

SB 2070

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THE STATE SENATE
Monday, February 22, 2010

Senate Bill No. 2070
As Amended

SENATE BILL NO. 2070 - By: Coates of the Senate and Shelton of the House.

[professions and occupations - modifying prohibition to issue and renew licenses - effective date - emergency]

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 46.14, as last amended by Section 10, Chapter 184, O.S.L. 2009 (59 O.S. Supp. 2009, 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 Registered Interior Designers Act, when the holder thereof:

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

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 Registered Interior
13 Designers Act or the rules of the Board; provided, that a person or
14 entity complained 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-

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

1 B. An applicant whose application for license or certificate is
2 denied may first appeal the decision to the Board within thirty (30)
3 days of notice of that decision. The Board shall set a hearing for
4 appeal. After a final order on the denial is made the applicant may
5 appeal that decision to the district court pursuant to the
6 Administrative Procedures Act.

7 C. As used in this section:

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

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

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

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

1 Board. The Board may give the examination at any special meeting,
2 but shall not be required to do so.

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

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

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

8 3. Satisfy the Board that the person is loyal to the United
9 States of America;

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

11 5. Be of good moral character;

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

16 7. Be free from contagious or infectious disease;

17 8. Be a graduate of an accredited college of podiatric
18 medicine; and

19 9. Have complied with applicable Board rules.

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

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

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

11 3. Satisfies the Board that the applicant has not violated any
12 of the provisions of the Podiatric Medicine Practice Act or any of
13 the rules of the Board; and

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

20 a. "substantially relates" means the nature of criminal
21 conduct, for which the person was convicted, has a
22 direct bearing on the fitness or ability to perform

1 written and oral portions. An applicant receiving less than a score
2 of seventy-five percent (75%) on either the written or oral portion
3 of the examination shall be deemed to have failed the entire
4 examination;

5 3. Is within ninety (90) days of completing a podiatric
6 surgical residency, approved by the Council of Podiatric Medical
7 Education of the American Podiatric Medical Association, of not less
8 than three hundred sixty-five (365) days; and

9 4. Satisfies the Board that the applicant has not violated any
10 of the provisions of the Podiatric Medicine Practice Act or any of
11 the rules of the Board.

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

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

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

20 2. Pleading guilty or nolo contendere to, or being convicted
21 of, a felony crime that substantially relates to the practice of
22 podiatric medicine or poses a reasonable threat to public safety, or

1 a misdemeanor involving moral turpitude, ~~or a violation of federal~~
2 ~~or state controlled dangerous substances laws;~~

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

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

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

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

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

18 8. Practicing podiatric medicine in an unsafe or unsanitary
19 manner or place;

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

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

1 11. Dividing with any person, firm, corporation, or other legal
2 entity any fee or other compensation for services as a podiatric
3 physician, except with:

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

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

17 12. Violating or attempting to violate the provisions of the
18 Podiatric Medicine Practice Act, the Code of Ethics, or the rules of
19 the Board.

20 B. Commitment of a licensee to an institution for the mentally
21 ill shall constitute prima facie evidence that the licensee is
22 mentally incapacitated to a degree that the licensee is unable to
23 practice podiatric medicine with safety and benefit to the public.

1 C. As used in this section:

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

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

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

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

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

20 2. Gross malpractice or gross incompetence;

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

- 1 4. A license or certificate holder's continuing to practice
2 while afflicted with an infectious, contagious, or communicable
3 disease;
- 4 5. Habitual drunkenness or addiction to use of habit forming
5 drugs;
- 6 6. Advertising by means of statements known to be false or
7 deceptive;
- 8 7. Continued or flagrant violation of any rules of the Board,
9 or continued practice by an operator in a cosmetology salon wherein
10 violations of the rules of the Board are being committed within the
11 knowledge of the operator;
- 12 8. Failure to display license or certificate as required by the
13 Oklahoma Cosmetology Act;
- 14 9. Continued practice of cosmetology after expiration of a
15 license therefor;
- 16 10. Employment by a salon owner or manager of any person to
17 perform any of the practices of cosmetology who is not duly licensed
18 to perform the services; or
- 19 11. Practicing cosmetology in an immoral or unprofessional
20 manner.

