

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2509

By: Stiles

4
5
6 AS INTRODUCED

7 An Act relating to unauthorized practices; creating
8 the Unauthorized Practices Act; providing civil cause
9 of action; directing certain damages award;
10 prohibiting practicing without a license; providing
11 punishment for prohibited act; requiring governing
12 body to choose whether to pursue criminal or
13 administrative remedy; allowing governing body to
14 contract with local district attorney; mandating each
15 violation be considered a separate offense; providing
16 for certain damages; requiring restitution for
17 payment of damages; amending 59 O.S. 2011, Section
18 143, which relates to the Podiatric Medicine Practice
19 Act; deleting certain unlawful acts; amending 59 O.S.
20 2011, Section 199.6, which relates to the Oklahoma
21 Cosmetology Act; deleting certain unlawful acts;
22 amending 59 O.S. 2011, Section 475.20, which relates
23 to the engineering and land surveying; deleting
24 criminal penalties; amending 59 O.S. 2011, Section
536.6, which relates to the Registered Electrologist
Act; deleting certain prohibited acts; amending 59
O.S. 2011, Sections 567.5, 567.6 and 567.6a, which
relate to the Oklahoma Nursing Practice Act; deleting
criminal punishment provisions; amending 59 O.S.
2011, Section 588, which relates to optometry;
deleting certain prohibited acts; amending 59 O.S.
2011, Section 638, which relates to the Oklahoma
Osteopathic Medicine Act; deleting prohibited act;
amending 59 O.S. 2011, Section 725.3, which relates
to healing arts; deleting certain prohibited acts;
amending 59 O.S. 2011, Section 1044, which relates to
the Oklahoma Inspectors Act; deleting certain
penalties; amending 59 O.S. 2011, Sections 1106 and
1115, which relate to the Waterworks and Wastewater
Works Operator Certification Act; deleting unlawful
act; deleting certain penalty; amending 59 O.S. 2011,

1 Section 1270, which relates to the Social Worker's
2 Licensing Act; deleting penalties for certain
3 unlawful acts; amending 59 O.S. 2011, Section 1336,
4 which relates to bail bonds; deleting applicability
5 of certain penalties; amending 59 O.S. 2011, Section
6 1474, which relates to the Polygraph Examiners Act;
7 deleting certain prohibited act; amending 59 O.S.
8 2011, Section 1512, which relates to the Oklahoma
9 Pawnshop Act; deleting penalty for certain act;
10 amending 59 O.S. 2011, Section 1634, which relates to
11 the Oklahoma Welding Act; deleting certain penalties;
12 amending 59 O.S. 2011, Section 1750.8, which relates
13 to the Oklahoma Security Guard and Private
14 Investigator Act; deleting certain prohibited act;
15 amending 59 O.S. 2011, Section 1928, which relates to
16 behavior analysts; deleting investigation of certain
17 act; amending 59 O.S. 2011, Section 1957, which
18 relates to the Oklahoma Rental-Purchase Act; deleting
19 certain violation and penalties; amending 59 O.S.
20 2011, Section 2009, which relates to the Oklahoma
21 Health Spa Act; deleting certain prohibited act;
22 deleting certain penalties; amending 59 O.S. 2011,
23 Sections 2042 and 2044, which relate to the
24 Respiratory Care Practice Act; deleting certain
prohibited act; deleting certain penalties; amending
59 O.S. 2011, Section 2069, which relates to the
Oklahoma Licensed Perfusionists Act; deleting certain
prohibited acts; amending 59 O.S. 2011, Section 2307,
which relates to the Oklahoma Licensed Podorthists
Act; deleting certain prohibited acts and penalties;
amending 59 O.S. 2011, Section 3007, which relates to
the Orthotics and Prosthetics Practice Act; deleting
certain prohibited acts and penalties; repealing 59
O.S. 2011, Section 15.25, which relates to the
Oklahoma Accountancy Act; repealing 59 O.S. 2011,
Sections 46.17 and 46.41, which relate to the State
Architectural and Registered Interior Designers Act;
repealing 59 O.S. 2011, Section 61.6, which relates
to barbers; repealing 59 O.S. 2011, Section 159.5,
which relates to the Podiatric Medicine Practice Act;
repealing 59 O.S. 2011, Section 161.14, which relates
to the Oklahoma Chiropractic Practice Act; repealing
59 O.S. 2011, Section 328.49, which relates to the
State Dental Act; repealing 59 O.S. 2011, Section
353.17A, which relates to the Oklahoma Pharmacy Act;
repealing 59 O.S. 2011, Sections 396.12d and 396.24,
which relate to the Funeral Services Licensing Act;

