

1 ENGROSSED SENATE
2 BILL NO. 2070

By: Coates and Leftwich of the
Senate

3 and

4 Shelton of the House

5
6
7 [professions and occupations - modifying prohibition
8 to issue and renew licenses - effective date -
9 emergency]

10
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 59 O.S. 2001, Section 46.14, as
13 last amended by Section 10, Chapter 184, O.S.L. 2009 (59 O.S. Supp.
14 2009, Section 46.14), is amended to read as follows:

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

20 1. Shall have been convicted of a felony crime that
21 substantially relates to the practice of architecture or poses a
22 reasonable threat to public safety;

23 2. Shall have been guilty of fraud or misrepresentation in the
24 ~~person's~~ application of the person, whether for an examination or

1 for a license or registration without examination, or of fraud in
2 the examination;

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

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

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

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

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

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

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

22 b. shall have the right to be represented by counsel and
23 an opportunity to respond and present evidence and
24 argument on all issues involved, by the introduction

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

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

23 B. An applicant whose application for license or certificate is
24 denied may first appeal the decision to the Board within thirty (30)

1 days of notice of that decision. The Board shall set a hearing for
2 appeal. After a final order on the denial is made the applicant may
3 appeal that decision to the district court pursuant to the
4 Administrative Procedures Act.

5 C. As used in this section:

6 1. "Substantially relates" means the nature of criminal
7 conduct, for which the person was convicted, has a direct bearing on
8 the fitness or ability to perform one or more of the duties or
9 responsibilities necessarily related to the occupation; and

10 2. "Poses a reasonable threat" means the nature of criminal
11 conduct, for which the person was convicted, involved an act or
12 threat of harm against another and has a bearing on the fitness or
13 ability to serve the public or with others in the occupation.

14 SECTION 2. AMENDATORY 59 O.S. 2001, Section 144, as last
15 amended by Section 1, Chapter 149, O.S.L. 2008 (59 O.S. Supp. 2009,
16 Section 144), is amended to read as follows:

17 Section 144. A. The fee for examination for a license to
18 practice podiatric medicine in this state shall be One Hundred
19 Dollars (\$100.00). The Board of Podiatric Medical Examiners may
20 increase this fee by not more than an additional Two Hundred Dollars
21 (\$200.00). The examination for such license shall be given by the
22 Board. The Board may give the examination at any special meeting,
23 but shall not be required to do so.

24 B. To be entitled to take the examination, a person shall:

1 1. File a written application on a form prescribed by the
2 Board;

3 2. Pay to the secretary-treasurer of the Board in advance the
4 fee for examination;

5 3. Satisfy the Board that the person is loyal to the United
6 States of America;

7 4. Be more than twenty-one (21) years of age;

8 5. Be of good moral character;

9 6. Not have been ~~finally~~ convicted of any crime involving moral
10 turpitude or of any felony crime that substantially relates to the
11 practice of podiatric medicine or poses a reasonable threat to
12 public safety;

13 7. Be free from contagious or infectious disease;

14 8. Be a graduate of an accredited college of podiatric
15 medicine; and

16 9. Have complied with applicable Board rules.

17 C. An applicant satisfying the requirements of subsection B of
18 this section shall receive a license to practice podiatric medicine
19 in this state, to be issued by the Board, if the applicant:

20 1. Takes the examination administered by the Board and receives
21 a passing score of at least seventy-five percent (75%) on both the
22 written and oral portions. An applicant receiving less than a score
23 of seventy-five percent (75%) on either the written or oral portion
24

1 of the examination shall be deemed to have failed the entire
2 examination;

3 2. Satisfactorily completes a podiatric surgical residency,
4 approved by the Council of Podiatric Medical Education of the
5 American Podiatric Medical Association, of not less than three
6 hundred sixty-five (365) days; ~~and~~

7 3. Satisfies the Board that the applicant has not violated any
8 of the provisions of the Podiatric Medicine Practice Act or any of
9 the rules of the Board; and

10 4. Satisfied the Board, in the case of any criminal conviction,
11 that the crime does not substantially relate to the practice of
12 podiatric medicine nor pose a reasonable threat to public safety, or
13 constitute an act of moral turpitude that would affect the practice
14 of podiatric medicine or public safety. For purposes of this
15 paragraph:

16 a. "substantially relates" means the nature of criminal
17 conduct, for which the person was convicted, has a
18 direct bearing on the fitness or ability to perform
19 one or more of the duties or responsibilities
20 necessarily related to the occupation; and

21 b. "poses a reasonable threat" means the nature of
22 criminal conduct, for which the person was convicted,
23 involved an act or threat of harm against another and
24

1 has a bearing on the fitness or ability to serve the
2 public or with others in the occupation.

3 D. The examination administered by the Board shall include both
4 a written and an oral portion, shall be administered in the English
5 language, and shall cover areas in anatomy, pathology, podiatric
6 medicine and surgery, dermatology, pharmacology, biomechanics,
7 anesthesia, radiology, Oklahoma law relating to podiatric medicine,
8 and such other subjects as the Board from time to time determines
9 necessary and appropriate. The Board may authorize examination
10 papers to be graded by one or more of its own members or by any one
11 or more licensed podiatric physicians selected by the Board. Each
12 license issued by the Board shall be signed by each member of the
13 Board, bear the seal of the Board, and designate the licensee as a
14 licensed podiatric physician.

15 E. The Board may issue a temporary license if the applicant:

16 1. Has met the requirements of subsection B of this section;

17 2. Takes the examination administered by the Board and receives
18 a passing score of at least seventy-five percent (75%) on both the
19 written and oral portions. An applicant receiving less than a score
20 of seventy-five percent (75%) on either the written or oral portion
21 of the examination shall be deemed to have failed the entire
22 examination;

23 3. Is within ninety (90) days of completing a podiatric
24 surgical residency, approved by the Council of Podiatric Medical

1 Education of the American Podiatric Medical Association, of not less
2 than three hundred sixty-five (365) days; and

3 4. Satisfies the Board that the applicant has not violated any
4 of the provisions of the Podiatric Medicine Practice Act or any of
5 the rules of the Board.

6 SECTION 3. AMENDATORY 59 O.S. 2001, Section 148, is
7 amended to read as follows:

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

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

14 2. Pleading guilty or nolo contendere to, or being convicted
15 of, a felony crime that substantially relates to the practice of
16 podiatric medicine or poses a reasonable threat to public safety, or
17 ~~a misdemeanor involving moral turpitude, or a violation of federal~~
18 ~~or state controlled dangerous substances laws;~~

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

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

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

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

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

10 8. Practicing podiatric medicine in an unsafe or unsanitary
11 manner or place;

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

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

16 11. Dividing with any person, firm, corporation, or other legal
17 entity any fee or other compensation for services as a podiatric
18 physician, except with:

19 a. another podiatric physician,

20 b. an applicant for a license who is observing or
21 assisting the licensee as an intern, preceptee or
22 resident, as authorized by the rules of the Board, or

23 c. a practitioner of another branch of the healing arts
24 who is duly licensed under the laws of this state or

1 another state, district or territory of the United
2 States,

3 who has actually provided services, directly or indirectly, to the
4 patient from or for whom the fee or other compensation is received,
5 or at the time of the services is an active associate of the
6 licensee in the lawful practice of podiatric medicine in this state;
7 and

8 12. Violating or attempting to violate the provisions of the
9 Podiatric Medicine Practice Act, the Code of Ethics, or the rules of
10 the Board.

