;

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

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

35 (b) The fees, along with other cash funds made available to the board,
36 shall be used to supplement the board with adequate income to provide for the

1 efficient and necessary operations of the board.

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

4 (2) Fees and penalties shall be added to the amount collected by
5 the Arkansas Psychology Board for the joint operation of the two (2)
6 respective boards.

7
8 Subchapter 3. Licensing

9 17-107-301. Legislative intent.

10 The General Assembly intends that all licensed associate mental health
11 practitioners and licensed mental health practitioners conform to the
12 licensing requirements of this subchapter in order to protect the public
13 health and welfare by insuring competence in the delivery of services.

14
15 17-107-302. Penalties.

16 If any person practices as or holds himself or herself out to the
17 public as being licensed by the Mental Health Practice Board to engage in the
18 practice of mental health practice, but does not then possess a valid license
19 to practice as a licensed associate mental health practitioner or a licensed
20 mental health practitioner, he or she shall be guilty of a misdemeanor
21 punishable by a fine of not less than one hundred dollars (\$100) nor more
22 than five hundred dollars (\$500).

23
24 17-107-303. Licensed associate clinical psychotherapist --Application
25 - Qualifications.

26 (a) No person may practice as or hold himself or herself out as a
27 licensed associate mental health practitioner unless that person possesses a
28 valid license issued by the Arkansas Mental Health Practitioners Board.

29 (b)(1) A person who seeks to be licensed to practice as a licensed
30 associate mental health practitioner who has not previously been licensed to
31 do so shall apply to the board for licensure.

32 (2) The application shall be:

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

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

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

1 (A) Is of good moral character;

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

5 (C) Has passed written or oral examinations, or both as
6 the board requires to show competence to practice as a licensed associate
7 mental health practitioner;

8 (D) Has not violated ethical rules promulgated by the
9 board;

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

13 (F) Has not been found guilty of or pleaded guilty or nolo
14 contendere to any of the offenses listed in §17-107-313; and

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

17 (d) The board shall promulgate rules regarding the qualifications,
18 restrictions, and reporting requirements of supervisors to implement the
19 intent of this chapter to avoid restricting the professional integrity of
20 licensed associate mental health practitioners.

21

22 17-107-304. Licensed mental health practitioner -- Application --
23 Qualifications.

24 (a) No person may practice as or hold himself or herself out as a
25 licensed mental health practitioner unless that person possesses a valid
26 license issued by the Arkansas Mental Health Practitioners Board.

27 (b)(1) A person who has been licensed for three (3) years or practiced
28 mental health practice for the full-time equivalent of three (3) years as a
29 licensed associate mental health practitioner may petition the Arkansas
30 Mental Health Practitioners Board to be licensed as a licensed mental health
31 practitioner with independent practice privileges.

32 (2)(A) The Arkansas Mental Health Practitioners Board shall
33 promulgate rules for granting petitions for licensure under subdivision
34 (b)(1) of this section.

35 (B) The rules shall be based upon experience, training,
36 and adherence to the rules of the Arkansas Mental Health Practitioners Board.

1 (3) Applications shall be accompanied by:

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

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

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

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

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

10 (C) Other materials required by the Arkansas Mental Health
11 Practitioners Board.

12 (c)(1) After a review of all submitted documentation, the Arkansas
13 Mental Health Practitioners Board may issue a license to practice as a
14 licensed mental health practitioner.

15 (2)(A) However, the Arkansas Mental Health Practitioners Board
16 may decline to issue a license to practice as a licensed mental health
17 practitioner if the Arkansas Mental Health Practitioners Board finds that the
18 applicant has shown insufficient proficiency.

19 (B) If the Arkansas Mental Health Practitioners Board
20 declines to issue a license to practice as a licensed mental health
21 practitioner, the applicant shall continue to practice under a supervisor
22 approved by the Arkansas Mental Health Practitioners Board until the
23 deficiencies are corrected.

