

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2955

6 By: Tibbs

7 COMMITTEE SUBSTITUTE

8 An Act relating to professions and occupations;  
9 amending 59 O.S. 2001, Sections 46.14, as amended by  
10 Section 12, Chapter 163, O.S.L. 2006, 148, 199.11, as  
11 amended by Section 6, Chapter 355, O.S.L. 2003,  
12 328.32, 396.12c, as amended by Section 14, Chapter  
13 57, O.S.L. 2003, 509, as amended by Section 9,  
14 Chapter 523, O.S.L. 2004, 532, 567.8, as amended by  
15 Section 5, Chapter 190, O.S.L. 2003, 858-312, 858-  
16 723, as amended by Section 11, Chapter 165, O.S.L.  
17 2006, 887.13, 888.9, 1310, 1370, as amended by  
18 Section 24, Chapter 313, O.S.L. 2004, 1503A, 1619,  
19 1912, 1925.15 and 1941 (59 O.S. Supp. 2007, Sections  
20 46.14, 199.11, 396.12c, 509, 567.8, 858-723 and  
21 1370), which relate to the State Architectural and  
22 Interior Designers Act, the Podiatric Medicine  
23 Practice Act, the Oklahoma Cosmetology Act, the State  
24 Dental Act, the Funeral Services Licensing Act, the  
Oklahoma Allopathic Medical and Surgical Licensure  
and Supervision Act, the Athletic Trainers Act, the  
Oklahoma Nursing Practice Act, The Oklahoma Real  
Estate License Code, the Oklahoma Certified Real  
Estate Appraisers Act, the Physical Therapy Practice  
Act, the Occupational Therapy Practice Act, bail  
bondsmen, the Psychologists Licensing Act, the  
Oklahoma Pawnshop Act, the Speech-Language Pathology  
and Audiology Licensing Act, the Licensed  
Professional Counselors Act, the Marital and Family  
Therapist Licensure Act and the Licensed Behavioral  
Practitioner Act; providing for appeal of certain  
licensure decisions by certain Boards and  
Commissions; providing for successful appeal;  
prohibiting requiring certain Boards and Commissions

1 to issue or reinstate licenses, certifications, or  
2 registrations under certain circumstances; defining  
3 term; changing certain crimes to a crime that  
4 substantially relates to certain practices;  
5 clarifying reference; deleting obsolete language;  
6 authorizing licensing boards to consider certain  
7 criminal convictions; requiring boards and agencies  
8 to provide written reason for denial of license;  
9 requiring certain occurrence be considered prima  
10 facie evidence of rehabilitation; providing for  
11 codification; and providing an effective date.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2001, Section 46.14, as  
amended by Section 12, Chapter 163, O.S.L. 2006 (59 O.S. Supp. 2006,  
Section 46.14), is amended to read as follows:

Section 46.14 A. The Board shall have power to suspend, to  
revoke or refuse to renew a license, registration, certificate of  
authority or certificate of title issued by it, pursuant to the  
provisions of the State Architectural and Interior Designers Act,  
when the holder thereof:

1. Shall have been convicted of a ~~felony~~ crime that  
substantially relates to the practice of architecture;

2. Shall have been guilty of fraud or misrepresentation in the  
~~person's~~ application of the person, whether for an examination or  
for a license or registration without examination, or of fraud in  
the examination;

1           3. Shall have been guilty of gross incompetence or recklessness  
2 in the practice of architecture relating to the construction of  
3 buildings or structures, or of dishonest practices;

4           4. Shall have been guilty of gross incompetence or recklessness  
5 in the practice of landscape architecture, or of dishonest  
6 practices;

7           5. Presents the registration of another as his or her own;

8           6. Gives false or forged evidence to the Board;

9           7. Conceals information relative to any violation of this act  
10 or rules promulgated under this act; and

11           8. Shall have been found to be guilty of a violation of a  
12 provision of the State Architectural and Interior Designers Act or  
13 the rules of the Board; provided, that a person or entity complained  
14 of:

15           a. shall first have been served notice in the same manner  
16 as provided by law in other civil actions of the  
17 charges filed against the person or entity and of the  
18 time, place, and nature of the hearing before the  
19 Board, and

20           b. shall have the right to be represented by counsel and  
21 an opportunity to respond and present evidence and  
22 argument on all issues involved, by the introduction  
23 of evidence and by the examination and cross-  
24 examination of witnesses, and to compel the attendance

1 of witnesses and the production of books and papers.  
2 Pursuant to the foregoing, the Board shall have the  
3 power of a court of record, including the power to  
4 issue subpoena and to compel the attendance and  
5 testimony of witnesses. Each member of the Board  
6 shall have the power to administer oaths and to issue  
7 subpoena. Whenever any person who shall have been  
8 subpoenaed to appear to give testimony, or to answer  
9 any pertinent or proper question, or to produce books,  
10 papers or documents which shall have been designated  
11 in a subpoena, either on behalf of the prosecution or  
12 on behalf of the accused, shall refuse to appear to  
13 testify before the Board, or to answer any pertinent  
14 or proper questions, or to produce a book, paper or  
15 document which shall have been designated in a  
16 subpoena, the person shall be deemed to be in contempt  
17 of the Board, and it shall be the duty of the  
18 presiding officer of the Board, to report the fact to  
19 the district court of the State of Oklahoma in and for  
20 the county in which such person may be or may reside  
21 whereupon the court shall issue an attachment in the  
22 usual form, directed to the sheriff of the county,  
23 which shall command the sheriff to attach such person  
24 and forthwith bring the person before the court. On

1 the return of the attachment duly served upon the  
2 accused, or upon the production of the person  
3 attached, the district court shall have jurisdiction  
4 of the matter. The person charged may purge himself  
5 or herself of the contempt in the same way and the  
6 same proceedings shall be had, and the same penalties  
7 may be imposed, as in the case of a witness subpoenaed  
8 to appear and give evidence on the trial of a civil  
9 cause before a district court of the State of  
10 Oklahoma. Depositions may be taken and used in the  
11 same manner as in civil cases. The Board shall keep a  
12 record of the evidence in, and a record of each  
13 proceeding for the suspension, revocation of or  
14 refusal to renew a license or certificate of authority  
15 and shall make findings of fact and render a decision  
16 therein. If, after a hearing, the charges shall have  
17 been found to have been sustained by the vote of a  
18 majority of the members of the Board it shall  
19 immediately enter its order of suspension, revocation  
20 or refusal to renew, as the case may be.

21 B. An applicant whose license is denied, revoked, suspended or  
22 not renewed may appeal the decision to the Board within thirty (30)  
23 days of that decision. If the appeal is successful, the applicant  
24 shall be entitled to receive the license or certification. Nothing

1 herein shall require the Board to issue or reinstate any license,  
2 certificate or registration when the Board deems that such action  
3 would be harmful to the profession or the public.

4 C. As used in this section, "substantially relates" means the  
5 nature of criminal conduct, for which the person was convicted, has  
6 a direct bearing on the fitness or ability to perform one or more of  
7 the duties or responsibilities necessarily related to the  
8 occupation.

9 SECTION 2. AMENDATORY 59 O.S. 2001, Section 148, is  
10 amended to read as follows:

11 Section 148. A. The following acts or occurrences by a  
12 podiatric physician shall constitute grounds for which the penalties  
13 specified in Section 147 of this title may be imposed by order of  
14 the Board of Podiatric Medical Examiners:

15 1. Willfully making a false and material statement to the  
16 Board, either before or after the issuance of a license;

17 2. Pleading guilty or nolo contendere to, or being convicted  
18 of, ~~a felony, a misdemeanor involving moral turpitude, or a~~  
19 ~~violation of federal or state controlled dangerous substances laws~~  
20 crime that substantially relates to the practice of podiatric  
21 medicine;

22 3. Using alcohol, any drug, or any other substance which  
23 impairs the licensee to a degree that the licensee is unable to  
24 practice podiatric medicine with safety and benefit to the public;

1           4. Being mentally or physically incapacitated to a degree that  
2 the licensee is unable to practice podiatric medicine with safety  
3 and benefit to the public;

4           5. Making any advertisement, statement, or representation which  
5 is untrue or improbable and calculated by the licensee to deceive,  
6 defraud or mislead the public or patients;

7           6. Practicing fraud by omission or commission in the  
8 examination given by the Board, or in obtaining a license, or in  
9 obtaining renewal or reinstatement of a license;

10          7. Failing to pay or cause to be paid promptly when due any fee  
11 required by the Podiatric Medicine Practice Act or the rules of the  
12 Board;

13          8. Practicing podiatric medicine in an unsafe or unsanitary  
14 manner or place;

15          9. Performing, or attempting to perform, any surgery for which  
16 the licensee has not had reasonable training;

17          10. Gross and willful neglect of duty as a member or officer of  
18 the Board;

19          11. Dividing with any person, firm, corporation, or other legal  
20 entity any fee or other compensation for services as a podiatric  
21 physician, except with:

22           a. another podiatric physician,  
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- 1           b.    an applicant for a license who is observing or  
2                    assisting the licensee as an intern, preceptee or  
3                    resident, as authorized by the rules of the Board, or  
4           c.    a practitioner of another branch of the healing arts  
5                    who is duly licensed under the laws of this state or  
6                    another state, district or territory of the United  
7                    States,

8 who has actually provided services, directly or indirectly, to the  
9 patient from or for whom the fee or other compensation is received,  
10 or at the time of the services is an active associate of the  
11 licensee in the lawful practice of podiatric medicine in this state;  
12 and

13        12.   Violating or attempting to violate the provisions of the  
14 Podiatric Medicine Practice Act, the Code of Ethics, or the rules of  
15 the Board.

16        B.   Commitment of a licensee to an institution for the mentally  
17 ill shall constitute prima facie evidence that the licensee is  
18 mentally incapacitated to a degree that the licensee is unable to  
19 practice podiatric medicine with safety and benefit to the public.

20        C.   An applicant whose license is denied, revoked, suspended or  
21 not renewed may appeal the decision to the Board within thirty (30)  
22 days of that decision.  If the appeal is successful, the applicant  
23 shall be entitled to receive the license or certification.  Nothing  
24 herein shall require the Board to issue or reinstate any license,

1 certificate or registration when the Board deems that such action  
2 would be harmful to the profession or the public.

3 D. As used in this section, "substantially relates" means the  
4 nature of criminal conduct, for which the person was convicted, has  
5 a direct bearing on the fitness or ability to perform one or more of  
6 the duties or responsibilities necessarily related to the  
7 occupation.

