

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 2089

By: Johnson (Constance)

4  
5  
6 AS INTRODUCED

7 An Act relating to professions and occupations;  
8 amending 59 O.S. 2001, Sections 46.14, as last  
9 amended by Section 10, Chapter 184, O.S.L. 2009, 148,  
10 199.11, as amended by Section 6, Chapter 56, O.S.L.  
11 2003, 328.32, 396.12c, as amended by Section 14,  
12 Chapter 57, O.S.L. 2003, 475.18, 509, as last amended  
13 by Section 7, Chapter 261, O.S.L. 2009, 532, 567.8,  
14 as amended by Section 5, Chapter 190, O.S.L. 2003,  
15 858-312, as amended by Section 5, Chapter 274, O.S.L.  
16 2008, 858-723, as amended by Section 11, Chapter 165,  
17 O.S.L. 2006, 887.13, as amended by Section 1, Chapter  
18 26, O.S.L. 2008, 888.9, 1310, 1370, as amended by  
19 Section 24, Chapter 313, O.S.L. 2004, 1503A, 1619,  
20 1912, as amended by Section 2, Chapter 220, O.S.L.  
21 2009, 1925.15, as amended by Section 3, Chapter 220,  
22 O.S.L. 2009, and 1941 (59 O.S. Supp. 2009, Sections  
23 46.14, 199.11, 396.12c, 567.8, 858-312, 858-723,  
24 887.13, 1370, and 1912, 1925.15), which relate to  
architects and landscape architects, podiatric  
physicians, cosmetologists, dentists, funeral  
directors, professional engineers and land surveyors,  
allopathic physicians, athletic trainers and  
apprentices, nurses, realtors, real estate  
appraisers, physical therapists, occupational  
therapists, bail bondsmen, psychologists,  
pawnbrokers, speech-language pathologists and  
audiologists, professional counselors, marital and  
family therapists, and licensed behavioral  
practitioners; modifying and clarifying language;  
modifying the prohibition to issue and renew licenses  
based on criminal conviction; providing certain  
appeal procedure for denial of certain license;  
adding definition; providing an effective date; and  
declaring an emergency.

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

2 SECTION 1. AMENDATORY 59 O.S. 2001, Section 46.14, as  
3 amended by Section 10, Chapter 184, O.S.L. 2009 (59 O.S. Supp. 2009,  
4 Section 46.14), is amended to read as follows:

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

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

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

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

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

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

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

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

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

7           a. shall first have been served notice in the same manner  
8 as provided by law in other civil actions of the  
9 charges filed against the person or entity and of the  
10 time, place, and nature of the hearing before the  
11 Board, and

12           b. shall have the right to be represented by counsel and  
13 an opportunity to respond and present evidence and  
14 argument on all issues involved, by the introduction  
15 of evidence and by the examination and cross-  
16 examination of witnesses, and to compel the attendance  
17 of witnesses and the production of books and papers.  
18 Pursuant to the foregoing, the Board shall have the  
19 power of a court of record, including the power to  
20 issue subpoena and to compel the attendance and  
21 testimony of witnesses. Each member of the Board  
22 shall have the power to administer oaths and to issue  
23 subpoena. Whenever any person who shall have been  
24 subpoenaed to appear to give testimony, or to answer

1 any pertinent or proper question, or to produce books,  
2 papers or documents which shall have been designated  
3 in a subpoena, either on behalf of the prosecution or  
4 on behalf of the accused, shall refuse to appear to  
5 testify before the Board, or to answer any pertinent  
6 or proper questions, or to produce a book, paper or  
7 document which shall have been designated in a  
8 subpoena, the person shall be deemed to be in contempt  
9 of the Board, and it shall be the duty of the  
10 presiding officer of the Board, to report the fact to  
11 the district court of the State of Oklahoma in and for  
12 the county in which such person may be or may reside  
13 whereupon the court shall issue an attachment in the  
14 usual form, directed to the sheriff of the county,  
15 which shall command the sheriff to attach such person  
16 and forthwith bring the person before the court. On  
17 the return of the attachment duly served upon the  
18 accused, or upon the production of the person  
19 attached, the district court shall have jurisdiction  
20 of the matter. The person charged may purge himself  
21 or herself of the contempt in the same way and the  
22 same proceedings shall be had, and the same penalties  
23 may be imposed, as in the case of a witness subpoenaed  
24 to appear and give evidence on the trial of a civil