11 B. Commitment of a licensee to an institution for the mentally
12 ill shall constitute prima facie evidence that the licensee is
13 mentally incapacitated to a degree that the licensee is unable to
14 practice podiatric medicine with safety and benefit to the public.

15 C. As used in this section:

16 1. "Substantially relates" means the nature of criminal
17 conduct, for which the person was convicted, has a direct bearing on
18 the fitness or ability to perform one or more of the duties or
19 responsibilities necessarily related to the occupation; and

20 2. "Poses a reasonable threat" means the nature of criminal
21 conduct, for which the person was convicted, involved an act or
22 threat of harm against another and has a bearing on the fitness or
23 ability to serve the public or with others in the occupation.
24

1 SECTION 4. AMENDATORY 59 O.S. 2001, Section 199.11, as
2 amended by Section 6, Chapter 56, O.S.L. 2003 (59 O.S. Supp. 2009,
3 Section 199.11), is amended to read as follows:

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

8 1. Conviction of a felony ~~as shown by a certified copy of the~~
9 ~~record of the court~~ crime that substantially relates to the practice
10 of cosmetology or poses a reasonable threat to public safety;

11 2. Gross malpractice or gross incompetence;

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

13 4. A license or certificate holder's continuing to practice
14 while afflicted with an infectious, contagious, or communicable
15 disease;

16 5. Habitual drunkenness or addiction to use of habit forming
17 drugs;

18 6. Advertising by means of statements known to be false or
19 deceptive;

20 7. Continued or flagrant violation of any rules of the Board,
21 or continued practice by an operator in a cosmetology salon wherein
22 violations of the rules of the Board are being committed within the
23 knowledge of the operator;

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

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

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

8 11. Practicing cosmetology in an immoral or unprofessional
9 manner.

10 B. As used in this section:

11 1. "Substantially relates" means the nature of criminal
12 conduct, for which the person was convicted, has a direct bearing on
13 the fitness or ability to perform one or more of the duties or
14 responsibilities necessarily related to the occupation; and

15 2. "Poses a reasonable threat" means the nature of criminal
16 conduct, for which the person was convicted, involved an act or
17 threat of harm against another and has a bearing on the fitness or
18 ability to serve the public or with others in the occupation.

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

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

1 1. Pleading guilty or nolo contendere to, or being convicted
2 of, a felony crime that substantially relates to the practice of
3 dentistry or poses a reasonable threat to public safety, or a
4 misdemeanor involving moral turpitude, ~~or a violation of federal or~~
5 ~~state controlled dangerous substances laws;~~

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

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

10 4. Publishing a false, fraudulent, or misleading advertisement
11 or statement;

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

15 6. Authorizing or aiding a dental hygienist to perform any
16 procedure prohibited by the State Dental Act or the rules of the
17 Board;

18 7. Authorizing or aiding a dental assistant to perform any
19 procedure prohibited by the State Dental Act or the rules of the
20 Board;

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

23 9. Failing to complete continuing education requirements;

- 1 10. Representing himself or herself to the public as a
2 specialist in a dental specialty without holding a dental specialty
3 license therefor;
- 4 11. Representing himself or herself to the public as a
5 specialist whose practice is limited to a dental specialty, when
6 such representation is false, fraudulent, or misleading;
- 7 12. Endangering the health of patients by reason of having a
8 highly communicable disease and continuing to practice dentistry
9 without taking appropriate safeguards;
- 10 13. Being a menace to the public health by reasons of
11 practicing dentistry in an unsafe or unsanitary manner or place;
- 12 14. Being shown to be mentally unsound;
- 13 15. Being shown to be grossly immoral and that such condition
14 represents a threat to patient care or treatment;
- 15 16. Being incompetent to practice dentistry while delivering
16 care to a patient;
- 17 17. Committing gross negligence in the practice of dentistry;
- 18 18. Committing repeated acts of negligence in the practice of
19 dentistry;
- 20 19. Offering to effect or effecting a division of fees, or
21 agreeing to split or divide a fee for dental services with any
22 person, in exchange for the person bringing or referring a patient;
- 23 20. Being involuntarily committed to an institution for
24 treatment for substance abuse, until recovery or remission;

1 21. Using or attempting to use the services of a dental
2 laboratory or dental laboratory technician without issuing a
3 laboratory prescription, except as provided in subsection C of
4 Section 328.36 of this title;

5 22. Aiding, abetting, or encouraging a dental hygienist
6 employed by the dentist to make use of an oral prophylaxis list, or
7 the calling by telephone or by use of letters transmitted through
8 the mails to solicit patronage from patients formerly served in the
9 office of any dentist formerly employing such hygienist;

10 23. Having more than the equivalent of two full-time dental
11 hygienists for each dentist actively practicing in the same dental
12 office who will supervise the dental hygienists;

13 24. Knowingly patronizing or using the services of a dental
14 laboratory or dental laboratory technician who has not complied with
15 the provisions of the State Dental Act and the rules of the Board;

16 25. Authorizing or aiding a dental hygienist, dental assistant,
17 dental laboratory technician, or holder of a permit to operate a
18 dental laboratory to violate any provision of the State Dental Act
19 or the rules of the Board;

20 26. Willfully disclosing confidential information;

21 27. Writing a false, unnecessary, or excessive prescription for
22 any drug or narcotic which is a controlled dangerous substance under
23 either federal or state law;

1 28. Prescribing or administering any drug or treatment without
2 having established a valid dentist-patient relationship;

3 29. Engaging in nonconsensual physical contact with a patient
4 which is sexual in nature, or engaging in a verbal communication
5 which is intended to be sexually demeaning to a patient;

6 30. Practicing dentistry without displaying, at the dentist's
7 primary place of practice, the license issued to the dentist by the
8 Board to practice dentistry and the current renewal certificate;

9 31. Being dishonest in a material way with a patient;

10 32. Failing to retain all patient records for at least three
11 (3) years, except that the failure to retain records shall not be a
12 violation of the State Dental Act if the dentist shows that the
13 records were lost, destroyed, or removed by another, without the
14 consent of the dentist;

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

20 34. Allowing any corporation, organization, group, person, or
21 other legal entity, except another dentist or a professional entity
22 that is in compliance with the registration requirements of
23 subsection B of Section 328.31 of this title, to direct, control, or
24 interfere with the dentist's clinical judgment. Clinical judgment

1 shall include, but not be limited to, such matters as selection of a
2 course of treatment, control of patient records, policies and
3 decisions relating to pricing, credit, refunds, warranties and
4 advertising, and decisions relating to office personnel and hours of
5 practice. Nothing in this paragraph shall be construed to:

6 a. limit a patient's right of informed consent, or

7 b. to prohibit insurers, preferred provider organizations
8 and managed care plans from operating pursuant to the
9 applicable provisions of the Oklahoma Insurance Code
10 and the Public Health Code;

11 35. Violating the state dental act of another state resulting
12 in a plea of guilty or nolo contendere, conviction or suspension or
13 revocation of the license of the dentist under the laws of that
14 state;

15 36. Violating or attempting to violate the provisions of the
16 State Dental Act or the rules of the Board, as a principal,
17 accessory or accomplice; or

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

21 B. The provisions of the State Dental Act shall not be
22 construed to prohibit any dentist from displaying or otherwise
23 advertising that the dentist is also currently licensed, registered,
24 certified, or otherwise credentialed pursuant to the laws of this

1 state or a nationally recognized credentialing board, if authorized
2 by the laws of the state or credentialing board to display or
3 otherwise advertise as a licensed, registered, certified, or
4 credentialed dentist.