8 SECTION 3. AMENDATORY 59 O.S. 2001, Section 199.11, as  
9 amended by Section 6, Chapter 355, O.S.L. 2003 (59 O.S. Supp. 2006,  
10 Section 199.11), is amended to read as follows:

11 Section 199.11 A. The State Board of Cosmetology is hereby  
12 authorized to deny, revoke, suspend, or refuse to renew any license,  
13 certificate, or registration that it is authorized to issue under  
14 the Oklahoma Cosmetology Act for any of the following causes:

15 1. Conviction of a ~~felony as shown by a certified copy of the~~  
16 ~~record of the court~~ crime that substantially relates to the practice  
17 of cosmetology;

18 2. Gross malpractice or gross incompetence;

19 3. Fraud practiced in obtaining a license or registration;

20 4. A license or certificate holder's continuing to practice  
21 while afflicted with an infectious, contagious, or communicable  
22 disease;

23 5. Habitual drunkenness or addiction to use of habit forming  
24 drugs;

1       6. Advertising by means of statements known to be false or  
2 deceptive;

3       7. Continued or flagrant violation of any rules of the Board,  
4 or continued practice by an operator in a cosmetology salon wherein  
5 violations of the rules of the Board are being committed within the  
6 knowledge of the operator;

7       8. Failure to display license or certificate as required by the  
8 Oklahoma Cosmetology Act;

9       9. Continued practice of cosmetology after expiration of a  
10 license therefor;

11       10. Employment by a salon owner or manager of any person to  
12 perform any of the practices of cosmetology who is not duly licensed  
13 to perform the services; or

14       11. Practicing cosmetology in an immoral or unprofessional  
15 manner.

16       B. An applicant whose license is denied, revoked, suspended or  
17 not renewed may appeal the decision to the Board within thirty (30)  
18 days of that decision. If the appeal is successful, the applicant  
19 shall be entitled to receive the license or certification. Nothing  
20 herein shall require the Board to issue or reinstate any license,  
21 certificate or registration when the Board deems that such action  
22 would be harmful to the profession or the public.

23       C. As used in this section, "substantially relates" means the  
24 nature of criminal conduct, for which the person was convicted, has

1 a direct bearing on the fitness or ability to perform one or more of  
2 the duties or responsibilities necessarily related to the  
3 occupation.

4 SECTION 4. AMENDATORY 59 O.S. 2001, Section 328.32, is  
5 amended to read as follows:

6 Section 328.32 A. The following acts or occurrences by a  
7 dentist shall constitute grounds for which the penalties specified  
8 in Section 328.44a of this title may be imposed by order of the  
9 Board of Dentistry:

10 1. Pleading guilty or nolo contendere to, or being convicted  
11 of, ~~a felony, a misdemeanor involving moral turpitude, or a~~  
12 ~~violation of federal or state controlled dangerous substances laws~~  
13 crime that substantially relates to the practice of dentistry;

14 2. Presenting to the Board a false diploma, license, or  
15 certificate, or one obtained by fraud or illegal means;

16 3. Being, by reason of persistent inebriety or addiction to  
17 drugs, incompetent to continue the practice of dentistry;

18 4. Publishing a false, fraudulent, or misleading advertisement  
19 or statement;

20 5. Authorizing or aiding an unlicensed person to practice  
21 dentistry, to practice dental hygiene, or to perform a function for  
22 which a permit from the Board is required;

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1       6. Authorizing or aiding a dental hygienist to perform any  
2 procedure prohibited by the State Dental Act or the rules of the  
3 Board;

4       7. Authorizing or aiding a dental assistant to perform any  
5 procedure prohibited by the State Dental Act or the rules of the  
6 Board;

7       8. Failing to pay fees as required by the State Dental Act or  
8 the rules of the Board;

9       9. Failing to complete continuing education requirements;

10      10. Representing himself or herself to the public as a  
11 specialist in a dental specialty without holding a dental specialty  
12 license therefor;

13      11. Representing himself or herself to the public as a  
14 specialist whose practice is limited to a dental specialty, when  
15 such representation is false, fraudulent, or misleading;

16      12. Endangering the health of patients by reason of having a  
17 highly communicable disease and continuing to practice dentistry  
18 without taking appropriate safeguards;

19      13. Being a menace to the public health by reasons of  
20 practicing dentistry in an unsafe or unsanitary manner or place;

21      14. Being shown to be mentally unsound;

22      15. Being shown to be grossly immoral and that such condition  
23 represents a threat to patient care or treatment;

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- 1        16. Being incompetent to practice dentistry while delivering  
2 care to a patient;
- 3        17. Committing gross negligence in the practice of dentistry;
- 4        18. Committing repeated acts of negligence in the practice of  
5 dentistry;
- 6        19. Offering to effect or effecting a division of fees, or  
7 agreeing to split or divide a fee for dental services with any  
8 person, in exchange for the person bringing or referring a patient;
- 9        20. Being involuntarily committed to an institution for  
10 treatment for substance abuse, until recovery or remission;
- 11       21. Using or attempting to use the services of a dental  
12 laboratory or dental laboratory technician without issuing a  
13 laboratory prescription, except as provided in subsection C of  
14 Section 328.36 of this title;
- 15       22. Aiding, abetting, or encouraging a dental hygienist  
16 employed by the dentist to make use of an oral prophylaxis list, or  
17 the calling by telephone or by use of letters transmitted through  
18 the mails to solicit patronage from patients formerly served in the  
19 office of any dentist formerly employing such hygienist;
- 20       23. Having more than the equivalent of two full-time dental  
21 hygienists for each dentist actively practicing in the same dental  
22 office who will supervise the dental hygienists;

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- 1        24. Knowingly patronizing or using the services of a dental  
2 laboratory or dental laboratory technician who has not complied with  
3 the provisions of the State Dental Act and the rules of the Board;
- 4        25. Authorizing or aiding a dental hygienist, dental assistant,  
5 dental laboratory technician, or holder of a permit to operate a  
6 dental laboratory to violate any provision of the State Dental Act  
7 or the rules of the Board;
- 8        26. Willfully disclosing confidential information;
- 9        27. Writing a false, unnecessary, or excessive prescription for  
10 any drug or narcotic which is a controlled dangerous substance under  
11 either federal or state law;
- 12       28. Prescribing or administering any drug or treatment without  
13 having established a valid dentist-patient relationship;
- 14       29. Engaging in nonconsensual physical contact with a patient  
15 which is sexual in nature, or engaging in a verbal communication  
16 which is intended to be sexually demeaning to a patient;
- 17       30. Practicing dentistry without displaying, at the dentist's  
18 primary place of practice, the license issued to the dentist by the  
19 Board to practice dentistry and the current renewal certificate;
- 20       31. Being dishonest in a material way with a patient;
- 21       32. Failing to retain all patient records for at least three  
22 (3) years, except that the failure to retain records shall not be a  
23 violation of the State Dental Act if the dentist shows that the  
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1 records were lost, destroyed, or removed by another, without the  
2 consent of the dentist;

3 33. Failing to retain the dentist's copy of any laboratory  
4 prescription for at least three (3) years, except that the failure  
5 to retain records shall not be a violation of the State Dental Act  
6 if the dentist shows that the records were lost, destroyed, or  
7 removed by another, without the consent of the dentist;

8 34. Allowing any corporation, organization, group, person, or  
9 other legal entity, except another dentist or a professional entity  
10 that is in compliance with the registration requirements of  
11 subsection B of Section 328.31 of this title, to direct, control, or  
12 interfere with the dentist's clinical judgment. Clinical judgment  
13 shall include, but not be limited to, such matters as selection of a  
14 course of treatment, control of patient records, policies and  
15 decisions relating to pricing, credit, refunds, warranties and  
16 advertising, and decisions relating to office personnel and hours of  
17 practice. Nothing in this paragraph shall be construed to:

- 18 a. limit a patient's right of informed consent, or
- 19 b. to prohibit insurers, preferred provider organizations  
20 and managed care plans from operating pursuant to the  
21 applicable provisions of the Oklahoma Insurance Code  
22 and the Public Health Code;

23 35. Violating the state dental act of another state resulting  
24 in a plea of guilty or nolo contendere, conviction or suspension or

1 revocation of the license of the dentist under the laws of that  
2 state;

3 36. Violating or attempting to violate the provisions of the  
4 State Dental Act or the rules of the Board, as a principal,  
5 accessory or accomplice; or

6 37. Failing to comply with the terms and conditions of an order  
7 imposing suspension of a license or placement on probation issued  
8 pursuant to Section 328.44a of this title.

9 B. An applicant whose license is denied, revoked, suspended or  
10 not renewed may appeal the decision to the Board within thirty (30)  
11 days of that decision. If the appeal is successful, the applicant  
12 shall be entitled to receive the license or certification. Nothing  
13 herein shall require the Board to issue or reinstate any license,  
14 certificate or registration when the Board deems that such action  
15 would be harmful to the profession or the public.

16 C. The provisions of the State Dental Act shall not be  
17 construed to prohibit any dentist from displaying or otherwise  
18 advertising that the dentist is also currently licensed, registered,  
19 certified, or otherwise credentialed pursuant to the laws of this  
20 state or a nationally recognized credentialing board, if authorized  
21 by the laws of the state or credentialing board to display or  
22 otherwise advertise as a licensed, registered, certified, or  
23 credentialed dentist.

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1        D. As used in this section, "substantially relates" means the  
2 nature of criminal conduct, for which the person was convicted, has  
3 a direct bearing on the fitness or ability to perform one or more of  
4 the duties or responsibilities necessarily related to the  
5 occupation.