1 repealing 59 O.S. 2011, Sections 491 and 495b, which
2 relate to the Oklahoma Allopathic Medical and
3 Surgical Licensure and Supervision Act; repealing 59
4 O.S. 2011, Section 519.10, which relates to the
5 Physician Assistant Act; repealing 59 O.S. 2011,
6 Section 533, which relates to the Oklahoma Athletic
7 Trainers Act; repealing 59 O.S. 2011, Section 536.11,
8 which relates to the Registered Eletrologist Act;
9 repealing 59 O.S. 2011, Section 540.12, which relates
10 to the Therapeutic Recreation Practice Act; 59 O.S.
11 2011, Section 567.9, which relates to the Oklahoma
12 Nursing Practice Act; repealing 59 O.S. 2011, Section
13 597, which relates to optometry; repealing 59 O.S.
14 2011, Sections 698.18 and 698.26, which relate to the
15 Oklahoma Veterinary Practice Act; repealing 59 O.S.
16 2011, Sections 731.3 and 731.4, which relate to
17 healing arts; repealing 59 O.S. 2011, Section 858-
18 401, which relates to The Oklahoma Real Estate
19 License Code; repealing 59 O.S. 2011, Section 858-
20 632, which relates to the Home Inspection Licensing
21 Act; repealing 59 O.S. 2011, Section 858-704, which
22 relates to the Oklahoma Certified Real Estate
23 Appraisers Act; repealing 59 O.S. 2011, Section
24 887.16, which relates to the Physical Therapy
Practice Act; repealing 59 O.S. 2011, Section 946,
which relates to sales of optical goods and devices;
repealing 59 O.S. 2011, Section 989, which relates to
the Oklahoma Public Auction Law; repealing 59 O.S.
2011, Section 1019, which relates to The Plumbing
License Law of 1955; repealing 59 O.S. 2011, Section
1150.12, which relates to the Oklahoma Sanitarian and
Environmental Specialist Registration Act; repealing
59 O.S. 2011, Section 1151.3, which relates to the
Roofing Contractor Registration Act; repealing 59
O.S. 2011, Section 1220, which relates to foresters;
repealing 59 O.S. 2011, Section 1374, which relates
to the Psychologists Licensing Act; repealing 59 O.S.
2011, Section 1457, which relates to the Polygraph
Examiners Act; repealing 59 O.S. 2011, Section 1503,
which relates to the Oklahoma Pawnshop Act; repealing
59 O.S. 2011, Sections 1523 and 1529, which relate to
the Precious Metal and Gem Dealer Licensing Act;
repealing 59 O.S. 2011, Section 1621, which relates
to the Speech-Language Pathology and Audiology
Licensing Act; repealing 59 O.S. 2011, Section 1640,
which relates to the Oklahoma Welding Act; repealing
59 O.S. 2011, Section 1690, which relates to the