21 B. As used in this section:

- 22 1. "Substantially relates" means the nature of criminal
23 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 5. AMENDATORY 59 O.S. 2001, Section 328.32, is
8 amended to read as follows:

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

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

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

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

22 4. Publishing a false, fraudulent, or misleading advertisement
23 or statement;

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

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

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

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

12 9. Failing to complete continuing education requirements;

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

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

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

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

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

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

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

7 25. Authorizing or aiding a dental hygienist, dental assistant,
8 dental laboratory technician, or holder of a permit to operate a
9 dental laboratory to violate any provision of the State Dental Act
10 or the rules of the Board;

11 26. Willfully disclosing confidential information;

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

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

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

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

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

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

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

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

- 21 a. limit a patient's right of informed consent, or
- 22 b. to prohibit insurers, preferred provider organizations
23 and managed care plans from operating pursuant to the

1 applicable provisions of the Oklahoma Insurance Code
2 and the Public Health Code;

3 35. Violating the state dental act of another state resulting
4 in a plea of guilty or nolo contendere, conviction or suspension or
5 revocation of the license of the dentist under the laws of that
6 state;

7 36. Violating or attempting to violate the provisions of the
8 State Dental Act or the rules of the Board, as a principal,
9 accessory or accomplice; or

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

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

21 C. As used in this section:

22 1. "Substantially relates" means the nature of criminal
23 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 6. AMENDATORY 59 O.S. 2001, Section 396.12c, as
8 amended by Section 14, Chapter 57, O.S.L. 2003 (59 O.S. Supp. 2009,
9 Section 396.12c), is amended to read as follows:

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

15 1. Conviction of a felony ~~shown by a certified copy of the~~
16 ~~record of the court of conviction~~ crime that substantially relates
17 to the occupation of a funeral director or poses a reasonable threat
18 to public safety;

19 2. Conviction of a misdemeanor involving funeral services;

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

22 4. False or misleading advertising as a funeral director or
23 embalmer;

- 1 5. Violation of any of the provisions of the Funeral Services
2 Licensing Act or any violation of Sections 201 through 231 of Title
3 8 of the Oklahoma Statutes;
- 4 6. Fraud or misrepresentation in obtaining a license;
- 5 7. Using any casket or part thereof which has previously been
6 used as a receptacle for, or in connection with, the burial or other
7 disposition of dead human remains, unless the disclosure is made to
8 the purchaser;
- 9 8. Violation of any rules of the Board in administering the
10 purposes of the Funeral Services Licensing Act;
- 11 9. Use of intoxicating liquor sufficient to produce drunkenness
12 in public, or habitual addiction to the use of habit-forming drugs
13 or either;
- 14 10. Solicitation of business, either personally or by an agent,
15 from a dying individual or the relatives of a dead or individual
16 with a terminal condition, as defined by the Oklahoma Rights of the
17 Terminally Ill or Persistently Unconscious Act, other than through
18 general advertising;
- 19 11. Refusing to properly release a dead human body to the
20 custody of the person entitled to custody;
- 21 12. Violating applicable state laws relating to the failure to
22 file a death certificate, cremation permit, or prearrangement or
23 prefinancing of a funeral;

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

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

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

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

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

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

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

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

19 B. 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

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 7. AMENDATORY 59 O.S. 2001, Section 475.18, is
6 amended to read as follows:

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

15 1. The practice of any fraud or deceit in obtaining or
16 attempting to obtain or renew a certificate of licensure, or a
17 certificate of authorization or in taking the examinations
18 administered by the Board;

19 2. Any fraud, misrepresentation, gross negligence,
20 incompetence, misconduct or dishonest practice, in the practice of
21 engineering or land surveying;

22 3. Conviction of or entry of a plea of nolo contendere to ~~any~~
23 ~~crime under the laws of the United States, or any state or territory~~

1 ~~thereof, which is~~ a felony, ~~whether related~~ crime that substantially
2 relates to the practice or not of engineering or land surveying or
3 poses a reasonable threat to public safety; and or conviction of or
4 entry of a plea of nolo contendere to ~~any crime, whether a felony,~~
5 misdemeanor, ~~or otherwise,~~ an essential element of which is
6 dishonesty or ~~which is related to~~ is a violation of the practice of
7 engineering or land surveying;

8 4. Failure to comply with any of the provisions of Section
9 475.1 et seq. of this title or any of the rules or regulations
10 pertaining thereto;

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

16 6. Failure, within thirty (30) days, to provide information
17 requested by the Board as a result of a formal or informal complaint
18 to the Board which would indicate a violation of Section 475.1 et
19 seq. of this title;

20 7. Knowingly making false statements or signing false
21 statements, certificates or affidavits;

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

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

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

16 11. Engaging in dishonorable, unethical or unprofessional
17 conduct of a character likely to deceive, defraud or harm the
18 public;

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

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

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

1 15. Violating the Oklahoma Minimum Standards for the Practice
2 of Land Surveying; and

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

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

16 C. The Board shall have the power to:

17 1. Revoke a certificate of authorization;

18 2. Suspend a certificate of authorization for a period of time,
19 not exceeding two (2) years, of any firm of which one or more of its
20 officers or directors have been guilty of any conduct which would
21 authorize a revocation or suspension of their certificates of
22 licensure under the provisions of this section;

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

3 4. Levy an administrative penalty.