6        SECTION 5.        AMENDATORY        59 O.S. 2001, Section 396.12c, as  
7 amended by Section 14, Chapter 57, O.S.L. 2003 (59 O.S. Supp. 2006,  
8 Section 396.12c), is amended to read as follows:

9        Section 396.12c.    A. After notice and hearing pursuant to  
10 Article II of the Administrative Procedures Act, the Oklahoma  
11 Funeral Board may refuse to issue or renew, or may revoke or  
12 suspend, any license or registration for any one or combination of  
13 the following:

14        1. ~~Conviction of a felony shown by a certified copy of the~~  
15 ~~record of the court of conviction;~~

16        2. Conviction of a ~~misdemeanor involving~~ crime that  
17 substantially relates to the occupation of a funeral services  
18 director;

19        3. ~~2.~~ Gross malpractice or gross incompetency, which shall be  
20 determined by the Board;

21        4. ~~3.~~ False or misleading advertising as a funeral director or  
22 embalmer;

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1       ~~5.~~ 4. Violation of any of the provisions of the Funeral  
2 Services Licensing Act or any violation of Sections 201 through 231  
3 of Title 8 of the Oklahoma Statutes;

4       ~~6.~~ 5. Fraud or misrepresentation in obtaining a license;

5       ~~7.~~ 6. Using any casket or part thereof which has previously  
6 been used as a receptacle for, or in connection with, the burial or  
7 other disposition of dead human remains, unless the disclosure is  
8 made to the purchaser;

9       ~~8.~~ 7. Violation of any rules of the Board in administering the  
10 purposes of the Funeral Services Licensing Act;

11       ~~9.~~ 8. Use of intoxicating liquor sufficient to produce  
12 drunkenness in public, or habitual addiction to the use of habit-  
13 forming drugs or either;

14       ~~10.~~ 9. Solicitation of business, either personally or by an  
15 agent, from a dying individual or the relatives of a dead or  
16 individual with a terminal condition, as defined by the Oklahoma  
17 Rights of the Terminally Ill or Persistently Unconscious Act, other  
18 than through general advertising;

19       ~~11.~~ 10. Refusing to properly release a dead human body to the  
20 custody of the person entitled to custody;

21       ~~12.~~ 11. Violating applicable state laws relating to the failure  
22 to file a death certificate, cremation permit, or prearrangement or  
23 prefinancing of a funeral;

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1       ~~13.~~ 12. Failing to obtain other necessary permits as required  
2 by law in a timely manner;

3       ~~14.~~ 13. Failing to comply with the Funeral Rules of the Federal  
4 Trade Commission, 15 U.S.C., Section 57a(a);

5       ~~15.~~ 14. Failing to comply with any applicable provisions of the  
6 Funeral Services Licensing Act at the time of issuance or renewal;

7       ~~16.~~ 15. Improper issuance or renewal of a license or  
8 registration;

9       ~~17.~~ 16. Violating the provisions of subsection B of Section  
10 396.12 of this title regarding advertisement of services at  
11 locations not licensed by the Board;

12       ~~18.~~ 17. The abuse of a corpse whereby a person knowingly and  
13 willfully signs a certificate as having embalmed, cremated, or  
14 prepared a dead human body for disposition when, in fact, the  
15 services were not performed as indicated;

16       ~~19.~~ 18. Simultaneous cremating of more than one human dead body  
17 without express written approval of the authorizing agent; or

18       ~~20.~~ 19. Cremating human remains without the permit required by  
19 Section 1-329.1 of Title 63 of the Oklahoma Statutes.

20       B. An applicant whose license is denied, revoked, suspended or  
21 not renewed may appeal the decision to the Board within thirty (30)  
22 days of that decision. If the appeal is successful, the applicant  
23 shall be entitled to receive the license or certification. Nothing  
24 herein shall require the Board to issue or reinstate any license,

1 certificate or registration when the Board deems that such action  
2 would be harmful to the profession or the public.

3 C. As used in this section, "substantially relates" means the  
4 nature of criminal conduct, for which the person was convicted, has  
5 a direct bearing on the fitness or ability to perform one or more of  
6 the duties or responsibilities necessarily related to the  
7 occupation.

8 SECTION 6. AMENDATORY 59 O.S. 2001, Section 509, as  
9 amended by Section 9, Chapter 523, O.S.L. 2004 (59 O.S. Supp. 2006,  
10 Section 509), is amended to read as follows:

11 Section 509. A. The words "unprofessional conduct" as used in  
12 Sections 481 through 514 of this title are hereby declared to  
13 include, but shall not be limited to, the following:

- 14 1. Procuring, aiding or abetting a criminal operation;
- 15 2. The obtaining of any fee or offering to accept any fee,  
16 present or other form of remuneration whatsoever, on the assurance  
17 or promise that a manifestly incurable disease can or will be cured;
- 18 3. Willfully betraying a professional secret to the detriment  
19 of the patient;
- 20 4. Habitual intemperance or the habitual use of habit-forming  
21 drugs;
- 22 5. ~~Conviction of a felony or of any offense involving moral~~  
23 ~~turpitude;~~

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1       ~~6.~~ All advertising of medical business in which statements are  
2 made which are grossly untrue or improbable and calculated to  
3 mislead the public;

4       ~~7.~~ 6. Conviction or confession of a crime involving violation  
5 of:

- 6           a.    the antinarcotic or prohibition laws and regulations
- 7                    of the federal government,
- 8           b.    the laws of this state, or
- 9           c.    State Board of Health rules;

10       ~~8.~~ 7. Dishonorable or immoral conduct which is likely to  
11 deceive, defraud, or harm the public;

12       ~~9.~~ 8. The commission of any act which is a violation of the  
13 criminal laws of any state when such act is connected with the  
14 physician's practice of medicine. A complaint, indictment or  
15 confession of a criminal violation shall not be necessary for the  
16 enforcement of this provision. Proof of the commission of the act  
17 while in the practice of medicine or under the guise of the practice  
18 of medicine shall be unprofessional conduct;

19       ~~10.~~ 9. Failure to keep complete and accurate records of  
20 purchase and disposal of controlled drugs or of narcotic drugs;

21       ~~11.~~ 10. The writing of false or fictitious prescriptions for  
22 any drugs or narcotics declared by the laws of this state to be  
23 controlled or narcotic drugs;

1       ~~12.~~ 11. Prescribing or administering a drug or treatment  
2 without sufficient examination and the establishment of a valid  
3 physician-patient relationship;

4       ~~13.~~ 12. The violation, or attempted violation, direct or  
5 indirect, of any of the provisions of the Oklahoma Allopathic  
6 Medical and Surgical Licensure and Supervision Act, either as a  
7 principal, accessory or accomplice;

8       ~~14.~~ 13. Aiding or abetting, directly or indirectly, the  
9 practice of medicine by any person not duly authorized under the  
10 laws of this state;

11       ~~15.~~ 14. The inability to practice medicine with reasonable skill  
12 and safety to patients by reason of age, illness, drunkenness,  
13 excessive use of drugs, narcotics, chemicals, or any other type of  
14 material or as a result of any mental or physical condition. In  
15 enforcing this subsection the State Board of Medical Licensure and  
16 Supervision may, upon probable cause, request a physician to submit  
17 to a mental or physical examination by physicians designated by it.  
18 If the physician refuses to submit to the examination, the Board  
19 shall issue an order requiring the physician to show cause why the  
20 physician will not submit to the examination and shall schedule a  
21 hearing on the order within thirty (30) days after notice is served  
22 on the physician. The physician shall be notified by either  
23 personal service or by certified mail with return receipt requested.  
24 At the hearing, the physician and the physician's attorney are

1 entitled to present any testimony and other evidence to show why the  
2 physician should not be required to submit to the examination.  
3 After a complete hearing, the Board shall issue an order either  
4 requiring the physician to submit to the examination or withdrawing  
5 the request for examination. The medical license of a physician  
6 ordered to submit for examination may be suspended until the results  
7 of the examination are received and reviewed by the Board;

8 ~~16.~~ 15. Prescribing, dispensing or administering of controlled  
9 substances or narcotic drugs in excess of the amount considered good  
10 medical practice, or prescribing, dispensing or administering  
11 controlled substances or narcotic drugs without medical need in  
12 accordance with published standards;

13 ~~17.~~ 16. Engaging in physical conduct with a patient which is  
14 sexual in nature, or in any verbal behavior which is seductive or  
15 sexually demeaning to a patient;

16 ~~18.~~ 17. Failure to maintain an office record for each patient  
17 which accurately reflects the evaluation, treatment, and medical  
18 necessity of treatment of the patient; or

19 ~~19.~~ 18. Failure to provide necessary ongoing medical treatment  
20 when a doctor-patient relationship has been established, which  
21 relationship can be severed by either party providing a reasonable  
22 period of time is granted.

23 B. An applicant whose license is denied, revoked, suspended or  
24 not renewed may appeal the decision to the Board within thirty (30)

1 days of that decision. If the appeal is successful, the applicant  
2 shall be entitled to receive the license or certification. Nothing  
3 herein shall require the Board to issue or reinstate any license,  
4 certificate or registration when the Board deems that such action  
5 would be harmful to the profession or the public.

6 C. As used in this section, "substantially relates" means the  
7 nature of criminal conduct, for which the person was convicted, has  
8 a direct bearing on the fitness or ability to perform one or more of  
9 the duties or responsibilities necessarily related to the  
10 occupation.

11 SECTION 7. AMENDATORY 59 O.S. 2001, Section 532, is  
12 amended to read as follows:

13 Section 532. A. The State Board of Medical Licensure and  
14 Supervision may refuse to issue a license to an applicant or may  
15 suspend or revoke the license of any ~~licensee~~ athletic trainer or  
16 apprentice athletic trainer if ~~he~~ such person has:

17 1. Been convicted of a ~~felony or a misdemeanor involving moral~~  
18 ~~turpitude~~ crime that substantially relates to the occupation of  
19 athletic trainers;

20 2. Secured the license by fraud or deceit; or

21 3. Violated or conspired to violate the provisions of ~~this act~~  
22 the Oklahoma Athletic Trainers Act or rules ~~and regulations~~ issued  
23 pursuant to this act.

24

1 B. Procedures for denial, suspension or revocation of a license  
2 shall be governed by the Administrative Procedures Act.

3 C. As used in this section, "substantially relates" means the  
4 nature of criminal conduct, for which the person was convicted, has  
5 a direct bearing on the fitness or ability to perform one or more of  
6 the duties or responsibilities necessarily related to the  
7 occupation.