5 C. As used in this section:

6 1. "Substantially relates" means the nature of criminal
7 conduct, for which the person was convicted, has a direct bearing on
8 the fitness or ability to perform one or more of the duties or
9 responsibilities necessarily related to the occupation; and

10 2. "Poses a reasonable threat" means the nature of criminal
11 conduct, for which the person was convicted, involved an act or
12 threat of harm against another and has a bearing on the fitness or
13 ability to serve the public or with others in the occupation.

14 SECTION 6. AMENDATORY 59 O.S. 2001, Section 396.12c, as
15 amended by Section 14, Chapter 57, O.S.L. 2003 (59 O.S. Supp. 2009,
16 Section 396.12c), is amended to read as follows:

17 Section 396.12c A. After notice and hearing pursuant to
18 Article II of the Administrative Procedures Act, the Oklahoma
19 Funeral Board may refuse to issue or renew, or may revoke or
20 suspend, any license or registration for any one or combination of
21 the following:

22 1. Conviction of a felony ~~shown by a certified copy of the~~
23 ~~record of the court of conviction~~ crime that substantially relates
24

1 to the occupation of a funeral director or poses a reasonable threat
2 to public safety;

3 2. Conviction of a misdemeanor involving funeral services;

4 3. Gross malpractice or gross incompetency, which shall be
5 determined by the Board;

6 4. False or misleading advertising as a funeral director or
7 embalmer;

8 5. Violation of any of the provisions of the Funeral Services
9 Licensing Act or any violation of Sections 201 through 231 of Title
10 8 of the Oklahoma Statutes;

11 6. Fraud or misrepresentation in obtaining a license;

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

16 8. Violation of any rules of the Board in administering the
17 purposes of the Funeral Services Licensing Act;

18 9. Use of intoxicating liquor sufficient to produce drunkenness
19 in public, or habitual addiction to the use of habit-forming drugs
20 or either;

21 10. Solicitation of business, either personally or by an agent,
22 from a dying individual or the relatives of a dead or individual
23 with a terminal condition, as defined by the Oklahoma Rights of the
24

1 Terminally Ill or Persistently Unconscious Act, other than through
2 general advertising;

3 11. Refusing to properly release a dead human body to the
4 custody of the person entitled to custody;

5 12. Violating applicable state laws relating to the failure to
6 file a death certificate, cremation permit, or prearrangement or
7 prefinancing of a funeral;

8 13. Failing to obtain other necessary permits as required by
9 law in a timely manner;

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

12 15. Failing to comply with any applicable provisions of the
13 Funeral Services Licensing Act at the time of issuance or renewal;

14 16. Improper issuance or renewal of a license or registration;

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

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

22 19. Simultaneous cremating of more than one human dead body
23 without express written approval of the authorizing agent; or
24

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

B. As used in this section:

1. "Substantially relates" means the nature of criminal
conduct, for which the person was convicted, has a direct bearing on
the fitness or ability to perform one or more of the duties or
responsibilities necessarily related to the occupation; and

2. "Poses a reasonable threat" means the nature of criminal
conduct, for which the person was convicted, involved an act or
threat of harm against another and has a bearing on the fitness or
ability to serve the public or with others in the occupation.

SECTION 7. AMENDATORY 59 O.S. 2001, Section 475.18, as
last amended by Section 8, Chapter 312, O.S.L. 2008 (59 O.S. Supp.
2009, Section 475.18) is amended to read as follows:

Section 475.18 A. The State Board of Registration for
Professional Engineers and Land Surveyors shall have the power to
suspend, revoke or refuse to issue, restore or renew a certificate
of authorization for a firm, or a certificate of licensure of, or
place on probation, fine or reprimand any firm, professional
engineer, professional land surveyor or engineer intern or land
surveyor intern, after notice and hearing as provided by the
Administrative Procedures Act, who is found guilty of:

1. The practice of any fraud or deceit in obtaining or
attempting to obtain or renew a certificate of licensure, or a

1 certificate of authorization or in taking the examinations
2 administered by the Board;

3 2. Any fraud, misrepresentation, gross negligence,
4 incompetence, misconduct or dishonest practice, in the practice of
5 engineering or land surveying;

6 3. Conviction of or entry of a plea of nolo contendere to ~~any~~
7 ~~crime under the laws of the United States, or any state or territory~~
8 ~~thereof, which is a felony, whether related~~ crime that substantially
9 relates to the practice or not of engineering or land surveying or
10 poses a reasonable threat to public safety; and or conviction of or
11 entry of a plea of nolo contendere to ~~any crime, whether a felony,~~
12 misdemeanor, ~~or otherwise~~, an essential element of which is
13 dishonesty or ~~which is related to~~ is a violation of the practice of
14 engineering or land surveying;

15 4. Failure to comply with any of the provisions of Section
16 475.1 et seq. of this title or any of the rules or regulations
17 pertaining thereto;

18 5. Violation of the laws or rules of another state, territory,
19 the District of Columbia, a foreign country, the United States
20 government, or any other governmental agency, if at least one of the
21 violations is the same or substantially equivalent to those
22 contained in this section;

23 6. Failure, within thirty (30) days, to provide information
24 requested by the Board as a result of a formal or informal complaint

1 to the Board which would indicate a violation of Section 475.1 et
2 seq. of this title;

3 7. Knowingly making false statements or signing false
4 statements, certificates or affidavits;

5 8. Aiding or assisting another person or entity in violating
6 any provision of Section 475.1 et seq. of this title or the rules or
7 regulations pertaining thereto;

8 9. Violation of any terms of probation or suspension imposed by
9 the Board, or using a seal or practicing engineering or land
10 surveying while the professional engineer's license or land
11 surveyor's license is suspended, revoked, nonrenewed or inactive;

12 10. Signing, affixing the professional engineer's or land
13 surveyor's seal, or permitting the professional engineer's or land
14 surveyor's seal or signature to be affixed to any specifications,
15 reports, drawings, plans, design information, construction
16 documents, calculations, other documents, or revisions thereof,
17 which have not been prepared by, or under the direct control and
18 personal supervision of the professional engineer or land surveyor
19 in responsible charge;

20 11. Engaging in dishonorable, unethical or unprofessional
21 conduct of a character likely to deceive, defraud or harm the
22 public;

23 12. Providing false testimony or information to the Board;

24

1 13. Habitual intoxication or addiction to the use of alcohol or
2 to the illegal use of a controlled dangerous substance;

3 14. Performing engineering or surveying services outside any of
4 the licensee's areas of competence;

5 15. Violating the Oklahoma Minimum Standards for the Practice
6 of Land Surveying; and

7 16. Nonpayment of fees when due, or nonpayment for a period
8 longer than ninety (90) days after the due date for payment of
9 costs, or administrative penalties assessed by the Board shall
10 result in revocation of the certificate of authorization or
11 certificate of licensure.