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

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

10 F. 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 8. AMENDATORY 59 O.S. 2001, Section 509, as
20 last amended by Section 7, Chapter 261, O.S.L. 2009 (59 O.S. Supp.
21 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.

- 1 b. State Board of Health rules;
- 2 8. Dishonorable or immoral conduct which is likely to deceive,
3 defraud, or harm the public;
- 4 9. The commission of any act which is a violation of the
5 criminal laws of any state when such act is connected with the
6 physician's practice of medicine. A complaint, indictment or
7 confession of a criminal violation shall not be necessary for the
8 enforcement of this provision. Proof of the commission of the act
9 while in the practice of medicine or under the guise of the practice
10 of medicine shall be unprofessional conduct;
- 11 10. Failure to keep complete and accurate records of purchase
12 and disposal of controlled drugs or of narcotic drugs;
- 13 11. The writing of false or fictitious prescriptions for any
14 drugs or narcotics declared by the laws of this state to be
15 controlled or narcotic drugs;
- 16 12. Prescribing or administering a drug or treatment without
17 sufficient examination and the establishment of a valid physician-
18 patient relationship;
- 19 13. The violation, or attempted violation, direct or indirect,
20 of any of the provisions of the Oklahoma Allopathic Medical and
21 Surgical Licensure and Supervision Act, either as a principal,
22 accessory or accomplice;

1 14. Aiding or abetting, directly or indirectly, the practice of
2 medicine by any person not duly authorized under the laws of this
3 state;

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

1 ordered to submit for examination may be suspended until the results
2 of the examination are received and reviewed by the Board;

3 16. Prescribing, dispensing or administering of controlled
4 substances or narcotic drugs in excess of the amount considered good
5 medical practice, or prescribing, dispensing or administering
6 controlled substances or narcotic drugs without medical need in
7 accordance with published standards;

8 17. Engaging in physical conduct with a patient which is sexual
9 in nature, or in any verbal behavior which is seductive or sexually
10 demeaning to a patient;

11 18. Failure to maintain an office record for each patient which
12 accurately reflects the evaluation, treatment, and medical necessity
13 of treatment of the patient;

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

18 20. Failure to provide a proper and safe medical facility
19 setting and qualified assistive personnel for a recognized medical
20 act, including but not limited to an initial in-person patient
21 examination, office surgery, diagnostic service or any other medical
22 procedure or treatment. Adequate medical records to support

1 diagnosis, procedure, treatment or prescribed medications must be
2 produced and maintained.

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

6 C. As used in this section:

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

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

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

17 Section 532. A. The State Board of Medical Licensure and
18 Supervision may refuse to issue a license to an applicant or may
19 suspend or revoke the license of any licensee athletic trainer or
20 apprentice if he or she has:

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

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

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

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

7 C. As used in this section:

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

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

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

19 Section 567.8 A. The Oklahoma Board of Nursing shall have the
20 power:

21 1. To deny, revoke or suspend any:

22 a. license to practice registered nursing or licensed
23 practical nursing,

1 b. recognition for practice as an advanced practice
2 nurse, or

3 c. certification as an advanced unlicensed assistive
4 person;

5 2. To assess administrative penalties; or

6 3. To otherwise discipline a licensee or advanced unlicensed
7 assistive person.

8 B. The Board shall impose a disciplinary action pursuant to the
9 provisions of subsection A of this section upon proof that the
10 person:

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

13 a. a license to practice registered nursing, licensed
14 practical nursing, or recognition to practice advanced
15 practice nursing, or

16 b. certification as an advanced unlicensed assistive
17 person;

18 2. Is guilty of a felony crime that substantially relates to
19 the practice of nursing or poses a reasonable threat to public
20 safety, or any offense reasonably related to the qualifications,
21 ~~functions or duties of any licensee or advanced unlicensed~~
22 ~~assistant, or any offense an essential element of which is fraud,~~
23 ~~dishonesty, or an act of violence,~~ or for any offense misdemeanor

1 involving moral turpitude, ~~whether or not sentence is imposed, or~~
2 ~~any conduct resulting in the revocation of a deferred or suspended~~
3 ~~sentence or probation imposed pursuant to such conviction;~~