8 SECTION 8. AMENDATORY 59 O.S. 2001, Section 567.8, as  
9 amended by Section 5, Chapter 190, O.S.L. 2003 (59 O.S. Supp. 2006,  
10 Section 567.8), is amended to read as follows:

11 Section 567.8 A. The Oklahoma Board of Nursing shall have the  
12 power:

- 13 1. To deny, revoke or suspend any:
    - 14 a. license to practice registered nursing or licensed
    - 15 practical nursing,
    - 16 b. recognition for practice as an advanced practice
    - 17 nurse, or
    - 18 c. certification as an advanced unlicensed assistive
    - 19 person;
  - 20 2. To assess administrative penalties; or
  - 21 3. To otherwise discipline a licensee or advanced unlicensed
  - 22 assistive person.
- 23  
24

1 B. The Board shall impose a disciplinary action pursuant to the  
2 provisions of subsection A of this section upon proof that the  
3 person:

4 1. Is guilty of fraud or deceit or material deception in  
5 procuring or attempting to procure:

6 a. a license to practice registered nursing, licensed  
7 practical nursing, or recognition to practice advanced  
8 practice nursing, or

9 b. certification as an advanced unlicensed assistive  
10 person;

11 2. Is guilty of a ~~felony, or any offense reasonably~~ crime  
12 substantially related to the ~~qualifications, functions or duties of~~  
13 ~~any licensee or advanced unlicensed assistant, or any offense an~~  
14 ~~essential element of which is fraud, dishonesty, or an act of~~  
15 ~~violence, or for any offense involving moral turpitude, whether or~~  
16 ~~not sentence is imposed, or any conduct resulting in the revocation~~  
17 ~~of a deferred or suspended sentence or probation imposed pursuant to~~  
18 ~~such conviction~~ practice of nursing;

19 3. Fails to adequately care for patients or to conform to the  
20 minimum standards of acceptable nursing or advanced unlicensed  
21 assistant practice that, in the opinion of the Board, unnecessarily  
22 exposes a patient or other person to risk of harm;

23 4. Is intemperate in the use of alcohol or drugs, which use the  
24 Board determines endangers or could endanger patients;

1           5. Exhibits through a pattern of practice or other behavior  
2 actual or potential inability to practice nursing with sufficient  
3 knowledge or reasonable skills and safety due to impairment caused  
4 by illness, use of alcohol, drugs, chemicals or any other substance,  
5 or as a result of any mental or physical condition, including  
6 deterioration through the aging process or loss of motor skills,  
7 mental illness, or disability that results in inability to practice  
8 with reasonable judgment, skill or safety; provided, however, the  
9 provisions of this paragraph shall not be utilized in a manner that  
10 conflicts with the provisions of the Americans with Disabilities  
11 Act;

12           6. Has been adjudicated as mentally incompetent, mentally ill,  
13 chemically dependent or dangerous to the public or has been  
14 committed by a court of competent jurisdiction, within or without  
15 this state;

16           7. Is guilty of unprofessional conduct as defined in the rules  
17 of the Board;

18           8. Is guilty of any act that jeopardizes a patient's life,  
19 health or safety as defined in the rules of the Board;

20           9. Violated a rule promulgated by the Board, an order of the  
21 Board, or a state or federal law relating to the practice of  
22 registered, practical or advanced practice nursing or advanced  
23 unlicensed assisting, or a state or federal narcotics or controlled  
24 dangerous substance law; or

1           10. Has had disciplinary actions taken against the individual's  
2 registered or practical nursing license, advanced unlicensed  
3 assistive certification, or any health-related license, in this or  
4 any state, territory or country.

5           C. Any person who supplies the Board information in good faith  
6 shall not be liable in any way for damages with respect to giving  
7 such information.

8           D. The Board may cause to be investigated all reported  
9 violations of the Oklahoma Nursing Practice Act.

10          E. The Board may authorize the executive director to issue a  
11 confidential letter of concern to a licensee when evidence does not  
12 warrant formal proceedings, but the executive director has noted  
13 indications of possible errant conduct that could lead to serious  
14 consequences and formal action.

15          F. All individual proceedings before the Board shall be  
16 conducted in accordance with the Administrative Procedures Act.

17          G. At a hearing the accused shall have the right to appear  
18 either personally or by counsel, or both, to produce witnesses and  
19 evidence on behalf of the accused, to cross-examine witnesses and to  
20 have subpoenas issued by the Board. If the accused is found guilty  
21 of the charges the Board may refuse to issue a renewal of license to  
22 the applicant, revoke or suspend a license, or otherwise discipline  
23 a licensee.

24

1 H. A person whose license is revoked may not apply for  
2 reinstatement during the time period set by the Board. The Board on  
3 its own motion may at any time reconsider its action.

4 I. Any person whose license is revoked or who applies for  
5 renewal of registration and who is rejected by the Board shall have  
6 the right to appeal from such action pursuant to the Administrative  
7 Procedures Act.

8 J. 1. Any person who has been determined by the Board to have  
9 violated any provisions of the Oklahoma Nursing Practice Act or any  
10 rule or order issued pursuant thereto shall be liable for an  
11 administrative penalty not to exceed Five Hundred Dollars (\$500.00)  
12 for each count for which any holder of a certificate or license has  
13 been determined to be in violation of the Oklahoma Nursing Practice  
14 Act or any rule promulgated or order issued thereto.

15 2. The amount of the penalty shall be assessed by the Board  
16 pursuant to the provisions of this section, after notice and an  
17 opportunity for hearing is given to the accused. In determining the  
18 amount of the penalty, the Board shall include, but not be limited  
19 to, consideration of the nature, circumstances, and gravity of the  
20 violation and, with respect to the person found to have committed  
21 the violation, the degree of culpability, the effect on ability of  
22 the person to continue to practice, and any show of good faith in  
23 attempting to achieve compliance with the provisions of the Oklahoma  
24 Nursing Practice Act.

1        K. As used in this section, "substantially relates" means the  
2 nature of criminal conduct, for which the person was convicted, has  
3 a direct bearing on the fitness or ability to perform one or more of  
4 the duties or responsibilities necessarily related to the  
5 occupation.

6        SECTION 9.        AMENDATORY        59 O.S. 2001, Section 858-312, is  
7 amended to read as follows:

8        Section 858-312. A. The Oklahoma Real Estate Commission may,  
9 upon its own motion, and shall, upon written complaint filed by any  
10 person, investigate the business transactions of any real estate  
11 licensee, and may, upon showing good cause, impose sanctions as  
12 provided for in Section 858-208 of this title. Cause shall be  
13 established upon the showing that any licensee has performed, is  
14 performing, has attempted to perform, or is attempting to perform  
15 any of the following acts:

16        1. Making a materially false or fraudulent statement in an  
17 application for a license;

18        2. Making substantial misrepresentations or false promises in  
19 the conduct of business, or through real estate licensees, or  
20 advertising, which are intended to influence, persuade, or induce  
21 others;

22        3. Failing to comply with the requirements of Sections 858-351  
23 through 858-363 of this title;

24

1 4. Accepting a commission or other valuable consideration as a  
2 real estate associate for the performance of any acts as an  
3 associate, except from the real estate broker with whom the  
4 associate is associated;

5 5. Representing or attempting to represent a real estate broker  
6 other than the broker with whom the associate is associated without  
7 the express knowledge and consent of the broker with whom the  
8 associate is associated;

9 6. Failing, within a reasonable time, to account for or to  
10 remit any monies, documents, or other property coming into  
11 possession of the licensee which belong to others;

12 7. Paying a commission or valuable consideration to any person  
13 for acts or services performed in violation of the Oklahoma Real  
14 Estate License Code;

15 8. Any other conduct which constitutes untrustworthy, improper,  
16 fraudulent, or dishonest dealings;

17 9. Disregarding or violating any provision of the Oklahoma Real  
18 Estate License Code or rules promulgated by the Commission;

19 10. Guaranteeing or having authorized or permitted any real  
20 estate licensee to guarantee future profits which may result from  
21 the resale of real estate;

22 11. Advertising or offering for sale, rent or lease any real  
23 estate, or placing a sign on any real estate offering it for sale,  
24

1 rent or lease without the consent of the owner or the owner's  
2 authorized representative;

3 12. Soliciting, selling, or offering for sale real estate by  
4 offering "free lots", conducting lotteries or contests, or offering  
5 prizes for the purpose of influencing a purchaser or prospective  
6 purchaser of real estate;

7 13. Accepting employment or compensation for appraising real  
8 estate contingent upon the reporting of a predetermined value or  
9 issuing any appraisal report on real estate in which the licensee  
10 has an interest unless the licensee's interest is disclosed in the  
11 report. All appraisals shall be in compliance with the Oklahoma  
12 real estate appraisal law, and the person performing the appraisal  
13 or report shall disclose to the employer whether the person  
14 performing the appraisal or report is licensed or certified by the  
15 Oklahoma Real Estate Appraiser Board;

16 14. Paying a commission or any other valuable consideration to  
17 any person for performing the services of a real estate licensee as  
18 defined in the Oklahoma Real Estate License Code who has not first  
19 secured a real estate license pursuant to the Oklahoma Real Estate  
20 License Code;

21 15. Unworthiness to act as a real estate licensee, whether of  
22 the same or of a different character as specified in this section,  
23 or because the real estate licensee has been convicted of a crime  
24

1 ~~involving moral turpitude~~ that substantially relates to the practice  
2 of real estate;

3 16. Commingling with the licensee's own money or property the  
4 money or property of others which is received and held by the  
5 licensee, unless the money or property of others is received by the  
6 licensee and held in an escrow account that contains only money or  
7 property of others;

8 17. Conviction in a court of competent jurisdiction of having  
9 violated any provision of the federal fair housing laws, 42 U.S.C.  
10 Section 3601 et seq.;

11 18. Failure by a real estate broker, after the receipt of a  
12 commission, to render an accounting to and pay to a real estate  
13 licensee the licensee's earned share of the commission received;

14 19. Conviction in a court of competent jurisdiction in this or  
15 any other state of the crime of forgery, embezzlement, obtaining  
16 money under false pretenses, extortion, conspiracy to defraud,  
17 fraud, or any similar offense or offenses, or pleading guilty or  
18 nolo contendere to any such offense or offenses;

19 20. Advertising to buy, sell, rent, or exchange any real estate  
20 without disclosing that the licensee is a real estate licensee;

21 21. Paying any part of a fee, commission, or other valuable  
22 consideration received by a real estate licensee to any person not  
23 licensed;

24

1 22. Offering, loaning, paying, or making to appear to have been  
2 paid, a down payment or earnest money deposit for a purchaser or  
3 seller in connection with a real estate transaction; and

4 23. Violation of the Residential Property Condition Disclosure  
5 Act.

6 B. An applicant whose license is denied, revoked, suspended or  
7 not renewed may appeal the decision to the Commission within thirty  
8 (30) days of that decision. If the appeal is successful, the  
9 applicant shall be entitled to receive the license or certification.

10 Nothing herein shall require the Commission to issue or reinstate  
11 any license, certificate or registration when the Commission deems  
12 that such action would be harmful to the profession or the public.

13 C. As used in this section, "substantially relates" means the  
14 nature of criminal conduct, for which the person was convicted, has  
15 a direct bearing on the fitness or ability to perform one or more of  
16 the duties or responsibilities necessarily related to the  
17 occupation.

18 SECTION 10. AMENDATORY 59 O.S. 2001, Section 858-723, as  
19 amended by Section 11, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2006,  
20 Section 858-723), is amended to read as follows:

21 Section 858-723. A. The Real Estate Appraiser Board, after  
22 notice and opportunity for a hearing, pursuant to Article II of the  
23 Administrative Procedures Act, may issue an order imposing one or  
24 more of the following penalties whenever the Board finds, by clear

1 and convincing evidence, that a certificate holder has violated any  
2 provision of the Oklahoma Certified Real Estate Appraisers Act, or  
3 rules promulgated pursuant thereto:

4 1. Revocation of the certificate with or without the right to  
5 reapply;

6 2. Suspension of the certificate for a period not to exceed  
7 five (5) years;

8 3. Probation, for a period of time and under such terms and  
9 conditions as deemed appropriate by the Board;

10 4. Stipulations, limitations, restrictions, and conditions  
11 relating to practice;

12 5. Censure, including specific redress, if appropriate;

13 6. Reprimand, either public or private;

14 7. Satisfactory completion of an educational program or  
15 programs;

16 8. Administrative fines as authorized by the Oklahoma Certified  
17 Real Estate Appraisers Act; and

18 9. Payment of costs expended by the Board for any legal fees  
19 and costs and probation and monitoring fees including, but not  
20 limited to, administrative costs, witness fees and attorney fees.