12 B. The Board shall prepare and adopt Rules of Professional
13 Conduct for Professional Engineers and Land Surveyors as provided
14 for in Section 475.8 of this title, which shall be made available in
15 writing to every licensee and applicant for licensure under Section
16 475.1 et seq. of this title. The Board may revise and amend these
17 Rules of Professional Conduct for Professional Engineers and Land
18 Surveyors from time to time and shall notify each licensee, in
19 writing, of such revisions or amendments.

20 C. The Board shall have the power to:

21 1. Revoke a certificate of authorization;

22 2. Suspend a certificate of authorization for a period of time,
23 not exceeding two (2) years, of any firm of which one or more of its
24 officers or directors have been guilty of any conduct which would

1 authorize a revocation or suspension of their certificates of
2 licensure under the provisions of this section;

3 3. Place a licensee on probation for a period of time and
4 subject to such conditions as the Board may specify; or

5 4. Levy an administrative penalty.

6 D. Principals of a firm who do not obtain a certificate or
7 authorization as required by Section 475.1 et seq. of this title may
8 be subject to disciplinary action of individual licensure.

9 E. An applicant whose application for license or certificate is
10 denied, revoked, suspended, or not renewed may appeal the decision
11 to the district court pursuant to the Administrative Procedures Act.

12 F. As used in this section:

13 1. "Substantially relates" means the nature of criminal
14 conduct, for which the person was convicted, has a direct bearing on
15 the fitness or ability to perform one or more of the duties or
16 responsibilities necessarily related to the occupation; and

17 2. "Poses a reasonable threat" means the nature of criminal
18 conduct, for which the person was convicted, involved an act or
19 threat of harm against another and has a bearing on the fitness or
20 ability to serve the public or with others in the occupation.

21 SECTION 8. AMENDATORY 59 O.S. 2001, Section 509, as
22 last amended by Section 7, Chapter 261, O.S.L. 2009 (59 O.S. Supp.
23 2009, Section 509), is amended to read as follows:

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

4 1. Procuring, aiding or abetting a criminal operation;

5 2. The obtaining of any fee or offering to accept any fee,
6 present or other form of remuneration whatsoever, on the assurance
7 or promise that a manifestly incurable disease can or will be cured;

8 3. Willfully betraying a professional secret to the detriment
9 of the patient;

10 4. Habitual intemperance or the habitual use of habit-forming
11 drugs;

12 5. Conviction of a felony ~~or of any offense involving moral~~
13 ~~turpitude~~ crime that substantially relates to the practice of
14 medicine or poses a reasonable threat to public safety;

15 6. All advertising of medical business in which statements are
16 made which are grossly untrue or improbable and calculated to
17 mislead the public;

18 7. Conviction ~~or confession~~ of a misdemeanor crime involving
19 ~~violation of:~~

20 a. ~~the antinarcotic or prohibition laws and regulations~~
21 ~~of the federal government,~~

22 ~~b. the laws of this state~~ moral turpitude, or

23 ~~c.~~

24 b. State Board of Health rules;

1 8. Dishonorable or immoral conduct which is likely to deceive,
2 defraud, or harm the public;

3 9. The commission of any act which is a violation of the
4 criminal laws of any state when such act is connected with the
5 physician's practice of medicine. A complaint, indictment or
6 confession of a criminal violation shall not be necessary for the
7 enforcement of this provision. Proof of the commission of the act
8 while in the practice of medicine or under the guise of the practice
9 of medicine shall be unprofessional conduct;

10 10. Failure to keep complete and accurate records of purchase
11 and disposal of controlled drugs or of narcotic drugs;

12 11. The writing of false or fictitious prescriptions for any
13 drugs or narcotics declared by the laws of this state to be
14 controlled or narcotic drugs;

15 12. Prescribing or administering a drug or treatment without
16 sufficient examination and the establishment of a valid physician-
17 patient relationship;

18 13. The violation, or attempted violation, direct or indirect,
19 of any of the provisions of the Oklahoma Allopathic Medical and
20 Surgical Licensure and Supervision Act, either as a principal,
21 accessory or accomplice;

22 14. Aiding or abetting, directly or indirectly, the practice of
23 medicine by any person not duly authorized under the laws of this
24 state;

1 15. The inability to practice medicine with reasonable skill
2 and safety to patients by reason of age, illness, drunkenness,
3 excessive use of drugs, narcotics, chemicals, or any other type of
4 material or as a result of any mental or physical condition. In
5 enforcing this subsection the State Board of Medical Licensure and
6 Supervision may, upon probable cause, request a physician to submit
7 to a mental or physical examination by physicians designated by it.
8 If the physician refuses to submit to the examination, the Board
9 shall issue an order requiring the physician to show cause why the
10 physician will not submit to the examination and shall schedule a
11 hearing on the order within thirty (30) days after notice is served
12 on the physician. The physician shall be notified by either
13 personal service or by certified mail with return receipt requested.
14 At the hearing, the physician and the physician's attorney are
15 entitled to present any testimony and other evidence to show why the
16 physician should not be required to submit to the examination.
17 After a complete hearing, the Board shall issue an order either
18 requiring the physician to submit to the examination or withdrawing
19 the request for examination. The medical license of a physician
20 ordered to submit for examination may be suspended until the results
21 of the examination are received and reviewed by the Board;

22 16. Prescribing, dispensing or administering of controlled
23 substances or narcotic drugs in excess of the amount considered good
24 medical practice, or prescribing, dispensing or administering

1 controlled substances or narcotic drugs without medical need in
2 accordance with published standards;

3 17. Engaging in physical conduct with a patient which is sexual
4 in nature, or in any verbal behavior which is seductive or sexually
5 demeaning to a patient;

6 18. Failure to maintain an office record for each patient which
7 accurately reflects the evaluation, treatment, and medical necessity
8 of treatment of the patient;

9 19. Failure to provide necessary ongoing medical treatment when
10 a doctor-patient relationship has been established, which
11 relationship can be severed by either party providing a reasonable
12 period of time is granted; or

13 20. Failure to provide a proper and safe medical facility
14 setting and qualified assistive personnel for a recognized medical
15 act, including but not limited to an initial in-person patient
16 examination, office surgery, diagnostic service or any other medical
17 procedure or treatment. Adequate medical records to support
18 diagnosis, procedure, treatment or prescribed medications must be
19 produced and maintained.

20 B. An applicant whose application for license is denied may
21 appeal the decision to the Board within thirty (30) days of that
22 decision and the Board shall set a hearing for such appeal.

23 C. As used in this section:
24

1 1. "Substantially relates" means the nature of criminal
2 conduct, for which the person was convicted, has a direct bearing on
3 the fitness or ability to perform one or more of the duties or
4 responsibilities necessarily related to the occupation; and

5 2. "Poses a reasonable threat" means the nature of criminal
6 conduct, for which the person was convicted, involved an act or
7 threat of harm against another and has a bearing on the fitness or
8 ability to serve the public or with others in the occupation.