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

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

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

21 6. Has been adjudicated as mentally incompetent, mentally ill,
22 chemically dependent or dangerous to the public or has been

1 committed by a court of competent jurisdiction, within or without
2 this state;

3 7. Is guilty of unprofessional conduct as defined in the rules
4 of the Board;

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

7 9. Violated a rule promulgated by the Board, an order of the
8 Board, or a state or federal law relating to the practice of
9 registered, practical or advanced practice nursing or advanced
10 unlicensed assisting, or a state or federal narcotics or controlled
11 dangerous substance law; or

12 10. Has had disciplinary actions taken against the individual's
13 registered or practical nursing license, advanced unlicensed
14 assistive certification, or any health-related license, in this or
15 any state, territory or country.

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

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

21 E. The Board may authorize the executive director to issue a
22 confidential letter of concern to a licensee when evidence does not
23 warrant formal proceedings, but the executive director has noted

1 indications of possible errant conduct that could lead to serious
2 consequences and formal action.

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

5 G. At a hearing the accused shall have the right to appear
6 either personally or by counsel, or both, to produce witnesses and
7 evidence on behalf of the accused, to cross-examine witnesses and to
8 have subpoenas issued by the Board. If the accused is found guilty
9 of the charges the Board may refuse to issue a renewal of license to
10 the applicant, revoke or suspend a license, or otherwise discipline
11 a licensee.

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

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

19 J. 1. Any person who has been determined by the Board to have
20 violated any provisions of the Oklahoma Nursing Practice Act or any
21 rule or order issued pursuant thereto shall be liable for an
22 administrative penalty not to exceed Five Hundred Dollars (\$500.00)
23 for each count for which any holder of a certificate or license has

1 been determined to be in violation of the Oklahoma Nursing Practice
2 Act or any rule promulgated or order issued thereto.

3 2. The amount of the penalty shall be assessed by the Board
4 pursuant to the provisions of this section, after notice and an
5 opportunity for hearing is given to the accused. In determining the
6 amount of the penalty, the Board shall include, but not be limited
7 to, consideration of the nature, circumstances, and gravity of the
8 violation and, with respect to the person found to have committed
9 the violation, the degree of culpability, the effect on ability of
10 the person to continue to practice, and any show of good faith in
11 attempting to achieve compliance with the provisions of the Oklahoma
12 Nursing Practice Act.

13 K. As used in this section:

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

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

1 SECTION 11. AMENDATORY 59 O.S. 2001, Section 858-312,
2 as amended by Section 5, Chapter 274, O.S.L. 2008 (59 O.S. Supp.
3 2009, Section 858-312), is amended to read as follows:

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

13 1. Making a materially false or fraudulent statement in an
14 application for a license;

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

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

21 4. Accepting a commission or other valuable consideration as a
22 real estate associate for the performance of any acts as an

1 associate, except from the real estate broker with whom the
2 associate is associated;

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

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

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

13 8. Any other conduct which constitutes untrustworthy, improper,
14 fraudulent, or dishonest dealings;

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

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

20 11. Advertising or offering for sale, rent or lease any real
21 estate, or placing a sign on any real estate offering it for sale,
22 rent or lease without the consent of the owner or the owner's
23 authorized representative;

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

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

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

19 15. Unworthiness to act as a real estate licensee, whether of
20 the same or of a different character as specified in this section,
21 or because the real estate licensee has been convicted of, or
22 pleaded guilty or nolo contendere to, a felony crime that
23 substantially relates to the practice of real estate or poses a

1 reasonable threat to public safety, or a misdemeanor crime involving
2 moral turpitude;

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;

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. A person whose license is revoked, suspended, or not renewed
7 may appeal the decision to the district court pursuant to the
8 Administrative Procedures Act.

9 C. As used in this section:

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

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

18 SECTION 12. AMENDATORY 59 O.S. 2001, Section 858-723,
19 as amended by Section 11, Chapter 165, O.S.L. 2006 (59 O.S. Supp.
20 2009, 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

1 more of the following penalties whenever the Board finds, by clear
2 and convincing evidence, that a certificate holder has violated any
3 provision of the Oklahoma Certified Real Estate Appraisers Act, or
4 rules promulgated pursuant thereto:

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

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

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

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

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

14 6. Reprimand, either public or private;

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

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

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

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

4 a. be less than Fifty Dollars (\$50.00) and shall not
5 exceed Two Thousand Dollars (\$2,000.00) for each
6 violation of this act or the rules of the Board, or

7 b. exceed Five Thousand Dollars (\$5,000.00) for all
8 violations resulting from a single incident or
9 transaction.