21 B. 1. Any administrative fine imposed as a result of a  
22 violation of the Oklahoma Certified Real Estate Appraisers Act or  
23 the rules of the Board promulgated pursuant thereto shall not:

24

- 1           a.    be less than Fifty Dollars (\$50.00) and shall not  
2                    exceed Two Thousand Dollars (\$2,000.00) for each  
3                    violation of this act or the rules of the Board, or  
4           b.    exceed Five Thousand Dollars (\$5,000.00) for all  
5                    violations resulting from a single incident or  
6                    transaction.

7           2.    All administrative fines shall be paid within thirty (30)  
8 days of notification of the certificate holder by the Board of the  
9 order of the Board imposing the administrative fine, unless the  
10 certificate holder has entered into an agreement with the Board  
11 extending the period for payment.

12           3.    The certificate may be suspended until any fine imposed upon  
13 the licensee by the Board is paid.

14           4.    Unless the certificate holder has entered into an agreement  
15 with the Board extending the period for payment, if fines are not  
16 paid in full by the licensee within thirty (30) days of the  
17 notification by the Board of the order, the fines shall double and  
18 the certificate holder shall have an additional thirty-day period.  
19 If the double fine is not paid within the additional thirty-day  
20 period, the certificate shall automatically be revoked.

21           5.    All monies received by the Board as a result of the  
22 imposition of the administrative fine provided for in this section  
23 shall be deposited in the Oklahoma Certified Real Estate Appraisers  
24 Revolving Fund created pursuant to Section 858-730 of this title.

1 C. The rights of any holder under a certificate as a trainee,  
2 state licensed, state certified residential or state certified  
3 general real estate appraiser may be revoked or suspended, or the  
4 holder of the certificate may be otherwise disciplined pursuant to  
5 the provisions of the Oklahoma Certified Real Estate Appraisers Act,  
6 upon any of the grounds set forth in this section.

7 D. The Board may investigate the actions of a trainee, state  
8 licensed, state certified residential or state certified general  
9 real estate appraiser, and may revoke or suspend the rights of a  
10 certificate holder or otherwise discipline a trainee, state  
11 licensed, state certified residential or state certified general  
12 real estate appraiser for any of the following acts or omissions:

13 1. Procuring or attempting to procure a certificate pursuant to  
14 the provisions of the Oklahoma Certified Real Estate Appraisers Act  
15 by knowingly making a false statement, knowingly submitting false  
16 information, refusing to provide complete information in response to  
17 a question in an application for certification or through any form  
18 of fraud or misrepresentation;

19 2. Failing to meet the minimum qualifications established  
20 pursuant to the provisions of the Oklahoma Certified Real Estate  
21 Appraisers Act;

22 3. Paying money other than provided for by the Oklahoma  
23 Certified Real Estate Appraisers Act to any member or employee of  
24

1 the Board to procure a certificate pursuant to the Oklahoma  
2 Certified Real Estate Appraisers Act;

3 4. A conviction, including a conviction based upon a plea of  
4 guilty or nolo contendere, of a ~~felony which is~~ crime substantially  
5 related to the ~~qualifications, functions, and duties of a person~~  
6 ~~developing~~ practice of real estate appraisals and ~~communicating real~~  
7 ~~estate appraisals to others~~;

8 5. An act or omission involving dishonesty, fraud, or  
9 misrepresentation with the intent to substantially benefit the  
10 certificate holder or another person or with the intent to  
11 substantially injure another person;

12 6. Violation of any of the standards for the development or  
13 communication of real estate appraisals as provided in the Oklahoma  
14 Certified Real Estate Appraisers Act;

15 7. Failure or refusal without good cause to exercise reasonable  
16 diligence in developing an appraisal, preparing an appraisal report  
17 or communicating an appraisal;

18 8. Negligence or incompetence in developing an appraisal, in  
19 preparing an appraisal report, or in communicating an appraisal;

20 9. Willfully disregarding or violating any of the provisions of  
21 the Oklahoma Certified Real Estate Appraisers Act or the regulations  
22 of the Board for the administration and enforcement of the  
23 provisions of the Oklahoma Certified Real Estate Appraisers Act;

24

1           10. Accepting an appraisal assignment when the employment  
2 itself is contingent upon the appraiser reporting a predetermined  
3 estimate, analysis or opinion, or where the fee to be paid is  
4 contingent upon the opinion, conclusion, or valuation reached, or  
5 upon the consequences resulting from the appraisal assignment;

6           11. Violating the confidential nature of governmental records  
7 to which the appraiser gained access through employment or  
8 engagement as an appraiser by a governmental agency;

9           12. Entry of a final civil judgment against the person on  
10 grounds of deceit, fraud, or willful or knowing misrepresentation in  
11 the making of any appraisal of real property;

12           13. Violating any of the provisions in the code of ethics set  
13 forth in ~~this act~~ the Oklahoma Certified Real Estate Appraisers Act;  
14 or

15           14. Failing to at any time properly identify themselves  
16 according to the specific type of certification held.

17       ~~D.~~ E. In a disciplinary proceeding based upon a civil judgment,  
18 the trainee, state licensed, state certified residential or state  
19 certified general real estate appraiser shall be afforded an  
20 opportunity to present matters in mitigation and extenuation, but  
21 may not collaterally attack the civil judgment.

22       ~~E.~~ F. 1. A complaint may be filed with the Board against a  
23 trainee or state licensed or state certified appraiser for any  
24 violations relating to a specific transaction of the Oklahoma

1 Certified Real Estate Appraisers Act by any person who is the  
2 recipient of, relies upon or uses an appraisal prepared for a  
3 federally related transaction or real-estate-related financial  
4 transaction as described in Section 858-701 of this title.

5 2. Any person with knowledge of any circumstances surrounding  
6 an act or omission by a trainee or state licensed or state certified  
7 appraiser involving fraud, dishonesty or misrepresentation in any  
8 real property valuation-related activity, not limited to federally  
9 related transactions, may file a complaint with the Board setting  
10 forth all facts surrounding the act or omission.

11 3. A complaint may be filed against a trainee or state licensed  
12 or state certified appraiser directly by the Board, if reasonable  
13 cause exists for violations of the code of ethics set forth in ~~this~~  
14 act the Oklahoma Certified Real Estate Appraisers Act.

15 4. Any complaint filed pursuant to this subsection shall be in  
16 writing and signed by the person filing same and shall be on a form  
17 approved by the Board. The trainee or state licensed or state  
18 certified appraiser shall be entitled to any hearings or subject to  
19 any disciplinary proceedings provided for in the Oklahoma Certified  
20 Real Estate Appraisers Act based upon any complaint filed pursuant  
21 to this subsection.

22 G. An applicant whose license is denied, revoked, suspended or  
23 not renewed may appeal the decision to the Board within thirty (30)  
24 days of that decision. If the appeal is successful, the applicant

1 shall be entitled to receive the license or certification. Nothing  
2 herein shall require the Board to issue or reinstate any license,  
3 certificate or registration when the Board deems that such action  
4 would be harmful to the profession or the public.

5 H. As used in this section, "substantially relates" means the  
6 nature of criminal conduct, for which the person was convicted, has  
7 a direct bearing on the fitness or ability to perform one or more of  
8 the duties or responsibilities necessarily related to the  
9 occupation.

10 SECTION 11. AMENDATORY 59 O.S. 2001, Section 887.13, is  
11 amended to read as follows:

12 Section 887.13 A. The State Board of Medical Licensure and  
13 Supervision may refuse to issue or renew, or may suspend or revoke a  
14 license to any person, after notice and hearing in accordance with  
15 rules ~~and regulations~~ promulgated pursuant to the Physical Therapy  
16 Practice Act and the provisions of the Administrative Procedures Act  
17 of the Oklahoma Statutes who has:

18 1. Practiced physical therapy other than under the referral of  
19 a physician, surgeon, dentist, chiropractor or podiatrist duly  
20 licensed to practice medicine or surgery or in the case of practice  
21 as a physical therapist assistant, has practiced other than under  
22 the direction of a licensed physical therapist;

23  
24

1           2. Treated or attempted to treat ailments or other health  
2 conditions of human beings other than by physical therapy as  
3 authorized by the Physical Therapy Practice Act;

4           3. Failed to refer patients to other health care providers if  
5 symptoms are known to be present for which physical therapy  
6 treatment is inadvisable or if symptoms indicate conditions for  
7 which treatment is outside the standards of practice as specified in  
8 the rules and regulations promulgated by the Board pursuant to the  
9 provisions of the Physical Therapy Practice Act;

10          4. Used drugs, narcotics, medication, or intoxicating liquors  
11 to an extent which affects the professional competency of the  
12 applicant or licensee;

13          5. Been convicted of a ~~felony or of a crime involving moral~~  
14 ~~turpitude~~ that substantially relates to the occupation of physical  
15 therapy;

16          6. Obtained or attempted to obtain a license as a physical  
17 therapist or physical therapist assistant by fraud or deception;

18          7. Been grossly negligent in the practice of physical therapy  
19 or in acting as a physical therapist assistant;

20          8. Been adjudged mentally incompetent by a court of competent  
21 jurisdiction and has not subsequently been lawfully declared sane;

22          9. Been guilty of conduct unbecoming a person licensed as a  
23 physical therapist or physical therapist assistant or guilty of  
24

1 conduct detrimental to the best interests of the public or his  
2 profession;

3 10. Been guilty of any act in conflict with the ethics of the  
4 profession of physical therapy; or

5 11. Had his license suspended or revoked in another state.

6 B. If an appeal process for a decision of the Board is not  
7 promulgated in the rules authorized by this section, an applicant  
8 whose license or certification is denied, revoked, suspended or not  
9 renewed may appeal the decision to the Board within thirty (30) days  
10 of that decision. If the appeal is successful, the applicant shall  
11 be entitled to receive the license or certification. Nothing herein  
12 shall require the Board to issue or reinstate any license,  
13 certificate or registration when the Board deems that such action  
14 would be harmful to the profession or the public.

15 C. As used in this section, "substantially relates" means the  
16 nature of criminal conduct, for which the person was convicted, has  
17 a direct bearing on the fitness or ability to perform one or more of  
18 the duties or responsibilities necessarily related to the  
19 occupation.