9 SECTION 9. AMENDATORY 59 O.S. 2001, Section 532, is
10 amended to read as follows:

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

15 1. Been convicted of a felony crime that substantially relates
16 to the occupation of athletic trainers or poses a reasonable threat
17 to public safety or a misdemeanor involving moral turpitude;

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

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

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

24 C. As used in this section:

1 1. "Substantially relates" means the nature of criminal
2 conduct, for which the person was convicted, has a direct bearing on
3 the fitness or ability to perform one or more of the duties or
4 responsibilities necessarily related to the occupation; and

5 2. "Poses a reasonable threat" means the nature of criminal
6 conduct, for which the person was convicted, involved an act or
7 threat of harm against another and has a bearing on the fitness or
8 ability to serve the public or with others in the occupation.

9 SECTION 10. AMENDATORY 59 O.S. 2001, Section 567.8, as
10 amended by Section 5, Chapter 190, O.S.L. 2003 (59 O.S. Supp. 2009,
11 Section 567.8), is amended to read as follows:

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

- 14 1. To deny, revoke or suspend any:
- 15 a. license to practice registered nursing or licensed
- 16 practical nursing,
- 17 b. recognition for practice as an advanced practice
- 18 nurse, or
- 19 c. certification as an advanced unlicensed assistive
- 20 person;
- 21 2. To assess administrative penalties; or
- 22 3. To otherwise discipline a licensee or advanced unlicensed
- 23 assistive person.
- 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 crime that substantially relates to
12 the practice of nursing or poses a reasonable threat to public
13 safety, or any offense reasonably related to the qualifications,
14 functions or duties of any licensee or advanced unlicensed
15 assistant, or any offense an essential element of which is fraud,
16 dishonesty, or an act of violence, or for any offense misdemeanor
17 involving moral turpitude, whether or not sentence is imposed, or
18 any conduct resulting in the revocation of a deferred or suspended
19 sentence or probation imposed pursuant to such conviction;

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

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

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

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

18 7. Is guilty of unprofessional conduct as defined in the rules
19 of the Board;

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

22 9. Violated a rule promulgated by the Board, an order of the
23 Board, or a state or federal law relating to the practice of
24 registered, practical or advanced practice nursing or advanced

1 | unlicensed assisting, or a state or federal narcotics or controlled
2 | dangerous substance law; or

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

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

10 | D. The Board may cause to be investigated all reported
11 | violations of the Oklahoma Nursing Practice Act.

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

17 | F. All individual proceedings before the Board shall be
18 | conducted in accordance with the Administrative Procedures Act.

19 | G. At a hearing the accused shall have the right to appear
20 | either personally or by counsel, or both, to produce witnesses and
21 | evidence on behalf of the accused, to cross-examine witnesses and to
22 | have subpoenas issued by the Board. If the accused is found guilty
23 | of the charges the Board may refuse to issue a renewal of license to
24 |

1 the applicant, revoke or suspend a license, or otherwise discipline
2 a licensee.

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

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

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

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

1 attempting to achieve compliance with the provisions of the Oklahoma
2 Nursing Practice Act.

3 K. As used in this section:

4 1. "Substantially relates" means the nature of criminal
5 conduct, for which the person was convicted, has a direct bearing on
6 the fitness or ability to perform one or more of the duties or
7 responsibilities necessarily related to the occupation; and

8 2. "Poses a reasonable threat" means the nature of criminal
9 conduct, for which the person was convicted, involved an act or
10 threat of harm against another and has a bearing on the fitness or
11 ability to serve the public or with others in the occupation.

12 SECTION 11. AMENDATORY 59 O.S. 2001, Section 858-723,
13 as amended by Section 11, Chapter 165, O.S.L. 2006 (59 O.S. Supp.
14 2009, Section 858-723), is amended to read as follows:

15 Section 858-723. A. The Real Estate Appraiser Board, after
16 notice and opportunity for a hearing, pursuant to Article II of the
17 Administrative Procedures Act, may issue an order imposing one or
18 more of the following penalties whenever the Board finds, by clear
19 and convincing evidence, that a certificate holder has violated any
20 provision of the Oklahoma Certified Real Estate Appraisers Act, or
21 rules promulgated pursuant thereto:

22 1. Revocation of the certificate with or without the right to
23 reapply;

- 1 2. Suspension of the certificate for a period not to exceed
- 2 five (5) years;
- 3 3. Probation, for a period of time and under such terms and
- 4 conditions as deemed appropriate by the Board;
- 5 4. Stipulations, limitations, restrictions, and conditions
- 6 relating to practice;
- 7 5. Censure, including specific redress, if appropriate;
- 8 6. Reprimand, either public or private;
- 9 7. Satisfactory completion of an educational program or
- 10 programs;
- 11 8. Administrative fines as authorized by the Oklahoma Certified
- 12 Real Estate Appraisers Act; and
- 13 9. Payment of costs expended by the Board for any legal fees
- 14 and costs and probation and monitoring fees including, but not
- 15 limited to, administrative costs, witness fees and attorney fees.
- 16 B. 1. Any administrative fine imposed as a result of a
- 17 violation of the Oklahoma Certified Real Estate Appraisers Act or
- 18 the rules of the Board promulgated pursuant thereto shall not:
- 19 a. be less than Fifty Dollars (\$50.00) and shall not
- 20 exceed Two Thousand Dollars (\$2,000.00) for each
- 21 violation of this act or the rules of the Board, or
- 22 b. exceed Five Thousand Dollars (\$5,000.00) for all
- 23 violations resulting from a single incident or
- 24 transaction.

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

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

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

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

19 C. The rights of any holder under a certificate as a trainee,
20 state licensed, state certified residential or state certified
21 general real estate appraiser may be revoked or suspended, or the
22 holder of the certificate may be otherwise disciplined pursuant to
23 the provisions of the Oklahoma Certified Real Estate Appraisers Act,
24 upon any of the grounds set forth in this section.

1 D. The Board may investigate the actions of a trainee, state
2 licensed, state certified residential or state certified general
3 real estate appraiser, and may revoke or suspend the rights of a
4 certificate holder or otherwise discipline a trainee, state
5 licensed, state certified residential or state certified general
6 real estate appraiser for any of the following acts or omissions:

7 1. Procuring or attempting to procure a certificate pursuant to
8 the provisions of the Oklahoma Certified Real Estate Appraisers Act
9 by knowingly making a false statement, knowingly submitting false
10 information, refusing to provide complete information in response to
11 a question in an application for certification or through any form
12 of fraud or misrepresentation;

13 2. Failing to meet the minimum qualifications established
14 pursuant to the provisions of the Oklahoma Certified Real Estate
15 Appraisers Act;

16 3. Paying money other than provided for by the Oklahoma
17 Certified Real Estate Appraisers Act to any member or employee of
18 the Board to procure a certificate pursuant to the Oklahoma
19 Certified Real Estate Appraisers Act;

20 4. A conviction, including a conviction based upon a plea of
21 guilty or nolo contendere, of a felony ~~which is~~ crime substantially
22 related to the ~~qualifications, functions, and duties of a person~~
23 ~~developing~~ practice of real estate appraisals and ~~communicating real~~

1 ~~estate appraisals to others~~ or poses a reasonable threat to public
2 safety;