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

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

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

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

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

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

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

- 1 2. Failing to meet the minimum qualifications established
2 pursuant to the provisions of the Oklahoma Certified Real Estate
3 Appraisers Act;
- 4 3. Paying money other than provided for by the Oklahoma
5 Certified Real Estate Appraisers Act to any member or employee of
6 the Board to procure a certificate pursuant to the Oklahoma
7 Certified Real Estate Appraisers Act;
- 8 4. A conviction, including a conviction based upon a plea of
9 guilty or nolo contendere, of a felony ~~which is~~ crime substantially
10 related to the ~~qualifications, functions, and duties of a person~~
11 ~~developing practice of~~ real estate appraisals and communicating real
12 ~~estate appraisals to others~~ or poses a reasonable threat to public
13 safety;
- 14 5. An act or omission involving dishonesty, fraud, or
15 misrepresentation with the intent to substantially benefit the
16 certificate holder or another person or with the intent to
17 substantially injure another person;
- 18 6. Violation of any of the standards for the development or
19 communication of real estate appraisals as provided in the Oklahoma
20 Certified Real Estate Appraisers Act;
- 21 7. Failure or refusal without good cause to exercise reasonable
22 diligence in developing an appraisal, preparing an appraisal report
23 or communicating an appraisal;

1 8. Negligence or incompetence in developing an appraisal, in
2 preparing an appraisal report, or in communicating an appraisal;

3 9. Willfully disregarding or violating any of the provisions of
4 the Oklahoma Certified Real Estate Appraisers Act or the regulations
5 of the Board for the administration and enforcement of the
6 provisions of the Oklahoma Certified Real Estate Appraisers Act;

7 10. Accepting an appraisal assignment when the employment
8 itself is contingent upon the appraiser reporting a predetermined
9 estimate, analysis or opinion, or where the fee to be paid is
10 contingent upon the opinion, conclusion, or valuation reached, or
11 upon the consequences resulting from the appraisal assignment;

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

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

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

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

22 D- E. In a disciplinary proceeding based upon a civil judgment,
23 the trainee, state licensed, state certified residential or state

1 certified general real estate appraiser shall be afforded an
2 opportunity to present matters in mitigation and extenuation, but
3 may not collaterally attack the civil judgment.

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

11 2. Any person with knowledge of any circumstances surrounding
12 an act or omission by a trainee or state licensed or state certified
13 appraiser involving fraud, dishonesty or misrepresentation in any
14 real property valuation-related activity, not limited to federally
15 related transactions, may file a complaint with the Board setting
16 forth all facts surrounding the act or omission.

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

21 4. Any complaint filed pursuant to this subsection shall be in
22 writing and signed by the person filing same and shall be on a form
23 approved by the Board. The trainee or state licensed or state

1 certified appraiser shall be entitled to any hearings or subject to
2 any disciplinary proceedings provided for in the Oklahoma Certified
3 Real Estate Appraisers Act based upon any complaint filed pursuant
4 to this subsection.

5 G. An applicant whose license or certificate is denied or not
6 renewed may appeal the decision to the Board within thirty (30) days
7 of that decision. If after hearing and final decision of the Board
8 to deny or not renew a license or certificate, the applicant may
9 appeal the final decision to the district court pursuant to the
10 Administrative Procedures Act.

11 H. As used in this section:

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

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

20 SECTION 13. AMENDATORY 59 O.S. 2001, Section 887.13, as
21 amended by Section 1, Chapter 26, O.S.L. 2008 (59 O.S. Supp. 2009,
22 Section 887.13), is amended to read as follows:

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

7 1. Practiced physical therapy other than under the referral of
8 a physician, surgeon, dentist, chiropractor or podiatrist duly
9 licensed to practice medicine or surgery, a physician assistant, or
10 in the case of practice as a physical therapist assistant, has
11 practiced other than under the direction of a licensed physical
12 therapist;

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

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

1 4. Used drugs, narcotics, medication, or intoxicating liquors
2 to an extent which affects the professional competency of the
3 applicant or licensee;

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

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

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

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

14 9. Been guilty of conduct unbecoming a person licensed as a
15 physical therapist or physical therapist assistant or guilty of
16 conduct detrimental to the best interests of the public or the
17 profession;

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

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

21 B. As used in this section:

22 1. "Substantially relates" means the nature of criminal
23 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 888.9, is
8 amended to read as follows:

9 Section 888.9 A. The Board may deny or refuse to renew a
10 license, or may suspend or revoke a license, or may censure a
11 licensee, publicly or otherwise, or may impose probationary
12 conditions where the licensee or applicant for license has been
13 guilty of unprofessional conduct which has endangered or is likely
14 to endanger the health, welfare, or safety of the public. Such
15 unprofessional conduct includes:

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

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

21 3. Being convicted of ~~any federal or state law, excepting any~~
22 ~~misdemeanor, traffic law or municipal ordinance~~ a felony crime that

1 substantially relates to the occupation of occupational therapy or
2 poses a reasonable threat to public safety;

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

5 5. Violating any provisions of this act.