20 SECTION 12. AMENDATORY 59 O.S. 2001, Section 888.9, is  
21 amended to read as follows:

22 Section 888.9 A. The Board may deny or refuse to renew a  
23 license, or may suspend or revoke a license, or may censure a  
24 licensee, publicly or otherwise, or may impose probationary

1 conditions where the licensee or applicant for license has been  
2 guilty of unprofessional conduct which has endangered or is likely  
3 to endanger the health, welfare, or safety of the public. Such  
4 unprofessional conduct includes:

5 1. Obtaining a license by means of fraud, misrepresentation, or  
6 concealment of material facts;

7 2. Engaging in unprofessional conduct as defined by the rules  
8 established by the Board, or violating the Code of Ethics adopted  
9 and published by the Board;

10 3. Being convicted of ~~any federal or state law, excepting any~~  
11 ~~misdemeanor, traffic law or municipal ordinance~~ a crime that  
12 substantially relates to the occupation of occupational therapy;

13 4. Violating any lawful order, rule, or regulation rendered or  
14 adopted by the Board; and

15 5. Violating any provisions of this act.

16 B. Such denial, refusal to renew, suspension, revocation,  
17 censure, or imposition of probationary conditions upon a license may  
18 be ordered by the Board in a decision made after a hearing in the  
19 manner provided by the rules and regulations adopted by the Board.

20 An applicant whose license is denied, revoked, suspended or not  
21 renewed may appeal the decision to the Board within thirty (30) days  
22 of that decision. If the appeal is successful, the applicant shall  
23 be entitled to receive the license or certification. Nothing herein  
24 shall require the Board to issue or reinstate any license,

1 certificate or registration when the Board deems that such action  
2 would be harmful to the profession or the public. One (1) year from  
3 the date of the revocation, refusal of renewal, suspension, or  
4 probation of the license, application may be made to the Board for  
5 reinstatement. The Board shall have discretion to accept or reject  
6 an application for reinstatement and may, but shall not be required  
7 to, hold a hearing to consider such reinstatement.

8 C. As used in this section, "substantially relates" means the  
9 nature of criminal conduct, for which the person was convicted, has  
10 a direct bearing on the fitness or ability to perform one or more of  
11 the duties or responsibilities necessarily related to the  
12 occupation.

13 SECTION 13. AMENDATORY 59 O.S. 2001, Section 1310, is  
14 amended to read as follows:

15 Section 1310. A. The Insurance Commissioner may deny, censure,  
16 suspend, revoke, or refuse to renew any license issued under Section  
17 1301 et seq. of this title for any of the following causes:

18 1. For any cause for which issuance of the license could have  
19 been refused;

20 2. Violation of any laws of this state or any lawful rule,  
21 regulation, or order of the Commissioner relating to bail;

22 3. Material misstatement, misrepresentation, or fraud in  
23 obtaining the license;

24

1 4. Misappropriation, conversion, or unlawful withholding of  
2 monies or property belonging to insurers, insureds, or others  
3 received in the conduct of business under the license;

4 5. Conviction of, or having entered a plea of guilty or nolo  
5 contendere to, ~~any felony or to a misdemeanor involving moral~~  
6 ~~turpitude or dishonesty~~ crime that substantially relates to the  
7 business practices of bail bondsmen;

8 6. Fraudulent or dishonest practices in conducting business  
9 under the license;

10 7. Failure to comply with, or violation of any proper order,  
11 rule, or regulation of the Commissioner;

12 8. Recommending any particular attorney-at-law to handle a case  
13 in which the bail bondsman has caused a bond to be issued under the  
14 terms of Section 1301 et seq. of this title;

15 9. When, in the judgment of the Commissioner, the licensee has,  
16 in the conduct of affairs under the license, demonstrated  
17 incompetency, or untrustworthiness, or conduct or practices  
18 rendering the licensee unfit to carry on the bail bond business or  
19 making continuance in the business detrimental to the public  
20 interest, or that the licensee is no longer in good faith carrying  
21 on the bail bond business, or that the licensee is guilty of  
22 rebating, or offering to rebate, or dividing with someone other than  
23 a licensed bail bondsman, or offering to divide commissions in the  
24 case of limited surety agents, or premiums in the case of

1 professional bondsmen, and for this conduct is found by the  
2 Commissioner to be a source of detriment, injury, or loss to the  
3 public;

4 10. For any materially untrue statement in the license  
5 application;

6 11. Misrepresentation of the terms of any actual or proposed  
7 bond;

8 12. For forging the name of another to a bond or application  
9 for bond;

10 13. Cheating on an examination for licensure;

11 14. Soliciting business in or about any place where prisoners  
12 are confined, arraigned, or in custody;

13 15. For paying a fee or rebate, or giving or promising anything  
14 of value to a jailer, trustee, police officer, law enforcement  
15 officer, or other officer of the law, or any other person who has  
16 power to arrest or hold in custody, or to any public official or  
17 public employee in order to secure a settlement, compromise,  
18 remission, or reduction of the amount of any bail bond or  
19 estreatment thereof, or to secure delay or other advantage. This  
20 shall not apply to a jailer, police officer, or officer of the law  
21 who is not on duty and who assists in the apprehension of a  
22 defendant;

23

24

1       16. For paying a fee or rebating or giving anything of value to  
2 an attorney in bail bond matters, except in defense of an action on  
3 a bond;

4       17. For paying a fee or rebating or giving or promising  
5 anything of value to the principal or anyone in the principal's  
6 behalf;

7       18. Participating in the capacity of an attorney at a trial or  
8 hearing for one on whose bond the licensee is surety;

9       19. Accepting anything of value from a principal, other than  
10 the premium; provided, the bondsman shall be permitted to accept  
11 collateral security or other indemnity from the principal which  
12 shall be returned immediately upon final termination of liability on  
13 the bond and upon satisfaction of all terms, conditions, and  
14 obligations contained within the indemnity agreement. Collateral  
15 security or other indemnity required by the bondsman shall be  
16 reasonable in relation to the amount of the bond;

17       20. Willful failure to return collateral security to the  
18 principal when the principal is entitled thereto;

19       21. For failing to notify the Commissioner of a change of  
20 address, as noted on the license, within five (5) days after a  
21 change is made, or failing to respond to a properly mailed  
22 notification within a reasonable amount of time;

23       22. For failing to file a report as required by Section 1314 of  
24 this title;

1 23. For filing a materially untrue monthly report;

2 24. For filing false affidavits regarding cancellation of the  
3 appointment of an insurer;

4 25. Forcing the Commissioner to withdraw deposited monies to  
5 pay forfeitures or any other outstanding judgments;

6 26. For failing to pay any fees to a district court clerk as  
7 are required by this title or failing to pay any fees to a municipal  
8 court clerk as are required by this title or by Section 28-127 of  
9 Title 11 of the Oklahoma Statutes;

10 27. For uttering an insufficient check to the Insurance  
11 Commissioner for any fees, fines or other payments received by the  
12 Commissioner from the bail bondsman; and

13 28. For failing to pay travel expenses for the return of the  
14 defendant to custody once having guaranteed the expenses pursuant to  
15 the provisions of subparagraph d of paragraph 3 of subsection C of  
16 Section 1332 of this title.

17 B. In addition to any applicable denial, censure, suspension,  
18 or revocation of a license, any person violating any provision of  
19 Section 1301 et seq. of this title may be subject to a civil penalty  
20 of not less than One Hundred Dollars (\$100.00) nor more than One  
21 Thousand Dollars (\$1,000.00) for each occurrence. This fine may be  
22 enforced in the same manner in which civil judgments may be  
23 enforced. Any order for civil penalties entered by the Commissioner  
24 or authorized decision maker for the Insurance Department which has

1 become final may be filed with the court clerk of Oklahoma County  
2 and shall then be enforced by the judges of said county.

3 C. No bail bondsman or bail bond agency shall advertise as or  
4 hold itself out to be a surety company.

5 D. If any bail bondsman is convicted by any court of a  
6 violation of any of the provisions of this act, the license of the  
7 individual shall therefore be deemed to be immediately revoked,  
8 without any further procedure relative thereto by the Commissioner.

9 E. For one (1) year after notification by the Commissioner of  
10 an alleged violation, or for two (2) years after the last day the  
11 person was licensed, whichever is the lesser period of time, the  
12 Commissioner shall retain jurisdiction as to any person who cancels  
13 his bail bondsman's license or allows the license to lapse, or  
14 otherwise ceases to be licensed, if the person while licensed as a  
15 bondsman allegedly violated any provision of this title. Notice and  
16 opportunity for hearing shall be conducted in the same manner as if  
17 the person still maintained a bondsman's license. If the  
18 Commissioner or a hearing examiner determines that a violation of  
19 the provisions of Sections 1301 through 1340 of this title occurred,  
20 any order issued pursuant to the determination shall become a  
21 permanent record in the file of the person and may be used if the  
22 person should request licensure or reinstatement.

23 F. An applicant whose license is denied, revoked, suspended or  
24 not renewed may appeal the decision to the Board within thirty (30)

1 days of that decision. If the appeal is successful, the applicant  
2 shall be entitled to receive the license or certification. Nothing  
3 herein shall require the Board to issue or reinstate any license,  
4 certificate or registration when the Board deems that such action  
5 would be harmful to the profession or the public.

6 G. Any law enforcement agency, district attorney's office,  
7 court clerk's office, or insurer that is aware that a licensed bail  
8 bondsman has been convicted of or has pleaded guilty or nolo  
9 contendere to any crime, shall notify the Insurance Commissioner of  
10 that fact.

11 H. As used in this section, "substantially relates" means the  
12 nature of criminal conduct, for which the person was convicted, has  
13 a direct bearing on the fitness or ability to perform one or more of  
14 the duties or responsibilities necessarily related to the  
15 occupation.