3 5. An act or omission involving dishonesty, fraud, or
4 misrepresentation with the intent to substantially benefit the
5 certificate holder or another person or with the intent to
6 substantially injure another person;

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

10 7. Failure or refusal without good cause to exercise reasonable
11 diligence in developing an appraisal, preparing an appraisal report
12 or communicating an appraisal;

13 8. Negligence or incompetence in developing an appraisal, in
14 preparing an appraisal report, or in communicating an appraisal;

15 9. Willfully disregarding or violating any of the provisions of
16 the Oklahoma Certified Real Estate Appraisers Act or the regulations
17 of the Board for the administration and enforcement of the
18 provisions of the Oklahoma Certified Real Estate Appraisers Act;

19 10. Accepting an appraisal assignment when the employment
20 itself is contingent upon the appraiser reporting a predetermined
21 estimate, analysis or opinion, or where the fee to be paid is
22 contingent upon the opinion, conclusion, or valuation reached, or
23 upon the consequences resulting from the appraisal assignment;

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

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

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

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

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

16 ~~E.~~ F. 1. A complaint may be filed with the Board against a
17 trainee or state licensed or state certified appraiser for any
18 violations relating to a specific transaction of the Oklahoma
19 Certified Real Estate Appraisers Act by any person who is the
20 recipient of, relies upon or uses an appraisal prepared for a
21 federally related transaction or real-estate-related financial
22 transaction as described in Section 858-701 of this title.

23 2. Any person with knowledge of any circumstances surrounding
24 an act or omission by a trainee or state licensed or state certified

1 appraiser involving fraud, dishonesty or misrepresentation in any
2 real property valuation-related activity, not limited to federally
3 related transactions, may file a complaint with the Board setting
4 forth all facts surrounding the act or omission.

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

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

16 G. An applicant whose license or certificate is denied or not
17 renewed may appeal the decision to the Board within thirty (30) days
18 of that decision. If after hearing and final decision of the Board
19 to deny or not renew a license or certificate, the applicant may
20 appeal the final decision to the district court pursuant to the
21 Administrative Procedures Act.

22 H. As used in this section:

23 1. "Substantially relates" means the nature of criminal
24 conduct, for which the person was convicted, has a direct bearing on

1 the fitness or ability to perform one or more of the duties or
2 responsibilities necessarily related to the occupation; and

3 2. "Poses a reasonable threat" means the nature of criminal
4 conduct, for which the person was convicted, involved an act or
5 threat of harm against another and has a bearing on the fitness or
6 ability to serve the public or with others in the occupation.

7 SECTION 12. AMENDATORY 59 O.S. 2001, Section 887.13, as
8 amended by Section 1, Chapter 26, O.S.L. 2008 (59 O.S. Supp. 2009,
9 Section 887.13), is amended to read as follows:

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

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

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

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

7 4. Used drugs, narcotics, medication, or intoxicating liquors
8 to an extent which affects the professional competency of the
9 applicant or licensee;

10 5. Been convicted of a felony crime that substantially relates
11 to the occupation of physical therapy or poses a reasonable threat
12 to public safety, or of a misdemeanor crime involving moral
13 turpitude;

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

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

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

20 9. Been guilty of conduct unbecoming a person licensed as a
21 physical therapist or physical therapist assistant or guilty of
22 conduct detrimental to the best interests of the public or the
23 profession;

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

3 11. Had a license suspended or revoked in another state.

4 B. As used in this section:

5 1. "Substantially relates" means the nature of criminal
6 conduct, for which the person was convicted, has a direct bearing on
7 the fitness or ability to perform one or more of the duties or
8 responsibilities necessarily related to the occupation; and

9 2. "Poses a reasonable threat" means the nature of criminal
10 conduct, for which the person was convicted, involved an act or
11 threat of harm against another and has a bearing on the fitness or
12 ability to serve the public or with others in the occupation.

13 SECTION 13. AMENDATORY 59 O.S. 2001, Section 888.9, is
14 amended to read as follows:

15 Section 888.9 A. The Board may deny or refuse to renew a
16 license, or may suspend or revoke a license, or may censure a
17 licensee, publicly or otherwise, or may impose probationary
18 conditions where the licensee or applicant for license has been
19 guilty of unprofessional conduct which has endangered or is likely
20 to endanger the health, welfare, or safety of the public. Such
21 unprofessional conduct includes:

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

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

4 3. Being convicted of ~~any federal or state law, excepting any~~
5 ~~misdemeanor, traffic law or municipal ordinance~~ a felony crime that
6 substantially relates to the occupation of occupational therapy or
7 poses a reasonable threat to public safety;

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

10 5. Violating any provisions of this act.

11 B. Such denial, refusal to renew, suspension, revocation,
12 censure, or imposition of probationary conditions upon a license may
13 be ordered by the Board in a decision made after a hearing in the
14 manner provided by the ~~rules and regulations adopted by the Board~~
15 Administrative Procedures Act. After final decision by the Board,
16 an appeal may be made pursuant to the Administrative Procedures Act.

17 One (1) year from the date of the revocation, refusal of renewal,
18 suspension, or probation of the license, application may be made to
19 the Board for reinstatement. The Board shall have discretion to
20 accept or reject an application for reinstatement and may, but shall
21 not be required to, hold a hearing to consider such reinstatement.

22 C. As used in this section:

23 1. "Substantially relates" means the nature of criminal
24 conduct, for which the person was convicted, has a direct bearing on

1 the fitness or ability to perform one or more of the duties or
2 responsibilities necessarily related to the occupation; and

3 2. "Poses a reasonable threat" means the nature of criminal
4 conduct, for which the person was convicted, involved an act or
5 threat of harm against another and has a bearing on the fitness or
6 ability to serve the public or with others in the occupation.

7 SECTION 14. AMENDATORY 59 O.S. 2001, Section 1370, as
8 amended by Section 24, Chapter 313, O.S.L. 2004 (59 O.S. Supp. 2009,
9 Section 1370), is amended to read as follows:

10 Section 1370. A. A psychologist and any other persons under
11 the supervision of the psychologist shall conduct their professional
12 activities in conformity with ethical and professional standards
13 promulgated by the State Board of Examiners of Psychologists by
14 rule.