24 (d)(1) Upon request from the Arkansas Mental Health Practitioners
25 Board, the applicant shall furnish evidence that he or she:

26 (A) Is of good moral character;

27 (B) Has received a master's degree in psychology or a
28 related degree from a regionally accredited educational institution
29 recognized by the Arkansas Mental Health Practitioners Board as maintaining
30 satisfactory standards;

31 (C) Has passed such examinations written or oral or both
32 as required by the Arkansas Mental Health Practitioners Board to show
33 competent to practice as a licensed mental health practitioner;

34 (D) Has not violated ethical rules promulgated by the
35 Arkansas Mental Health Practitioners Board;

36 (E) Has applied to the Identification Bureau of the

1 Department of Arkansas State Police for a state and national criminal
2 background check to be conducted by the Federal Bureau of Investigation; and

3 (E) Has not been found guilty of or pleaded guilty or nolo
4 contendere to any of the offenses listed in §17-107-313; and

5 (F) Has not failed an examination given by the Arkansas
6 Mental Health Practitioners Board within the preceding six (6) months.

7 (e)(1) A person who has been licensed as a psychological examiner for
8 at least three (3) years is immediately eligible to apply for licensure as a
9 licensed mental health practitioner with independent practice privileges.

10 (2) The Arkansas Mental Health Practitioners Board may grant the
11 applicant independent practice privileges after consideration and evaluation
12 of the applicant's previous statement of intent, experience, training, and
13 adherence to rules of the Arkansas Mental Health Practitioners Board.

14 (3)(A) A persons who was granted independent practice privileges
15 by the Arkansas Psychology Board as indicated by statement of dated before
16 December 31, 2005, shall be deemed a licensed mental health practitioner with
17 independent practice privileges by the Arkansas Mental Health Practitioners
18 Board.

19 (B) Individuals granted practice privileges for
20 neuropsychology and projective personality assessment as indicated by the
21 statement of intent and approved by the Arkansas Psychology Board before
22 October 1, 2004, shall be authorized by the Arkansas Board of Clinical
23 Psychotherapy to continue those practice privileges under the supervision
24 indicated by the statement of intent as licensed clinical psychotherapists or
25 licensed associate mental health practitioners approved by the Arkansas
26 Psychology Board before October 2004.

27 (C) No other privileges under this chapter may be granted
28 to persons granted privileges under subdivisions (e)(3)(A) or (e)(3)(B) of
29 this section.

30
31 17-107-305. Examinations.

32 (a)(1)(A) The Arkansas Mental Health Practitioners Board shall
33 promulgate rules for examinations for licensure to practice as a licensed
34 associate mental health practitioner.

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

36 (i) Subject matter in the field of mental health

1 practice;

2 (ii) Methods of practice of clinical psychotherapy;

3 (iii) Basic psychological sciences; and

4 (iv) Ethics in the practice of *mental health*

5 practice.

6 (2) The examinations shall be offered at least one (1) time each
7 year.

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

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

13 (4) The board shall:

14 (A) Grade the written examinations returned by the
15 candidate; and (B) Retain the written examinations for a
16 least one (1) year.

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

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

21
22 17-107-306. Issuance.

23 (a)(1) The Arkansas Mental Health Practitioners Board shall be the
24 sole agency empowered to:

25 (A) Examine candidates concerning competence as a licensed
26 mental health practitioner or licensed associate mental health practitioner;
27 and

28 (B) Grant licenses for the practice of *mental health*
29 practice at the appropriate level.

30 (2)(A) The license shall be signed by the Chair of the Arkansas
31 Mental Health Practitioners Board and attested by the Secretary of the
32 Arkansas Mental Health Practitioners Board under the seal of the board.

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

36 (b)(1) The board shall issue a provisional license to an applicant who

1 has:

2 (A) Passed the examinations prescribed by the board for
3 provisional licensure;

4 (B) Satisfied the preliminary requirements of §§ 17-107-
5 303 and 17-107-304; and

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

7 (2) A provisional license holder is entitled to practice as a
8 licensed associate *mental health practitioner* under the supervision of a
9 qualified supervisor approved by the board.

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

12 (A) The activities that provisional license holders may
13 engage in; and

14 (B) Services that may be provided by provisional license
15 holders.

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

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

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

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

22 (2) The board may require that the applicant verify the
23 application.