16 SECTION 14. AMENDATORY 59 O.S. 2001, Section 1370, as  
17 amended by Section 24, Chapter 313, O.S.L. 2004 (59 O.S. Supp. 2006,  
18 Section 1370), is amended to read as follows:

19 Section 1370. A. A psychologist and any other persons under  
20 the supervision of the psychologist shall conduct their professional  
21 activities in conformity with ethical and professional standards  
22 promulgated by the State Board of Examiners of Psychologists by  
23 rule.  
24

1 B. The Board shall have the power and duty to suspend, place on  
2 probation, require remediation, or revoke any license to practice  
3 psychology or to take any other action specified in the rules  
4 whenever the Board shall find by clear and convincing evidence that  
5 the psychologist has engaged in any of the following acts or  
6 offenses:

7 1. Fraud in applying for or procuring a license to practice  
8 psychology;

9 2. Immoral, unprofessional, or dishonorable conduct as defined  
10 in the rules promulgated by the Board;

11 3. Practicing psychology in a manner as to endanger the welfare  
12 of clients or patients;

13 4. Conviction of a felony. ~~A copy of the record of conviction,~~  
14 ~~certified by the clerk of the court entering the conviction shall be~~  
15 ~~conclusive evidence of conviction~~ crime that substantially relates  
16 to the practice of psychology;

17 5. ~~Conviction of any crime or offense that reflects the~~  
18 ~~inability of the practitioner to practice psychology with due regard~~  
19 ~~for the health and safety of clients or patients;~~

20 6. Harassment, intimidation, or abuse, sexual or otherwise, of  
21 a client or patient;

22 7. 6. Engaging in sexual intercourse or other sexual contact  
23 with a client or patient;

1       ~~8.~~ 7. Use of repeated untruthful, deceptive or improbable  
2 statements concerning the licensee's qualifications or the effects  
3 or results of proposed treatment, including practicing outside of  
4 the psychologist's professional competence established by education,  
5 training, and experience;

6       ~~9.~~ 8. Gross malpractice or repeated malpractice or gross  
7 negligence in the practice of psychology;

8       ~~10.~~ 9. Aiding or abetting the practice of psychology by any  
9 person not approved by the Board or not otherwise exempt from the  
10 provisions of Section 1351 et seq. of this title;

11       ~~11.~~ 10. Conviction of or pleading guilty or nolo contendere to  
12 fraud in filing Medicare or Medicaid claims or in filing claims with  
13 any third party payor. A copy of the record of plea or conviction,  
14 certified by the clerk of the court entering the plea or conviction,  
15 shall be conclusive evidence of the plea or conviction;

16       ~~12.~~ 11. Exercising undue influence in a manner to exploit the  
17 client, patient, student, or supervisee for financial advantage  
18 beyond the payment of professional fees or for other personal  
19 advantage to the practitioner or a third party;

20       ~~13.~~ 12. The suspension or revocation by another state of a  
21 license to practice psychology. A certified copy of the record of  
22 suspension or revocation of the state making such a suspension or  
23 revocation shall be conclusive evidence thereof;

24

1       ~~14.~~ 13. Refusal to appear before the Board after having been  
2 ordered to do so in writing by the executive officer or chair of the  
3 Board;

4       ~~15.~~ 14. Making any fraudulent or untrue statement to the Board;

5       ~~16.~~ 15. Violation of the code of ethics adopted in the rules  
6 and regulations of the Board; and

7       ~~17.~~ 16. Inability to practice psychology with reasonable skill  
8 and safety to patients or clients by reason of illness, inebriation,  
9 misuse of drugs, narcotics, alcohol, chemicals, or any other  
10 substance, or as a result of any mental or physical condition.

11       C. No license shall be suspended or revoked nor the licensee  
12 placed on probation or reprimanded until the licensee has been given  
13 an opportunity for a hearing before the Board pursuant to the  
14 provisions of subsection D of this section. Whenever the Board  
15 determines that there has been a violation of any of the provisions  
16 of the Psychologists Licensing Act or of any order of the Board, it  
17 shall give written notice to the alleged violator specifying the  
18 cause of complaint. The notice shall require that the alleged  
19 violator appear before the Board at a time and place specified in  
20 the notice and answer the charges specified in the notice. The  
21 notice shall be delivered to the alleged violator in accordance with  
22 the provisions of subsection E of this section not less than ten  
23 (10) days before the time set for the hearing.

24

1 D. On the basis of the evidence produced at the hearing, the  
2 Board shall make findings of fact and conclusions of law and enter  
3 an order thereon in writing or stated in the record. A final order  
4 adverse to the alleged violator shall be in writing. An order  
5 stated in the record shall become effective immediately, provided  
6 the Board gives written notice of the order to the alleged violator  
7 and to the other persons who appeared at the hearing and made  
8 written request for notice of the order. If the hearing is held  
9 before any person other than the Board itself, such person shall  
10 transmit the record of the hearing together with recommendations for  
11 findings of fact and conclusions of law to the Board, which shall  
12 thereupon enter its order. The Board may enter its order on the  
13 basis of such record or, before issuing its order, require  
14 additional hearings or further evidence to be presented. An  
15 applicant whose license is denied, revoked, suspended or not renewed  
16 may appeal the decision to the Board within thirty (30) days of that  
17 decision. If the appeal is successful, the applicant shall be  
18 entitled to receive the license or certification. Nothing herein  
19 shall require the Board to issue or reinstate any license,  
20 certificate or registration when the Board deems that such action  
21 would be harmful to the profession or the public. The order of the  
22 Board shall become final and binding on all parties unless appealed  
23 to the district court as provided for in the Administrative  
24 Procedures Act.

1 E. Except as otherwise expressly provided for by law, any  
2 notice, order, or other instrument issued by or pursuant to the  
3 authority of the Board may be served on any person affected, by  
4 publication or by mailing a copy of the notice, order, or other  
5 instrument by registered mail directed to the person affected at the  
6 last-known post office address of such person as shown by the files  
7 or records of the Board. Proof of the service shall be made as in  
8 case of service of a summons or by publication in a civil action.  
9 Proof of mailing may be made by the affidavit of the person who  
10 mailed the notice. Proof of service shall be filed in the office of  
11 the Board.

12 F. Every certificate or affidavit of service made and filed as  
13 provided for in this section shall be prima facie evidence of the  
14 facts stated therein, and a certified copy thereof shall have same  
15 force and effect as the original certificate or affidavit of  
16 service.

17 G. If the psychologist fails or refuses to appear, the Board  
18 may proceed to hearing and determine the charges in his or her  
19 absence. If the psychologist pleads guilty, or if upon hearing the  
20 charges, a majority of the Board finds them to be true, the Board  
21 may enter an order suspending or revoking the license of the  
22 psychologist, reprimanding the psychologist, or placing the  
23 psychologist on probation or any combination of penalties authorized  
24 by the provisions of this section.

1 H. The secretary of the Board shall preserve a record of all  
2 proceedings of the hearings and shall furnish a transcript of the  
3 hearings to the defendant upon request. The defendant shall prepay  
4 the actual cost of preparing the transcript.

5 I. Upon a vote of four of its members, the Board may restore a  
6 license which has been revoked, reduce the period of suspension or  
7 probation, or withdraw a reprimand.

8 J. As used in this section, "substantially relates" means the  
9 nature of criminal conduct, for which the person was convicted, has  
10 a direct bearing on the fitness or ability to perform one or more of  
11 the duties or responsibilities necessarily related to the  
12 occupation.

13 SECTION 15. AMENDATORY 59 O.S. 2001, Section 1503A, is  
14 amended to read as follows:

15 Section 1503A. A. To be eligible for a pawnshop license, an  
16 applicant shall:

- 17 1. Be of good moral character;
- 18 2. Have net assets of at least Twenty-five Thousand Dollars  
19 (\$25,000.00); and
- 20 3. Show that the pawnshop will be operated lawfully and fairly  
21 within the purpose of the Oklahoma Pawnshop Act, ~~Section 1501 et~~  
22 ~~seq. of Title 59 of the Oklahoma Statutes.~~

23  
24

1 B. The Administrator shall find ineligible an applicant who has  
2 a ~~felony~~ crime conviction which ~~directly~~ substantially relates to  
3 the ~~duties and responsibilities of the~~ occupation of a pawnbroker.

4 C. If the Administrator is unable to verify that the applicant  
5 meets the net assets requirement for a pawnshop license, the  
6 Administrator may require a finding, including the presentation of a  
7 current balance sheet, by an accounting firm or individual holding a  
8 permit to practice public accounting in this state, that the  
9 accountant has reviewed the books and records of the applicant and  
10 that the applicant meets the net assets requirement.

11 D. An applicant whose license is denied, revoked, suspended or  
12 not renewed may appeal the decision to the Administrator within  
13 thirty (30) days of that decision. If the appeal is successful, the  
14 applicant shall be entitled to receive the license or certification.  
15 Nothing herein shall require the Administrator to issue or reinstate  
16 any license, certificate or registration when the Administrator  
17 deems that such action would be harmful to the profession or the  
18 public.

19 E. As used in this section, "substantially relates" means the  
20 nature of criminal conduct, for which the person was convicted, has  
21 a direct bearing on the fitness or ability to perform one or more of  
22 the duties or responsibilities necessarily related to the  
23 occupation.

1 SECTION 16. AMENDATORY 59 O.S. 2001, Section 1619, is  
2 amended to read as follows:

3 Section 1619. A. The Board of Examiners for Speech-Language  
4 Pathology and Audiology may impose separately, or in combination,  
5 any of the following disciplinary actions on a licensee after formal  
6 disciplinary action as provided in the Speech-Language Pathology and  
7 Audiology Licensing Act: suspend or revoke a license, issue a  
8 letter of reprimand, impose probationary conditions, impose an  
9 administrative fine not to exceed Ten Thousand Dollars (\$10,000.00),  
10 and assess reasonable costs. Disciplinary actions may be taken by  
11 the Board upon proof that the licensee:

12 1. Has been guilty of fraud or deceit in connection with the  
13 person's services rendered as a speech-language pathologist and/or  
14 audiologist;

15 2. Has aided or abetted a person who is not a licensed speech-  
16 language pathologist and/or audiologist and who is not an employee  
17 of and under the supervision of a licensed speech-language  
18 pathologist or audiologist and subject to the rules of the Board, in  
19 illegally engaging in the practice of speech-language pathology or  
20 audiology within this state;

21 3. Has been guilty of unprofessional conduct as defined by the  
22 rules established by the Board or has violated the code of ethics  
23 made and published by the Board;

24

1 4. Has used fraud or deception in applying for a license or in  
2 passing an examination provided for in the Speech-Language Pathology  
3 and Audiology Licensing Act;

4 5. Has been grossly negligent in the practice of the person's  
5 profession;

6 6. Has willfully violated any of the provisions of the Speech-  
7 Language Pathology and Audiology Licensing Act or any rules  
8 promulgated pursuant thereto;

9 7. Has violated federal, state or local laws relating to the  
10 profession. A copy of the record of conviction, certified by the  
11 clerk of the court entering the conviction, shall be conclusive  
12 evidence of conviction; or

13 8. Has been convicted or has pled guilty or nolo contendere to  
14 ~~a felony or to a crime involving moral turpitude, whether or not any~~  
15 ~~appeal or other proceeding is pending to have the conviction or plea~~  
16 ~~set aside. A copy of the record of conviction, certified by the~~  
17 ~~clerk of the court entering the conviction, shall be conclusive~~  
18 ~~evidence of conviction~~ that substantially relates to speech-language  
19 pathology or audiology.