15 B. The Board shall have the power and duty to suspend, place on
16 probation, require remediation, or revoke any license to practice
17 psychology or to take any other action specified in the rules
18 whenever the Board shall find by clear and convincing evidence that
19 the psychologist has engaged in any of the following acts or
20 offenses:

21 1. Fraud in applying for or procuring a license to practice
22 psychology;

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

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

3 4. Conviction of a felony. ~~A copy of the record of conviction,~~
4 ~~certified by the clerk of the court entering the conviction shall be~~
5 ~~conclusive evidence of conviction~~ crime that substantially relates
6 to the business practices of psychology or poses a reasonable threat
7 to public safety;

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

11 ~~6.~~ Harassment, intimidation, or abuse, sexual or otherwise, of
12 a client or patient;

13 ~~7.~~ 6. Engaging in sexual intercourse or other sexual contact
14 with a client or patient;

15 ~~8.~~ 7. Use of repeated untruthful, deceptive or improbable
16 statements concerning the licensee's qualifications or the effects
17 or results of proposed treatment, including practicing outside of
18 the psychologist's professional competence established by education,
19 training, and experience;

20 ~~9.~~ 8. Gross malpractice or repeated malpractice or gross
21 negligence in the practice of psychology;

22 ~~10.~~ 9. Aiding or abetting the practice of psychology by any
23 person not approved by the Board or not otherwise exempt from the
24 provisions of Section 1351 et seq. of this title;

1 ~~11.~~ 10. Conviction of or pleading guilty or nolo ~~contendere~~
2 contendere to fraud in filing Medicare or Medicaid claims or in
3 filing claims with any third-party payor. A copy of the record of
4 plea or conviction, certified by the clerk of the court entering the
5 plea or conviction, shall be conclusive evidence of the plea or
6 conviction;

7 ~~12.~~ 11. Exercising undue influence in a manner to exploit the
8 client, patient, student, or supervisee for financial advantage
9 beyond the payment of professional fees or for other personal
10 advantage to the practitioner or a third party;

11 ~~13.~~ 12. The suspension or revocation by another state of a
12 license to practice psychology. A certified copy of the record of
13 suspension or revocation of the state making such a suspension or
14 revocation shall be conclusive evidence thereof;

15 ~~14.~~ 13. Refusal to appear before the Board after having been
16 ordered to do so in writing by the executive officer or chair of the
17 Board;

18 ~~15.~~ 14. Making any fraudulent or untrue statement to the Board;

19 ~~16.~~ 15. Violation of the code of ethics adopted in the rules
20 and regulations of the Board; and

21 ~~17.~~ 16. Inability to practice psychology with reasonable skill
22 and safety to patients or clients by reason of illness, inebriation,
23 misuse of drugs, narcotics, alcohol, chemicals, or any other
24 substance, or as a result of any mental or physical condition.

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

14 D. On the basis of the evidence produced at the hearing, the
15 Board shall make findings of fact and conclusions of law and enter
16 an order thereon in writing or stated in the record. A final order
17 adverse to the alleged violator shall be in writing. An order
18 stated in the record shall become effective immediately, provided
19 the Board gives written notice of the order to the alleged violator
20 and to the other persons who appeared at the hearing and made
21 written request for notice of the order. If the hearing is held
22 before any person other than the Board itself, such person shall
23 transmit the record of the hearing together with recommendations for
24 findings of fact and conclusions of law to the Board, which shall

1 thereupon enter its order. The Board may enter its order on the
2 basis of such record or, before issuing its order, require
3 additional hearings or further evidence to be presented.

4 The order of the Board shall become final and binding on all
5 parties unless appealed to the district court as provided for in the
6 Administrative Procedures Act.

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

18 F. Every certificate or affidavit of service made and filed as
19 provided for in this section shall be prima facie evidence of the
20 facts stated therein, and a certified copy thereof shall have same
21 force and effect as the original certificate or affidavit of
22 service.

23 G. If the psychologist fails or refuses to appear, the Board
24 may proceed to hearing and determine the charges in his or her

1 absence. If the psychologist pleads guilty, or if upon hearing the
2 charges, a majority of the Board finds them to be true, the Board
3 may enter an order suspending or revoking the license of the
4 psychologist, reprimanding the psychologist, or placing the
5 psychologist on probation or any combination of penalties authorized
6 by the provisions of this section.

7 H. The secretary of the Board shall preserve a record of all
8 proceedings of the hearings and shall furnish a transcript of the
9 hearings to the defendant upon request. The defendant shall prepay
10 the actual cost of preparing the transcript.

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

14 J. As used in this section:

15 1. "Substantially relates" means the nature of criminal
16 conduct, for which the person was convicted, has a direct bearing on
17 the fitness or ability to perform one or more of the duties or
18 responsibilities necessarily related to the occupation; and

19 2. "Poses a reasonable threat" means the nature of criminal
20 conduct, for which the person was convicted, involved an act or
21 threat of harm against another and has a bearing on the fitness or
22 ability to serve the public or with others in the occupation.

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

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

3 1. Be of good moral character;

4 2. Have net assets of at least Twenty-five Thousand Dollars
5 (\$25,000.00); and

6 3. Show that the pawnshop will be operated lawfully and fairly
7 within the purpose of the Oklahoma Pawnshop Act, Section 1501 et
8 seq. of ~~Title 59 of the Oklahoma Statutes~~ this title.

9 B. The Administrator shall find ineligible an applicant who has
10 a felony crime conviction ~~which directly~~ that substantially relates
11 to the ~~duties and responsibilities of the~~ occupation of a pawnbroker
12 or poses a reasonable threat to public safety.

13 C. If the Administrator is unable to verify that the applicant
14 meets the net assets requirement for a pawnshop license, the
15 Administrator may require a finding, including the presentation of a
16 current balance sheet, by an accounting firm or individual holding a
17 permit to practice public accounting in this state, that the
18 accountant has reviewed the books and records of the applicant and
19 that the applicant meets the net assets requirement.

20 D. As used in this section:

21 1. "Substantially relates" means the nature of criminal
22 conduct, for which the person was convicted, has a direct bearing on
23 the fitness or ability to perform one or more of the duties or
24 responsibilities necessarily related to the occupation; and

1 2. "Poses a reasonable threat" means the nature of criminal
2 conduct, for which the person was convicted, involved an act or
3 threat of harm against another and has a bearing on the fitness or
4 ability to serve the public or with others in the occupation.

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

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

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

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

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

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

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

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

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

16 8. Has been convicted or has pled guilty or nolo contendere to
17 a felony crime that substantially relates to the business practices
18 of speech-language pathology or audiology or poses a reasonable
19 threat to public safety or to a crime involving moral turpitude,
20 ~~whether or not any appeal or other proceeding is pending to have the~~
21 ~~conviction or plea set aside. A copy of the record of conviction,~~
22 ~~certified by the clerk of the court entering the conviction, shall~~
23 ~~be conclusive evidence of conviction.~~
24

1 B. 1. No disciplinary action shall be imposed until after a
2 hearing before the Board. A notice of at least thirty (30) days
3 shall be served, either personally or by certified mail, to the
4 licensee charged, stating the time and place of the hearing, and
5 setting forth the ground or grounds constituting the charges against
6 the licensee. The licensee shall be entitled to be heard in such
7 person's defense either in person or by counsel, and may produce
8 testimony and may testify in the person's own behalf.

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

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

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

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

1 signature of the ~~chairman~~ chair or ~~vice-chairman~~ vice-chair and the
2 seal of the Board.

3 2. Upon request by an accused speech-language pathologist
4 and/or audiologist, and statement under oath that the testimony or
5 evidence is reasonably necessary to the person's defense, the Board
6 shall use this subpoena power in behalf of the accused speech-
7 language pathologist and/or audiologist.

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

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

19 D. 1. Any person who feels aggrieved by reason of the
20 imposition of disciplinary action may appeal to the Board for a
21 review of the case or the person may seek judicial review pursuant
22 to the 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 or executive
3 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:

9 1. "Substantially relates" means the nature of criminal
10 conduct, for which the person was convicted, has a direct bearing on
11 the fitness or ability to perform one or more of the duties or
12 responsibilities necessarily related to the occupation; and

13 2. "Poses a reasonable threat" means the nature of criminal
14 conduct, for which the person was convicted, involved an act or
15 threat of harm against another and has a bearing on the fitness or
16 ability to serve the public or with others in the occupation.