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

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

17 C. As used in this section:

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

22 2. "Poses a reasonable threat" means the nature of criminal
23 conduct, for which the person was convicted, involved an act or

1 threat of harm against another and has a bearing on the fitness or
2 ability to serve the public or with others in the occupation.

3 SECTION 15. AMENDATORY 59 O.S. 2001, Section 1310, is
4 amended to read as follows:

5 Section 1310. A. The Insurance Commissioner may deny, censure,
6 suspend, revoke, or refuse to renew any license issued under Section
7 1301 et seq. of this title for any of the following causes:

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

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

12 3. Material misstatement, misrepresentation, or fraud in
13 obtaining the license;

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

17 5. Conviction of, or having entered a plea of guilty or nolo
18 contendere to, any felony crime that substantially relates to the
19 business practices of bail bondsmen or poses a reasonable threat to
20 public safety or to a misdemeanor involving moral turpitude ~~or~~
21 dishonesty;

22 6. Fraudulent or dishonest practices in conducting business
23 under the license;

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

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

6 9. When, in the judgment of the Commissioner, the licensee has,
7 in the conduct of affairs under the license, demonstrated
8 incompetency, or untrustworthiness, or conduct or practices
9 rendering the licensee unfit to carry on the bail bond business or
10 making continuance in the business detrimental to the public
11 interest, or that the licensee is no longer in good faith carrying
12 on the bail bond business, or that the licensee is guilty of
13 rebating, or offering to rebate, or dividing with someone other than
14 a licensed bail bondsman, or offering to divide commissions in the
15 case of limited surety agents, or premiums in the case of
16 professional bondsmen, and for this conduct is found by the
17 Commissioner to be a source of detriment, injury, or loss to the
18 public;

19 10. For any materially untrue statement in the license
20 application;

21 11. Misrepresentation of the terms of any actual or proposed
22 bond;

1 12. For forging the name of another to a bond or application
2 for bond;

3 13. Cheating on an examination for licensure;

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

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

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

19 17. For paying a fee or rebating or giving or promising
20 anything of value to the principal or anyone in the principal's
21 behalf;

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

1 19. Accepting anything of value from a principal, other than
2 the premium; provided, the bondsman shall be permitted to accept
3 collateral security or other indemnity from the principal which
4 shall be returned immediately upon final termination of liability on
5 the bond and upon satisfaction of all terms, conditions, and
6 obligations contained within the indemnity agreement. Collateral
7 security or other indemnity required by the bondsman shall be
8 reasonable in relation to the amount of the bond;

9 20. Willful failure to return collateral security to the
10 principal when the principal is entitled thereto;

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

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

17 23. For filing a materially untrue monthly report;

18 24. For filing false affidavits regarding cancellation of the
19 appointment of an insurer;

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

22 26. For failing to pay any fees to a district court clerk as
23 are required by this title or failing to pay any fees to a municipal

1 court clerk as are required by this title or by Section 28-127 of
2 Title 11 of the Oklahoma Statutes;

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

6 28. For failing to pay travel expenses for the return of the
7 defendant to custody once having guaranteed the expenses pursuant to
8 the provisions of subparagraph d of paragraph 3 of subsection C of
9 Section 1332 of this title.

10 B. In addition to any applicable denial, censure, suspension,
11 or revocation of a license, any person violating any provision of
12 Section 1301 et seq. of this title may be subject to a civil penalty
13 of not less than One Hundred Dollars (\$100.00) nor more than One
14 Thousand Dollars (\$1,000.00) for each occurrence. This fine may be
15 enforced in the same manner in which civil judgments may be
16 enforced. Any order for civil penalties entered by the Commissioner
17 or authorized decision maker for the Insurance Department which has
18 become final may be filed with the court clerk of Oklahoma County
19 and shall then be enforced by the judges of said county.

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

22 D. If any bail bondsman is convicted by any court of a
23 violation of any of the provisions of this act, the license of the

1 individual shall therefore be deemed to be immediately revoked,
2 without any further procedure relative thereto by the Commissioner.