1 cause before a district court of the State of  
2 Oklahoma. Depositions may be taken and used in the  
3 same manner as in civil cases. The Board shall keep a  
4 record of the evidence in, and a record of each  
5 proceeding for the suspension, revocation of or  
6 refusal to renew a license or certificate of authority  
7 and shall make findings of fact and render a decision  
8 therein. If, after a hearing, the charges shall have  
9 been found to have been sustained by the vote of a  
10 majority of the members of the Board it shall  
11 immediately enter its order of suspension, revocation  
12 or refusal to renew, as the case may be.

13 B. An applicant whose application for license or certificate is  
14 denied may first appeal the decision to the Board within thirty (30)  
15 days of notice of that decision. The Board shall set a hearing for  
16 appeal. After a final order on the denial is made the applicant may  
17 appeal that decision to the district court pursuant to the  
18 Administrative Procedures Act.

19 C. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19           a. another podiatric physician,

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

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

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

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

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

15 C. As used in this section:

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

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

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

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

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

11 2. Gross malpractice or gross incompetence;

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

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

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

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

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

24

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

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

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

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

10 B. As used in this section:

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

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

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

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

- 1        1. Pleading guilty or nolo contendere to, or being convicted  
2 of, a felony crime that substantially relates to the practice of  
3 dentistry or poses a reasonable threat to public safety, or a  
4 misdemeanor involving moral turpitude, ~~or a violation of federal or~~  
5 ~~state controlled dangerous substances laws;~~
- 6        2. Presenting to the Board a false diploma, license, or  
7 certificate, or one obtained by fraud or illegal means;
- 8        3. Being, by reason of persistent inebriety or addiction to  
9 drugs, incompetent to continue the practice of dentistry;
- 10       4. Publishing a false, fraudulent, or misleading advertisement  
11 or statement;
- 12       5. Authorizing or aiding an unlicensed person to practice  
13 dentistry, to practice dental hygiene, or to perform a function for  
14 which a permit from the Board is required;
- 15       6. Authorizing or aiding a dental hygienist to perform any  
16 procedure prohibited by the State Dental Act or the rules of the  
17 Board;
- 18       7. Authorizing or aiding a dental assistant to perform any  
19 procedure prohibited by the State Dental Act or the rules of the  
20 Board;
- 21       8. Failing to pay fees as required by the State Dental Act or  
22 the rules of the Board;
- 23       9. Failing to complete continuing education requirements;

24

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

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

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

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

12       14. Being shown to be mentally unsound;

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

15       16. Being incompetent to practice dentistry while delivering  
16 care to a patient;

17       17. Committing gross negligence in the practice of dentistry;

18       18. Committing repeated acts of negligence in the practice of  
19 dentistry;

20       19. Offering to effect or effecting a division of fees, or  
21 agreeing to split or divide a fee for dental services with any  
22 person, in exchange for the person bringing or referring a patient;

23       20. Being involuntarily committed to an institution for  
24 treatment for substance abuse, until recovery or remission;

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

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

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

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

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

20       26. Willfully disclosing confidential information;

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

24

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

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

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

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

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

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

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

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

- 6 a. limit a patient's right of informed consent, or
- 7 b. to prohibit insurers, preferred provider organizations  
8 and managed care plans from operating pursuant to the  
9 applicable provisions of the Oklahoma Insurance Code  
10 and the Public Health Code;