17 SECTION 17. AMENDATORY 59 O.S. 2001, Section 1912, as
18 amended by Section 2, Chapter 220, O.S.L. 2009 (59 O.S. Supp. 2009,
19 Section 1912), is amended to read as follows:

20 Section 1912. A. The State Department of Health may deny,
21 revoke, suspend or place on probation any license or specialty
22 designation issued pursuant to the provisions of the Licensed
23 Professional Counselors Act to a licensed professional counselor, if
24 the person has:

1 1. Been convicted of a felony crime that substantially relates
2 to the practice of counseling or poses a reasonable threat to public
3 safety;

4 2. Been convicted of a misdemeanor ~~determined to be of such a~~
5 ~~nature as to render the person convicted unfit to practice~~
6 ~~counseling~~ involving moral turpitude;

7 3. Engaged in fraud or deceit in connection with services
8 rendered or in establishing needed qualifications pursuant to the
9 provisions of this act;

10 4. Knowingly aided or abetted a person not licensed pursuant to
11 these provisions in representing himself as a licensed professional
12 counselor in this state;

13 5. Engaged in unprofessional conduct as defined by the rules
14 established by the Board;

15 6. Engaged in negligence or wrongful actions in the performance
16 of his duties; or

17 7. Misrepresented any information required in obtaining a
18 license.

19 B. If the Department determines that a felony conviction of an
20 applicant renders the convicted applicant unfit to practice
21 counseling, the Commissioner shall provide notice and opportunity to
22 the applicant, by certified mail at the last-known address, for an
23 administrative hearing to contest such determination before the
24

1 Department may deny the application. The request shall be made by
2 the applicant within fifteen (15) days of receipt of the notice.

3 C. No license or specialty designation shall be suspended or
4 revoked, nor a licensed professional counselor placed on probation
5 until notice is served upon the licensed professional counselor and
6 a hearing is held in conformity with Article II of the
7 Administrative Procedures Act.

8 D. As used in this section:

9 1. "Substantially relates" means the nature of criminal
10 conduct, for which the person was convicted, has a direct bearing on
11 the fitness or ability to perform one or more of the duties or
12 responsibilities necessarily related to the occupation; and

13 2. "Poses a reasonable threat" means the nature of criminal
14 conduct, for which the person was convicted, involved an act or
15 threat of harm against another and has a bearing on the fitness or
16 ability to serve the public or with others in the occupation.

17 SECTION 18. AMENDATORY 59 O.S. 2001, Section 1925.15,
18 as amended by Section 3, Chapter 220, O.S.L. 2009 (59 O.S. Supp.
19 2009, Section 1925.15), is 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 1. Been convicted of a felony crime that substantially relates
2 to the practice of counseling or poses a reasonable threat to public
3 safety;

4 2. Been convicted of a misdemeanor crime ~~the Commissioner~~
5 ~~determines after a hearing to be of such a nature as to render the~~
6 ~~person convicted unfit to practice marital and family therapy~~
7 involving moral turpitude;

8 3. Violated ethical standards of such a nature as to render the
9 person found by the Commissioner to have engaged in such violation
10 unfit to practice marital and family therapy;

11 4. Misrepresented any information required in obtaining a
12 license;

13 5. Engaged in fraud or deceit in connection with services
14 rendered or in establishing needed qualifications pursuant to the
15 provisions of the Marital and Family Therapist Licensure Act;

16 6. Knowingly aided or abetted a person not licensed pursuant to
17 these provisions in representing himself or herself as a licensed
18 marital and family therapist in this state;

19 7. Engaged in unprofessional conduct as defined by the rules
20 promulgated by the State Board of Health; or

21 8. Engaged in negligence or wrongful actions in the performance
22 of the duties of such person.

23 B. If the Department determines that a felony conviction of an
24 applicant renders the convicted applicant unfit to practice

1 counseling, the Commissioner shall provide notice and opportunity to
2 the applicant, by certified mail at the last-known address, for an
3 administrative hearing to contest such determination before the
4 Department may deny the application. The request shall be made by
5 the applicant within fifteen (15) days of receipt of the notice.

6 C. No license shall be suspended, revoked or placed on
7 probation until notice is served upon the licensed marital and
8 family therapist and a hearing is held in such manner as is required
9 by the Marital and Family Therapist Licensure Act.

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

20 E. As used in this section:

21 1. "Substantially relates" means the nature of criminal
22 conduct, for which the person was convicted, has a direct bearing on
23 the fitness or ability to perform one or more of the duties or
24 responsibilities necessarily related to the occupation; and

1 2. "Poses a reasonable threat" means the nature of criminal
2 conduct, for which the person was convicted, involved an act or
3 threat of harm against another and has a bearing on the fitness or
4 ability to serve the public or with others in the occupation.

5 SECTION 19. AMENDATORY 59 O.S. 2001, Section 1941, as
6 amended by Section 4, Chapter 220, O.S.L. 2009 (59 O.S. Supp. 2009,
7 Section 1941), is amended to read as follows:

8 Section 1941. A. The State Department of Health may deny,
9 revoke, suspend, or place on probation any license or specialty
10 designation issued pursuant to the provisions of the Licensed
11 Behavioral Practitioner Act to a licensed behavioral practitioner,
12 if the person has:

13 1. Been convicted of a felony crime that substantially relates
14 to the practice of behavioral health or poses a reasonable threat to
15 public safety;

16 2. Been convicted of a misdemeanor ~~determined to be of such a~~
17 ~~nature as to render the person convicted unfit to practice~~
18 ~~behavioral health~~ involving moral turpitude;

19 3. Engaged in fraud or deceit in connection with services
20 rendered or in establishing needed qualifications pursuant to the
21 provisions of this act;

22 4. Knowingly aided or abetted a person not licensed pursuant to
23 these provisions in representing himself or herself as a licensed
24 behavioral practitioner in this state;

1 5. Engaged in unprofessional conduct as defined by the rules
2 established by the State Board of Health;

3 6. Engaged in negligence or wrongful actions in the performance
4 of the licensee's duties; or

5 7. Misrepresented any information required in obtaining a
6 license.

7 B. If the Department determines that a felony conviction of an
8 applicant renders the convicted applicant unfit to practice
9 counseling, the Commissioner shall provide notice and opportunity to
10 the applicant, by certified mail at the last-known address, for an
11 administrative hearing to contest such determination before the
12 Department may deny the application. The request shall be made by
13 the applicant within fifteen (15) days of receipt of the notice.

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

19 D. As used in this section:

20 1. "Substantially relates" means the nature of criminal
21 conduct, for which the person was convicted, has a direct bearing on
22 the fitness or ability to perform one or more of the duties or
23 responsibilities necessarily related to the occupation; and
24

2. "Poses a reasonable threat" means the nature of criminal conduct, for which the person was convicted, involved an act or threat of harm against another and has a bearing on the fitness or ability to serve the public or with others in the occupation.

SECTION 20. This act shall become effective July 1, 2010.

SECTION 21. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 8th day of March, 2010.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2010.

Presiding Officer of the House
of Representatives