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

17 F. Any law enforcement agency, district attorney's office,
18 court clerk's office, or insurer that is aware that a licensed bail
19 bondsman has been convicted of or has pleaded guilty or nolo
20 contendere to any crime, shall notify the Insurance Commissioner of
21 that fact.

22 G. 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 16. AMENDATORY 59 O.S. 2001, Section 1370, as
10 amended by Section 24, Chapter 313, O.S.L. 2004 (59 O.S. Supp. 2009,
11 Section 1370), is amended to read as follows:

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

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

- 1 1. Fraud in applying for or procuring a license to practice
2 psychology;
- 3 2. Immoral, unprofessional, or dishonorable conduct as defined
4 in the rules promulgated by the Board;
- 5 3. Practicing psychology in a manner as to endanger the welfare
6 of clients or patients;
- 7 4. Conviction of a felony. ~~A copy of the record of conviction,~~
8 ~~certified by the clerk of the court entering the conviction shall be~~
9 ~~conclusive evidence of conviction~~ crime that substantially relates
10 to the business practices of psychology or poses a reasonable threat
11 to public safety;
- 12 5. ~~Conviction of any crime or offense that reflects the~~
13 ~~inability of the practitioner to practice psychology with due regard~~
14 ~~for the health and safety of clients or patients;~~
- 15 ~~6.~~ Harassment, intimidation, or abuse, sexual or otherwise, of
16 a client or patient;
- 17 ~~7.~~ 6. Engaging in sexual intercourse or other sexual contact
18 with a client or patient;
- 19 ~~8.~~ 7. Use of repeated untruthful, deceptive or improbable
20 statements concerning the licensee's qualifications or the effects
21 or results of proposed treatment, including practicing outside of
22 the psychologist's professional competence established by education,
23 training, and experience;

1 ~~9.~~ 8. Gross malpractice or repeated malpractice or gross
2 negligence in the practice of psychology;

3 ~~10.~~ 9. Aiding or abetting the practice of psychology by any
4 person not approved by the Board or not otherwise exempt from the
5 provisions of Section 1351 et seq. of this title;

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

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

16 ~~13.~~ 12. The suspension or revocation by another state of a
17 license to practice psychology. A certified copy of the record of
18 suspension or revocation of the state making such a suspension or
19 revocation shall be conclusive evidence thereof;

20 ~~14.~~ 13. Refusal to appear before the Board after having been
21 ordered to do so in writing by the executive officer or chair of the
22 Board;

23 ~~15.~~ 14. Making any fraudulent or untrue statement to the Board;

1 ~~16.~~ 15. Violation of the code of ethics adopted in the rules
2 and regulations of the Board; and

3 ~~17.~~ 16. Inability to practice psychology with reasonable skill
4 and safety to patients or clients by reason of illness, inebriation,
5 misuse of drugs, narcotics, alcohol, chemicals, or any other
6 substance, or as a result of any mental or physical condition.

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

20 D. On the basis of the evidence produced at the hearing, the
21 Board shall make findings of fact and conclusions of law and enter
22 an order thereon in writing or stated in the record. A final order
23 adverse to the alleged violator shall be in writing. An order

1 stated in the record shall become effective immediately, provided
2 the Board gives written notice of the order to the alleged violator
3 and to the other persons who appeared at the hearing and made
4 written request for notice of the order. If the hearing is held
5 before any person other than the Board itself, such person shall
6 transmit the record of the hearing together with recommendations for
7 findings of fact and conclusions of law to the Board, which shall
8 thereupon enter its order. The Board may enter its order on the
9 basis of such record or, before issuing its order, require
10 additional hearings or further evidence to be presented.

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

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

1 mailed the notice. Proof of service shall be filed in the office of
2 the Board.

3 F. Every certificate or affidavit of service made and filed as
4 provided for in this section shall be prima facie evidence of the
5 facts stated therein, and a certified copy thereof shall have same
6 force and effect as the original certificate or affidavit of
7 service.

8 G. If the psychologist fails or refuses to appear, the Board
9 may proceed to hearing and determine the charges in his or her
10 absence. If the psychologist pleads guilty, or if upon hearing the
11 charges, a majority of the Board finds them to be true, the Board
12 may enter an order suspending or revoking the license of the
13 psychologist, reprimanding the psychologist, or placing the
14 psychologist on probation or any combination of penalties authorized
15 by the provisions of this section.

16 H. The secretary of the Board shall preserve a record of all
17 proceedings of the hearings and shall furnish a transcript of the
18 hearings to the defendant upon request. The defendant shall prepay
19 the actual cost of preparing the transcript.