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

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

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

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

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

5 C. As used in this section:

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

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

14 SECTION 5. AMENDATORY 59 O.S. 2001, Section 396.12c, as  
15 amended by Section 14, Chapter 57, O.S.L. 2003 (59 O.S. Supp. 2009,  
16 Section 396.12c), is amended to read as follows:

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

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

- 1 to the occupation of a funeral director or poses a reasonable threat  
2 to public safety;
- 3 2. Conviction of a misdemeanor involving funeral services;
  - 4 3. Gross malpractice or gross incompetency, which shall be  
5 determined by the Board;
  - 6 4. False or misleading advertising as a funeral director or  
7 embalmer;
  - 8 5. Violation of any of the provisions of the Funeral Services  
9 Licensing Act or any violation of Sections 201 through 231 of Title  
10 8 of the Oklahoma Statutes;
  - 11 6. Fraud or misrepresentation in obtaining a license;
  - 12 7. Using any casket or part thereof which has previously been  
13 used as a receptacle for, or in connection with, the burial or other  
14 disposition of dead human remains, unless the disclosure is made to  
15 the purchaser;
  - 16 8. Violation of any rules of the Board in administering the  
17 purposes of the Funeral Services Licensing Act;
  - 18 9. Use of intoxicating liquor sufficient to produce drunkenness  
19 in public, or habitual addiction to the use of habit-forming drugs  
20 or either;
  - 21 10. Solicitation of business, either personally or by an agent,  
22 from a dying individual or the relatives of a dead or individual  
23 with a terminal condition, as defined by the Oklahoma Rights of the  
24

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

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

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

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

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

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

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

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

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

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

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

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

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

22 1. The practice of any fraud or deceit in obtaining or  
23 attempting to obtain or renew a certificate of licensure, or a  
24

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

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

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

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

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

20 C. The Board shall have the power to:

21 1. Revoke a certificate of authorization;

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

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

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

5 4. Levy an administrative penalty.

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

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

12 F. As used in this section:

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

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

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

24

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

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

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

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

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

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

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

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

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

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

23 c.

24 b. State Board of Health rules;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 C. As used in this section:  
24

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

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

9        SECTION 8.        AMENDATORY        59 O.S. 2001, Section 532, is  
10 amended to read as follows:

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

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

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

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

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

24        C. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 K. As used in this section:

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

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

12 SECTION 10. AMENDATORY 59 O.S. 2001, Section 858-312,  
13 as amended by Section 5, Chapter 274, O.S.L. 2008 (59 O.S. Supp.  
14 2009, Section 858-312), is amended to read as follows:

15 Section 858-312. A. The Oklahoma Real Estate Commission may,  
16 upon its own motion, and shall, upon written complaint filed by any  
17 person, investigate the business transactions of any real estate  
18 licensee, and may after notice and hearing pursuant to the  
19 Administrative Procedures Act, upon showing good cause, impose  
20 sanctions as provided for in Section 858-208 of this title. Cause  
21 shall be established upon the showing that any licensee has  
22 performed, is performing, has attempted to perform, or is attempting  
23 to perform any of the following acts:

24

- 1        1. Making a materially false or fraudulent statement in an  
2 application for a license;
- 3        2. Making substantial misrepresentations or false promises in  
4 the conduct of business, or through real estate licensees, or  
5 advertising, which are intended to influence, persuade, or induce  
6 others;
- 7        3. Failing to comply with the requirements of Sections 858-351  
8 through 858-363 of this title;
- 9        4. Accepting a commission or other valuable consideration as a  
10 real estate associate for the performance of any acts as an  
11 associate, except from the real estate broker with whom the  
12 associate is associated;
- 13        5. Representing or attempting to represent a real estate broker  
14 other than the broker with whom the associate is associated without  
15 the express knowledge and consent of the broker with whom the  
16 associate is associated;
- 17        6. Failing, within a reasonable time, to account for or to  
18 remit any monies, documents, or other property coming into  
19 possession of the licensee which belong to others;
- 20        7. Paying a commission or valuable consideration to any person  
21 for acts or services performed in violation of the Oklahoma Real  
22 Estate License Code;
- 23        8. Any other conduct which constitutes untrustworthy, improper,  
24 fraudulent, or dishonest dealings;