20 B. 1. No disciplinary action shall be imposed until after a  
21 hearing before the Board. A notice of at least thirty (30) days  
22 shall be served, either personally or by certified mail, to the  
23 licensee charged, stating the time and place of the hearing, and  
24 setting forth the ground or grounds constituting the charges against

1 the licensee. The licensee shall be entitled to be heard in such  
2 person's defense either in person or by counsel, and may produce  
3 testimony and may testify in the person's own behalf.

4 2. A record of such hearing shall be taken and preserved.

5 3. The hearing may be adjourned from time to time. If, after  
6 due receipt of notice of a hearing, the licensee shall be unable to  
7 appear for good cause shown, then a continuance shall be granted by  
8 the Board. The time allowed shall be at the discretion of the  
9 Board, but in no instance shall it be less than two (2) weeks from  
10 the originally scheduled date of the hearing.

11 4. If a licensee pleads guilty, or if upon hearing the charges,  
12 a majority of the Board finds them to be true, the Board shall  
13 impose its disciplinary action against the licensee. The Board  
14 shall record its findings and order in writing.

15 C. 1. The Board, through its ~~chairman~~ chair or ~~vice-chairman~~  
16 vice-chair, may administer oaths and may compel the attendance of  
17 witnesses and the production of physical evidence before it from  
18 witnesses upon whom process is served anywhere within the state, as  
19 in civil cases in the district court, by subpoena issued over the  
20 signature of the ~~chairman~~ chair or ~~vice-chairman~~ vice-chair and the  
21 seal of the Board.

22 2. Upon request by an accused speech-language pathologist  
23 and/or audiologist, and statement under oath that the testimony or  
24 evidence is reasonably necessary to the person's defense, the Board

1 shall use this subpoena power in behalf of the accused speech-  
2 language pathologist and/or audiologist.

3 3. The subpoenas shall be served, and a return of service  
4 thereof made, in the same manner as a subpoena is served out of the  
5 district courts in this state, and as a return in such case is made.

6 4. If a person fails and refuses to attend in obedience to such  
7 subpoena, or refuses to be sworn or examined or answer any legally  
8 proper question propounded by any member of said Board or any  
9 attorney or licensee upon permission from said Board, such person  
10 shall be guilty of a misdemeanor, and, upon conviction, may be  
11 punished by a fine not to exceed Two Hundred Fifty Dollars (\$250.00)  
12 or by confinement in the county jail not to exceed ninety (90) days,  
13 or both.

14 D. 1. ~~Any person who feels aggrieved by reason of the~~  
15 ~~imposition of disciplinary action may appeal to the Board for a~~  
16 ~~review of the case or~~ An applicant whose license is denied, revoked,  
17 suspended or not renewed may appeal the decision to the Board within  
18 thirty (30) days of that decision. If the appeal is successful, the  
19 applicant shall be entitled to receive the license or certification.  
20 Nothing herein shall require the Board to issue or reinstate any  
21 license, certificate or registration when the Board deems that such  
22 action would be harmful to the profession or the public. The  
23 applicant may also seek judicial review pursuant to the  
24 Administrative Procedures Act.

1        2. The suit shall be filed against the Board as defendant, and  
2 service of process shall be upon either the ~~chairman~~ chair or  
3 executive secretary of the Board.

4        3. The judgment of the district court may be appealed to the  
5 Supreme Court of Oklahoma in the same manner as other civil cases.

6        E. Upon a vote of three of its members, the Board may restore a  
7 license which has been revoked or reduce the period of suspension.

8        F. As used in this section, "substantially relates" means the  
9 nature of criminal conduct, for which the person was convicted, has  
10 a direct bearing on the fitness or ability to perform one or more of  
11 the duties or responsibilities necessarily related to the  
12 occupation.

13        SECTION 17.        AMENDATORY        59 O.S. 2001, Section 1912, is  
14 amended to read as follows:

15        Section 1912. A. The State Department of Health may deny,  
16 revoke, suspend or place on probation any license or specialty  
17 designation issued pursuant to the provisions of the Licensed  
18 Professional Counselors Act to a licensed professional counselor, if  
19 the person has:

- 20        1. ~~Been convicted of a felony;~~  
21        2. ~~Been convicted of a misdemeanor determined to be of such a~~  
22 ~~nature as to render the person convicted unfit~~ crime that  
23 substantially relates to the practice of counseling;  
24

1       ~~3.~~ 2. Engaged in fraud or deceit in connection with services  
2 rendered or in establishing needed qualifications pursuant to the  
3 provisions of this act;

4       ~~4.~~ 3. Knowingly aided or abetted a person not licensed pursuant  
5 to these provisions in representing himself as a licensed  
6 professional counselor in this state;

7       ~~5.~~ 4. Engaged in unprofessional conduct as defined by the rules  
8 established by the Board;

9       ~~6.~~ 5. Engaged in negligence or wrongful actions in the  
10 performance of his duties; or

11       ~~7.~~ 6. Misrepresented any information required in obtaining a  
12 license.

13       B. No license or specialty designation shall be suspended or  
14 revoked, nor a licensed professional counselor placed on probation  
15 until notice is served upon the licensed professional counselor and  
16 a hearing is held in conformity with Article II of the  
17 Administrative Procedures Act.

18       SECTION 18.       AMENDATORY       59 O.S. 2001, Section 1925.15, is  
19 amended to read as follows:

20       Section 1925.15 A. The State Department of Health may deny,  
21 revoke, suspend or place on probation any license issued subject to  
22 the provisions of the Marital and Family Therapist Licensure Act, if  
23 the person has:

24       1. ~~Been convicted of a felony;~~

1       ~~2.~~ Been convicted of a crime ~~the Commissioner determines after~~  
2 ~~a hearing to be of such a nature as to render the person convicted~~  
3 ~~unfit~~ that substantially relates to the practice of marital and  
4 family therapy;

5       ~~3.~~ 2. Violated ethical standards of such a nature as to render  
6 the person found by the Commissioner to have engaged in such  
7 violation unfit to practice marital and family therapy;

8       ~~4.~~ 3. Misrepresented any information required in obtaining a  
9 license;

10       ~~5.~~ 4. Engaged in fraud or deceit in connection with services  
11 rendered or in establishing needed qualifications pursuant to the  
12 provisions of the Marital and Family Therapist Licensure Act;

13       ~~6.~~ 5. Knowingly aided or abetted a person not licensed pursuant  
14 to these provisions in representing himself or herself as a licensed  
15 marital and family therapist in this state;

16       ~~7.~~ 6. Engaged in unprofessional conduct as defined by the rules  
17 promulgated by the State Board of Health; or

18       ~~8.~~ 7. Engaged in negligence or wrongful actions in the  
19 performance of the duties of such person.

20       B. No license shall be suspended, revoked or placed on  
21 probation until notice is served upon the licensed marital and  
22 family therapist and a hearing is held in such manner as is required  
23 by the Marital and Family Therapist Licensure Act.

1       C. An applicant whose license is denied, revoked, suspended or  
2 not renewed may appeal the decision to the Board within thirty (30)  
3 days of that decision. If the appeal is successful, the applicant  
4 shall be entitled to receive the license or certification. Nothing  
5 herein shall require the Board to issue or reinstate any license,  
6 certificate or registration when the Board deems that such action  
7 would be harmful to the profession or the public.

8       ~~C.~~ D. Any person who is determined by the Department to have  
9 violated any of the provisions of the Marital and Family Therapist  
10 Licensure Act or any rule promulgated or order issued pursuant  
11 thereto may be subject to an administrative penalty. The maximum  
12 fine shall not exceed Ten Thousand Dollars (\$10,000.00). All  
13 administrative penalties collected pursuant to the Marital and  
14 Family Therapist Licensure Act shall be deposited into the Licensed  
15 Marital and Family Therapist Revolving Fund. Administrative  
16 penalties imposed pursuant to this subsection shall be enforceable  
17 in the district courts of this state.

18       E. As used in this section, "substantially relates" means the  
19 nature of criminal conduct, for which the person was convicted, has  
20 a direct bearing on the fitness or ability to perform one or more of  
21 the duties or responsibilities necessarily related to the  
22 occupation.

23       SECTION 19.       AMENDATORY       59 O.S. 2001, Section 1941, is  
24 amended to read as follows:

1 Section 1941. A. The State Department of Health may deny,  
2 revoke, suspend, or place on probation any license or specialty  
3 designation issued pursuant to the provisions of the Licensed  
4 Behavioral Practitioner Act to a licensed behavioral practitioner,  
5 if the person has:

6 1. ~~Been convicted of a felony;~~  
7 2. ~~Been convicted of a misdemeanor determined to be of such a~~  
8 ~~nature as to render the person convicted unfit~~ crime that  
9 substantially relates to the practice of behavioral health;

10 3. ~~2.~~ Engaged in fraud or deceit in connection with services  
11 rendered or in establishing needed qualifications pursuant to the  
12 provisions of this act;

13 4. ~~3.~~ Knowingly aided or abetted a person not licensed pursuant  
14 to these provisions in representing himself or herself as a licensed  
15 behavioral practitioner in this state;

16 5. ~~4.~~ Engaged in unprofessional conduct as defined by the rules  
17 established by the State Board of Health;

18 6. ~~5.~~ Engaged in negligence or wrongful actions in the  
19 performance of the licensee's duties; or

20 7. ~~6.~~ Misrepresented any information required in obtaining a  
21 license.

22 B. No license or specialty designation shall be suspended or  
23 revoked, nor a licensed behavioral practitioner placed on probation,  
24 until notice is served upon the licensed behavioral practitioner and

1 a hearing is held in conformity with Article II of the  
2 Administrative Procedures Act.

3 C. As used in this section, "substantially relates" means the  
4 nature of criminal conduct, for which the person was convicted, has  
5 a direct bearing on the fitness or ability to perform one or more of  
6 the duties or responsibilities necessarily related to the  
7 occupation.

8 SECTION 20. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 69 of Title 21, unless there is  
10 created a duplication in numbering, reads as follows:

11 Licensing boards may take into consideration convictions of  
12 felony crimes. However, such convictions shall not operate as an  
13 automatic bar to registration, certification or licensing for any  
14 trade, profession or occupation. Arrest records not leading to a  
15 conviction and misdemeanor convictions may also be taken into  
16 consideration in connection with an application for a license.  
17 However, such arrest records or convictions shall not operate as an  
18 automatic bar to registration, certification or licensing for any  
19 trade, profession or occupation. Boards and agencies shall state  
20 explicitly, in writing, the reasons for a decision which prohibits  
21 the applicant from practicing the trade, occupation or profession if  
22 the decision is based in whole, or in part, on conviction of a  
23 felony. Completion of parole or probation supervision shall be  
24 prima facie evidence of rehabilitation.

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SECTION 21. This act shall become effective November 1, 2008.

51-2-10538      GRS      03/04/08