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

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

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

32 (2) Has attained the age of majority;

33 (3) Has good moral character;

34 (4) Is physically and mentally competent to provide
35 psychological services with reasonable skill and safety, as determined by the
36 board;

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

4 (6) Has not pleaded guilty or nolo contendere to, or been found
5 guilty of a crime involving moral turpitude or a felony;

6 (7) Does not use drugs or alcohol to an extent that affects the
7 applicant's professional competence;

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

10 (9) Has not:

11 (A) Aided or abetted the practice of mental health
12 practice by a person not licensed under this chapter in representing that the
13 person is licensed under this chapter;

14 (B) Represented that the applicant is licensed under this
15 chapter to practice mental health practice when the applicant is not
16 licensed; or

17 (C) Practiced mental health practice in this state without
18 a license under this chapter or without being exempt under this chapter.

19
20 17-107-307. Reciprocity.

21 At its discretion, the Arkansas Mental Health Practitioners Board may
22 grant a certificate without an assembled examination to any person residing
23 or employed in the state who:

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

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

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

32 (A) Be in the public interest; and

33 (B) Meet the requirements of the rules promulgated by the
34 board.

35
36 17-107-308. Professional titles.

1 (a) Except as otherwise provided in this section, no individual or
2 organization, other than those licensed under this chapter, may present
3 himself, herself, or itself to the public or allow himself, herself, or
4 itself to be presented to the public by any title incorporating the name
5 *Licensed Associate Mental Health Practitioner" or Licensed Mental Health*
6 *Practitioner.*

7 (b)(1)(A) Any psychological scientist employed by a research
8 laboratory, college, or university recognized by the Arkansas *Mental Health*
9 *Practitioners Board* may represent himself or herself by the academic or
10 research title conferred upon him or her by the administration of the
11 laboratory, college, or university.

12 (B) This section does not permit a psychological scientist
13 employed by a research laboratory, college, or university recognized by the
14 board to offer services to any other persons or organizations as consultants
15 or to accept remuneration for any licensed *mental health practice services*
16 other than his or her institutional salaries unless he or she has been
17 licensed under this chapter.

18 (2) A visiting lecturer from a laboratory, college, or
19 university recognized by the board is exempt from the provisions of this
20 section and may represent himself or herself by the academic or research
21 title conferred upon him or her by the administration of the laboratory,
22 college, or university when presenting lectures to similar institutions or
23 organizations.

24 (3) Students of psychology, psychological interns, and other
25 persons preparing for the profession of psychologist or licensed associate
26 *mental health practitioner* under qualified supervision in recognized training
27 institutions or facilities may use such titles as "psychological intern,"
28 "psychological trainee," or other titles approved by the board that clearly
29 indicate such a training status.

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

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

36 (c) Nothing in this chapter precludes the practice of psychotherapy by

1 licensed social workers, licensed professional counselors, licensed marriage
2 and family therapists, or other advanced licensed practitioners.

3
4 17-107-309. Annual registration – Failure to reregister.

5 (a)(1) The Arkansas Mental Health Practitioners Board may adopt and
6 enforce rules requiring each person licensed by the board to pay an annual
7 registration fee.

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

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

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

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

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

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

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

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

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

30 (2) The board may establish:

31 (A) Minimum standards and requirements for continuing
32 education programs for licensees;

33 (B) Procedures and policies for administering continuing
34 education programs; and

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

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17-107-310. Fees.

(a)(1) The fees authorized under § 17-107-309 shall be paid to the Chair of the Arkansas Mental Health Practitioners Board by each applicant for a permanent license.

(2) An additional fee to be determined by the Joint Oversight and Budget Committee shall be paid as deemed necessary to defray the cost of acquiring and administering the examination test and related expenses in connection with those costs.

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

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

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

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

(a) The Arkansas Mental Health Practitioners Board may:

(1) May refuse to grant a license or may suspend or revoke any license for a period to be determined by the board;

(2) Impose a fine of up to five thousand dollars (\$5,000);

(3) Issue a letter of reprimand; and

(4) Require additional hours of education for a licensee.