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

3           10. Guaranteeing or having authorized or permitted any real  
4 estate licensee to guarantee future profits which may result from  
5 the resale of real estate;

6           11. Advertising or offering for sale, rent or lease any real  
7 estate, or placing a sign on any real estate offering it for sale,  
8 rent or lease without the consent of the owner or the owner's  
9 authorized representative;

10           12. Soliciting, selling, or offering for sale real estate by  
11 offering "free lots", conducting lotteries or contests, or offering  
12 prizes for the purpose of influencing a purchaser or prospective  
13 purchaser of real estate;

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

23           14. Paying a commission or any other valuable consideration to  
24 any person for performing the services of a real estate licensee as

1 defined in the Oklahoma Real Estate License Code who has not first  
2 secured a real estate license pursuant to the Oklahoma Real Estate  
3 License Code;

4 15. Unworthiness to act as a real estate licensee, whether of  
5 the same or of a different character as specified in this section,  
6 or because the real estate licensee has been convicted of, or  
7 pleaded guilty or nolo contendere to, a felony crime that  
8 substantially relates to the practice of real estate or poses a  
9 reasonable threat to public safety, or a misdemeanor crime involving  
10 moral turpitude;

11 16. Commingling with the licensee's own money or property the  
12 money or property of others which is received and held by the  
13 licensee, unless the money or property of others is received by the  
14 licensee and held in an escrow account that contains only money or  
15 property of others;

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

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

22 19. Conviction in a court of competent jurisdiction in this or  
23 any other state of the crime of forgery, embezzlement, obtaining  
24 money under false pretenses, extortion, conspiracy to defraud,

1 fraud, or any similar offense or offenses, or pleading guilty or  
2 nolo contendere to any such offense or offenses;

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

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

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

11 23. Violation of the Residential Property Condition Disclosure  
12 Act.

13 B. A person whose license is revoked, suspended, or not renewed  
14 may appeal the decision to the district court pursuant to the  
15 Administrative Procedures Act.

16 C. As used in this section:

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

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

1 SECTION 11. AMENDATORY 59 O.S. 2001, Section 858-723,  
2 as amended by Section 11, Chapter 165, O.S.L. 2006 (59 O.S. Supp.  
3 2009, Section 858-723), is amended to read as follows:

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

11 1. Revocation of the certificate with or without the right to  
12 reapply;

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

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

17 4. Stipulations, limitations, restrictions, and conditions  
18 relating to practice;

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

20 6. Reprimand, either public or private;

21 7. Satisfactory completion of an educational program or  
22 programs;

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

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

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

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

10 b. exceed Five Thousand Dollars (\$5,000.00) for all  
11 violations resulting from a single incident or  
12 transaction.

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

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

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

1 If the double fine is not paid within the additional thirty-day  
2 period, the certificate shall automatically be revoked.

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

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

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

19 1. Procuring or attempting to procure a certificate pursuant to  
20 the provisions of the Oklahoma Certified Real Estate Appraisers Act  
21 by knowingly making a false statement, knowingly submitting false  
22 information, refusing to provide complete information in response to  
23 a question in an application for certification or through any form  
24 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  
24 certified general real estate appraiser shall be afforded an

1 opportunity to present matters in mitigation and extenuation, but  
2 may not collaterally attack the civil judgment.

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

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

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

20 4. Any complaint filed pursuant to this subsection shall be in  
21 writing and signed by the person filing same and shall be on a form  
22 approved by the Board. The trainee or state licensed or state  
23 certified appraiser shall be entitled to any hearings or subject to  
24 any disciplinary proceedings provided for in the Oklahoma Certified

1 Real Estate Appraisers Act based upon any complaint filed pursuant  
2 to this subsection.

3 G. An applicant whose license or certificate is denied or not  
4 renewed may appeal the decision to the Board within thirty (30) days  
5 of notice of that decision and the Board shall set a hearing. If  
6 the Board does not set a hearing or if the applicant desires to  
7 appeal the decision further, the appeal may be made to the district  
8 court pursuant to the Administrative Procedures Act.