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

23 J. 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 17. AMENDATORY 59 O.S. 2001, Section 1503A, is
10 amended to read as follows:

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

13 1. Be of good moral character;

14 2. Have net assets of at least Twenty-five Thousand Dollars
15 (\$25,000.00); and

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

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

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

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 1619, is
18 amended to read as follows:

19 Section 1619. A. The Board of Examiners for Speech-Language
20 Pathology and Audiology may impose separately, or in combination,
21 any of the following disciplinary actions on a licensee after formal
22 disciplinary action as provided in the Speech-Language Pathology and
23 Audiology Licensing Act: suspend or revoke a license, issue a

1 letter of reprimand, impose probationary conditions, impose an
2 administrative fine not to exceed Ten Thousand Dollars (\$10,000.00),
3 and assess reasonable costs. Disciplinary actions may be taken by
4 the Board upon proof that the licensee:

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

8 2. Has aided or abetted a person who is not a licensed speech-
9 language pathologist and/or audiologist and who is not an employee
10 of and under the supervision of a licensed speech-language
11 pathologist or audiologist and subject to the rules of the Board, in
12 illegally engaging in the practice of speech-language pathology or
13 audiology within this state;

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

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

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

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

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

8 8. Has been convicted or has pled guilty or nolo contendere to
9 a felony crime that substantially relates to the business practices
10 of speech-language pathology or audiology or poses a reasonable
11 threat to public safety or to a crime involving moral turpitude,
12 ~~whether or not any appeal or other proceeding is pending to have the~~
13 ~~conviction or plea set aside. A copy of the record of conviction,~~
14 ~~certified by the clerk of the court entering the conviction, shall~~
15 ~~be conclusive evidence of conviction.~~

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

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

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

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

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

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

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

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

12 D. 1. Any person who feels aggrieved by reason of the
13 imposition of disciplinary action may appeal to the Board for a
14 review of the case or the person may seek judicial review pursuant
15 to the Administrative Procedures Act.

16 2. The suit shall be filed against the Board as defendant, and
17 service of process shall be upon either the chairman or executive
18 secretary of the Board.

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

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

23 F. 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 19. AMENDATORY 59 O.S. 2001, Section 1912, as
10 amended by Section 2, Chapter 220, O.S.L. 2009 (59 O.S. Supp. 2009,
11 Section 1912), is amended to read as follows:

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

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

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

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

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

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

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

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

20 C. No license or specialty designation shall be suspended or
21 revoked, nor a licensed professional counselor placed on probation
22 until notice is served upon the licensed professional counselor and

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

3 D. 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 20. AMENDATORY 59 O.S. 2001, Section 1925.15,
13 as amended by Section 3, Chapter 220, O.S.L. 2009 (59 O.S. Supp.
14 2009, Section 1925.15), is amended to read as follows:

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

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

22 2. Been convicted of a misdemeanor crime ~~the Commissioner~~
23 ~~determines after a hearing to be of such a nature as to render the~~

1 ~~person convicted unfit to practice marital and family therapy~~
2 involving moral turpitude;

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

6 4. Misrepresented any information required in obtaining a
7 license;

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

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

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

16 8. Engaged in negligence or wrongful actions in the performance
17 of the duties of such person.

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

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 shall be suspended, revoked or placed on
4 probation until notice is served upon the licensed marital and
5 family therapist and a hearing is held in such manner as is required
6 by the Marital and Family Therapist Licensure Act.

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

17 E. As used in this section:

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

22 2. "Poses a reasonable threat" means the nature of criminal
23 conduct, for which the person was convicted, involved an act or

1 threat of harm against another and has a bearing on the fitness or
2 ability to serve the public or with others in the occupation.

3 SECTION 21. AMENDATORY 59 O.S. 2001, Section 1941, is
4 amended to read as follows:

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

10 1. Been convicted of a felony crime that substantially relates
11 to the practice of behavioral health or poses a reasonable threat to
12 public safety;

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

16 3. Engaged in fraud or deceit in connection with services
17 rendered or in establishing needed qualifications pursuant to the
18 provisions of this act;

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

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

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

3 7. Misrepresented any information required in obtaining a
4 license.

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

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

17 D. As used in this section:

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

22 2. "Poses a reasonable threat" means the nature of criminal
23 conduct, for which the person was convicted, involved an act or

1 threat of harm against another and has a bearing on the fitness or
2 ability to serve the public or with others in the occupation.

3 SECTION 22. This act shall become effective July 1, 2010.

4 SECTION 23. It being immediately necessary for the preservation
5 of the public peace, health and safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

8 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 2-15-10 -
9 DO PASS, As Amended and Coauthored.