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

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

(2) The practice of mental health practitioner under a false or assumed name or the impersonation of another practitioner of a like or different name;

(3) Habitual intemperance in the use of alcohol, narcotics, or stimulants to such an extent as to incapacitate the licensee or applicant for

1 the performance of his or her duties;

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

5 (5) Practice of a level of *mental health practitioner*
6 inappropriate to the particular license held by the licensee;

7 (6) Negligence or wrongful actions in the performance of his or
8 her duties; or

9 (7) Violation of any rule of the board including the rules of
10 ethics adopted by the board.

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

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

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

23
24 17-107-312. Denial, suspension, revocation, other penalty -
25 Proceedings.

26 (a)(1)(A) The Arkansas Mental Health Practitioners Board may
27 investigate or cause to be investigated any allegation or evidence that
28 appears to show that a person:

29 (i) Is practicing *mental health practice* without a
30 license; or

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

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

35 (i) Any individual selected by the board to conduct
36 an investigation does not have a conflict of interest that would disqualify

1 the individual from being an impartial investigator in the matter being
2 investigated; and

3 (ii) Any investigation of a respondent in an
4 investigated matter involves the input of an advisor who possesses
5 qualification, experience, or both substantially comparable to or greater
6 than that of the investigated respondent.

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

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

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

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

17 (ii) The nonappearance of the person shall not
18 prevent such a hearing.

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

23 (c) Any action of, or ruling or order made or entered by, the board
24 declining to issue a certificate, declining to recommend licensure, or
25 recommending suspension, revocation, or other penalty described in § 17-107-
26 311 that affects a certificate or license shall be subject to review under
27 the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

28
29 17-107-313. Criminal background checks.

30 (a) Each first-time applicant for a license issued by the Arkansas
31 Mental Health Practitioners Board shall apply to the Identification Bureau of
32 the Department of Arkansas State Police for a state and national criminal
33 background check to be conducted by the Federal Bureau of Investigation.

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

36 (c) The applicant shall sign a release of information to the board and

1 shall be responsible to the Department of Arkansas State Police for the
2 payment of any fee associated with the criminal background check.

3 (d) Upon completion of the criminal background check, the
4 Identification Bureau of the Department of Arkansas State Police shall
5 forward to the board all information obtained concerning the applicant in the
6 commission of any offense listed in subsection (f) of this 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) No person shall be eligible to receive or hold a license issued by
11 the board if that person has pleaded guilty or nolo contendere to, or been
12 found guilty of, any of the following offenses by any court in the State of
13 Arkansas or of any similar offense by a court in another state or of any
14 similar offense by a federal court:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 (18) Offenses against the family, as prohibited in §§ 5-26-303 -
3 5-26-306;

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

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

8 (21) Permitting abuse of a child, as prohibited in §§ 5-27-
9 221(a)(1) and (3);

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

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

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

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

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

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

22 (28) Felony violation of the Uniform Controlled Substances Act,
23 §§ 5-64-101 - 5-64-608, as prohibited in § 5-64-401;

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

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

27 (31) Criminal attempt, criminal complicity, criminal
28 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,
29 5-3-301, and 5-3-401, to commit any of the offenses listed in this
30 subsection;

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

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

35 (g)(1) The board may issue a six-month nonrenewable letter of
36 provisional eligibility for licensure to a first-time applicant pending the

1 results of the criminal background check.

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

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

9 (A) An affected applicant for licensure; or

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

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

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

14 (B) The circumstances surrounding the crime;

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

16 (D) Subsequent work history;

17 (E) Employment references;

18 (F) Character references; and

19
20 (G) Other evidence demonstrating that the applicant does
21 not pose a threat to the health or safety of children.

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

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

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

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

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

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17-9-107-314. Application.

Nothing in this chapter shall be construed as permitting the practice of mental health practice to infringe on the practice of medicine as defined in the Arkansas Medical Practices Act, §§ 17-95-201 et seq., 17-95-301 et seq., 17-95-401 et seq.; the practice of psychology as defined in § 17-97-101 et seq.; the practice of social work as defined in § 17-103-101 et seq.; or the practice of counseling as defined in § 17-27-101 et seq.

/s/ Bradford