9 H. 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 887.13, as  
19 amended by Section 1, Chapter 26, O.S.L. 2008 (59 O.S. Supp. 2009,  
20 Section 887.13), is amended to read as follows:

21 Section 887.13 A. The State Board of Medical Licensure and  
22 Supervision may refuse to issue or renew, or may suspend or revoke a  
23 license to any person, after notice and hearing in accordance with  
24 rules and regulations promulgated pursuant to the Physical Therapy

1 Practice Act and the provisions of the Administrative Procedures Act  
2 of the Oklahoma Statutes who has:

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

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

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

18 4. Used drugs, narcotics, medication, or intoxicating liquors  
19 to an extent which affects the professional competency of the  
20 applicant or licensee;

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

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

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

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

7           9. Been guilty of conduct unbecoming a person licensed as a  
8 physical therapist or physical therapist assistant or guilty of  
9 conduct detrimental to the best interests of the public or the  
10 profession;

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

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

14          B. As used in this section:

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

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

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

1 Section 888.9 A. The Board may deny or refuse to renew a  
2 license, or may suspend or revoke a license, or may censure a  
3 licensee, publicly or otherwise, or may impose probationary  
4 conditions where the licensee or applicant for license has been  
5 guilty of unprofessional conduct which has endangered or is likely  
6 to endanger the health, welfare, or safety of the public. Such  
7 unprofessional conduct includes:

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

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

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

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

19 5. Violating any provisions of this act.

20 B. Such denial, refusal to renew, suspension, revocation,  
21 censure, or imposition of probationary conditions upon a license may  
22 be ordered by the Board in a decision made after a hearing in the  
23 manner provided by the ~~rules and regulations adopted by the Board~~  
24 Administrative Procedures Act. After final decision by the Board,

1 an appeal may be made pursuant to the Administrative Procedures Act.

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

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

18 Section 1310. A. The Insurance Commissioner may deny, censure,  
19 suspend, revoke, or refuse to renew any license issued under Section  
20 1301 et seq. of this title for any of the following causes:

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

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

1 3. Material misstatement, misrepresentation, or fraud in  
2 obtaining the license;

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

6 5. Conviction of, or having entered a plea of guilty or nolo  
7 contendere to, any felony crime that substantially relates to the  
8 business practices of bail bondsmen or poses a reasonable threat to  
9 public safety or to a misdemeanor involving moral turpitude ~~or~~  
10 ~~dishonesty~~;

11 6. Fraudulent or dishonest practices in conducting business  
12 under the license;

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

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

18 9. When, in the judgment of the Commissioner, the licensee has,  
19 in the conduct of affairs under the license, demonstrated  
20 incompetency, or untrustworthiness, or conduct or practices  
21 rendering the licensee unfit to carry on the bail bond business or  
22 making continuance in the business detrimental to the public  
23 interest, or that the licensee is no longer in good faith carrying  
24 on the bail bond business, or that the licensee is guilty of

1 rebating, or offering to rebate, or dividing with someone other than  
2 a licensed bail bondsman, or offering to divide commissions in the  
3 case of limited surety agents, or premiums in the case of  
4 professional bondsmen, and for this conduct is found by the  
5 Commissioner to be a source of detriment, injury, or loss to the  
6 public;

7 10. For any materially untrue statement in the license  
8 application;

9 11. Misrepresentation of the terms of any actual or proposed  
10 bond;

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

13 13. Cheating on an examination for licensure;

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

16 15. For paying a fee or rebate, or giving or promising anything  
17 of value to a jailer, trustee, police officer, law enforcement  
18 officer, or other officer of the law, or any other person who has  
19 power to arrest or hold in custody, or to any public official or  
20 public employee in order to secure a settlement, compromise,  
21 remission, or reduction of the amount of any bail bond or  
22 estreatment thereof, or to secure delay or other advantage. This  
23 shall not apply to a jailer, police officer, or officer of the law  
24

1 who is not on duty and who assists in the apprehension of a  
2 defendant;

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

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

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

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

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

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

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

3        23. For filing a materially untrue monthly report;

4        24. For filing false affidavits regarding cancellation of the  
5 appointment of an insurer;

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

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

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

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

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

1 enforced. Any order for civil penalties entered by the Commissioner  
2 or authorized decision maker for the Insurance Department which has  
3 become final may be filed with the court clerk of Oklahoma County  
4 and shall then be enforced by the judges of said county.

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

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

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

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

6 G. 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 15. AMENDATORY 59 O.S. 2001, Section 1370, as  
16 amended by Section 24, Chapter 313, O.S.L. 2004 (59 O.S. Supp. 2009,  
17 Section 1370), is amended to read as follows:

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

23 B. The Board shall have the power and duty to suspend, place on  
24 probation, require remediation, or revoke any license to practice

1 psychology or to take any other action specified in the rules  
2 whenever the Board shall find by clear and convincing evidence that  
3 the psychologist has engaged in any of the following acts or  
4 offenses:

5 1. Fraud in applying for or procuring a license to practice  
6 psychology;

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

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

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

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

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

21 ~~7.~~ 6. Engaging in sexual intercourse or other sexual contact  
22 with a client or patient;

23 ~~8.~~ 7. Use of repeated untruthful, deceptive or improbable  
24 statements concerning the licensee's qualifications or the effects

1 or results of proposed treatment, including practicing outside of  
2 the psychologist's professional competence established by education,  
3 training, and experience;

4 ~~9.~~ 8. Gross malpractice or repeated malpractice or gross  
5 negligence in the practice of psychology;

6 ~~10.~~ 9. Aiding or abetting the practice of psychology by any  
7 person not approved by the Board or not otherwise exempt from the  
8 provisions of Section 1351 et seq. of this title;

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

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

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

23

24

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

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

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

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

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

24

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

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

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

1 case of service of a summons or by publication in a civil action.  
2 Proof of mailing may be made by the affidavit of the person who  
3 mailed the notice. Proof of service shall be filed in the office of  
4 the Board.

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

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

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

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

1        J. 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 16.        AMENDATORY        59 O.S. 2001, Section 1503A, is  
11 amended to read as follows:

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

14        1. Be of good moral character;

15        2. Have net assets of at least Twenty-five Thousand Dollars  
16 (\$25,000.00); and

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

20        B. The Administrator shall find ineligible an applicant who has  
21 a felony crime conviction ~~which directly~~ that substantially relates  
22 to the ~~duties and responsibilities of the~~ occupation of a pawnbroker  
23 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 17. 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  
24 letter of reprimand, impose probationary conditions, impose an

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

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

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

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

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

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

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

24

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

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

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

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

22           3. The hearing may be adjourned from time to time. If, after  
23 due receipt of notice of a hearing, the licensee shall be unable to  
24 appear for good cause shown, then a continuance shall be granted by

1 the Board. The time allowed shall be at the discretion of the  
2 Board, but in no instance shall it be less than two (2) weeks from  
3 the originally scheduled date of the hearing.

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

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

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

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

23 4. If a person fails and refuses to attend in obedience to such  
24 subpoena, or refuses to be sworn or examined or answer any legally

1 proper question propounded by any member of said Board or any  
2 attorney or licensee upon permission from said Board, such person  
3 shall be guilty of a misdemeanor, and, upon conviction, may be  
4 punished by a fine not to exceed Two Hundred Fifty Dollars (\$250.00)  
5 or by confinement in the county jail not to exceed ninety (90) days,  
6 or both.

7 D. 1. Any person who feels aggrieved by reason of the  
8 imposition of disciplinary action may appeal to the Board for a  
9 review of the case or the person may seek judicial review pursuant  
10 to the Administrative Procedures Act.

11 2. The suit shall be filed against the Board as defendant, and  
12 service of process shall be upon either the chairman or executive  
13 secretary of the Board.

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

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

18 F. As used in this section:

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

23 2. "Poses a reasonable threat" means the nature of criminal  
24 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 18. AMENDATORY 59 O.S. 2001, Section 1912, as  
4 amended by Section 2, Chapter 220, O.S.L. 2009 (59 O.S. Supp. 2009,  
5 Section 1912), is amended to read as follows:

6 Section 1912. A. The State Department of Health may deny,  
7 revoke, suspend or place on probation any license or specialty  
8 designation issued pursuant to the provisions of the Licensed  
9 Professional Counselors Act to a licensed professional counselor, if  
10 the person has:

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

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

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

20 4. Knowingly aided or abetted a person not licensed pursuant to  
21 these provisions in representing himself as a licensed professional  
22 counselor in this state;

23 5. Engaged in unprofessional conduct as defined by the rules  
24 established by the Board;

1 6. Engaged in negligence or wrongful actions in the performance  
2 of his 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 professional counselor placed on probation  
14 until notice is served upon the licensed professional counselor 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  
24

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 19. AMENDATORY 59 O.S. 2001, Section 1925.15,  
4 as amended by Section 3, Chapter 220, O.S.L. 2009 (59 O.S. Supp.  
5 2009, Section 1925.15), is amended to read as follows:

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

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

13 2. Been convicted of a misdemeanor crime ~~the Commissioner~~  
14 ~~determines after a hearing to be of such a nature as to render the~~  
15 ~~person convicted unfit to practice marital and family therapy~~  
16 involving moral turpitude;

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

20 4. Misrepresented any information required in obtaining a  
21 license;

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

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

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

6       8. Engaged in negligence or wrongful actions in the performance  
7 of the duties of such person.

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

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

19       D. Any person who is determined by the Department to have  
20 violated any of the provisions of the Marital and Family Therapist  
21 Licensure Act or any rule promulgated or order issued pursuant  
22 thereto may be subject to an administrative penalty. The maximum  
23 fine shall not exceed Ten Thousand Dollars (\$10,000.00). All  
24 administrative penalties collected pursuant to the Marital and

1 Family Therapist Licensure Act shall be deposited into the Licensed  
2 Marital and Family Therapist Revolving Fund. Administrative  
3 penalties imposed pursuant to this subsection shall be enforceable  
4 in the district courts of this state.

5 E. As used in this section:

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

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

14 SECTION 20. AMENDATORY 59 O.S. 2001, Section 1941, is  
15 amended to read as follows:

16 Section 1941. A. The State Department of Health may deny,  
17 revoke, suspend, or place on probation any license or specialty  
18 designation issued pursuant to the provisions of the Licensed  
19 Behavioral Practitioner Act to a licensed behavioral practitioner,  
20 if the person has:

21 1. Been convicted of a felony crime that substantially relates  
22 to the practice of behavioral health or poses a reasonable threat to  
23 public safety;

24

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

4           3.    Engaged in fraud or deceit in connection with services  
5 rendered or in establishing needed qualifications pursuant to the  
6 provisions of this act;

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

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

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

14          7.    Misrepresented any information required in obtaining a  
15 license.

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

23          C.    No license or specialty designation shall be suspended or  
24 revoked, nor a licensed behavioral practitioner placed on probation,

1 until notice is served upon the licensed behavioral practitioner and  
2 a hearing is held in conformity with Article II of the  
3 Administrative Procedures Act.

4 D. As used in this section:

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

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

13 SECTION 21. This act shall become effective July 1, 2010.

14 SECTION 22. It being immediately necessary for the preservation  
15 of the public peace, health and safety, an emergency is hereby  
16 declared to exist, by reason whereof this act shall take effect and  
17 be in full force from and after its passage and approval.

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