1 Electrical License Act; repealing 59 O.S. 2011,
2 Section 1736, which relates to the Licensed Dietitian
3 Act; repealing 59 O.S. 2011, Sections 1750.2A, 1750.4
4 and 1750.4a, which relate to the Oklahoma Security
5 Guard and Private Investigator Act; repealing 59 O.S.
6 2011, Sections 1800.6 and 1800.16, which relate to
7 the Alarm and Locksmith Industry Act; repealing 59
8 O.S. 2011, Sections 1850.7 and 1850.11, which relate
9 to the Mechanical Licensing Act; repealing 59 O.S.
10 2011, Section 1911, which relates to the Licensed
11 Professional Counselors Act; repealing 59 O.S. 2011,
12 Sections 1925.10 and 1925.16, which relate to the
13 Marital and Family Therapist Licensure Act; repealing
14 59 O.S. 2011, Section 1940, which relates to the
15 Licensed Behavioral Practitioner Act; providing for
16 codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1041 of Title 12, unless there
is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the
"Unauthorized Practices Act".

B. If a person practices a profession for which a license,
certificate or registration is required, and the person accepts
compensation for services prior to or without obtaining a license,
certificate, or registration as prohibited by Section 3 of the
Unauthorized Practices Act, then the act of accepting compensation
shall be fraud per se. A claimant filing suit under this section
shall be entitled to punitive damages of three times the amount of

1 either the actual damages or the amount paid to the defendant who
2 practiced unlawfully, whichever is higher.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1534 of Title 21, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Any person practicing or holding himself or herself out as a
7 person who practices a licensed, certified or registered profession
8 in this state without complying with the licensing, certification or
9 registration provisions of Title 59 or Section 7 of Article II of
10 Title 5 of the Oklahoma Statutes shall be guilty of a misdemeanor
11 punishable in accordance with subsection B of this section.

12 B. Upon conviction under this section, the defendant shall be
13 punished by a fine of not less than Two Hundred Fifty Dollars
14 (\$250.00) and not more than One Thousand Dollars (\$1,000.00) and
15 imprisonment not to exceed one (1) year. Upon conviction for a
16 third subsequent offense, the person shall be punished by a fine of
17 not less than One Thousand Dollars (\$1,000.00) and not more than
18 Five Thousand Dollars (\$5,000.00) and imprisonment not to exceed two
19 (2) years.

20 C. When a person is found to be unlawfully practicing a
21 licensed, certified or registered profession under this section, the
22 relevant regulatory body overseeing the profession as designated by
23 statute shall have the option of either bringing an immediate claim
24 under this section or, alternatively, pursuing administrative

1 remedies in accordance with the individual statutes governing that
2 profession, but not both.

3 D. The regulatory body overseeing the profession is hereby
4 authorized to contract with local district attorneys to determine
5 the arrangements for which a charge under this section should be
6 prosecuted and for the reimbursement of such prosecution.

7 E. A regulatory body that chooses to bring a claim under this
8 section shall not be restricted to follow previously enacted
9 statutory procedures.

10 F. Each violation of the provisions of this section shall
11 constitute a separate offense.

12 G. Nothing in this section shall preclude additional charges of
13 fraud under Sections 1541.1 through 1545 of Title 21 of the Oklahoma
14 Statutes.

15 H. A person guilty of a misdemeanor under this section shall
16 also be liable for the amount of damages, loss and expense incurred
17 by the regulatory body overseeing the profession in investigating
18 and prosecuting the action. The damages shall be recovered by
19 court-ordered restitution.

20 I. Nothing in this section shall preclude a civil action
21 pursuant to Section 2 of the Unauthorized Practices Act against a
22 person who violates subsection A of this section.

23 SECTION 3. AMENDATORY 59 O.S. 2011, Section 143, is
24 amended to read as follows:

1 Section 143. A. It shall be unlawful for:

2 1. ~~Any person to practice or attempt to practice podiatric~~
3 ~~medicine in this state as defined by the applicable laws or as~~
4 ~~otherwise defined, or to hold himself out to the public in this~~
5 ~~state as a podiatric physician, doctor of podiatric medicine,~~
6 ~~podiatrist, foot doctor or foot specialist without having first~~
7 ~~obtained a license to practice podiatric medicine from the Board of~~
8 ~~Podiatric Medical Examiners, or after his license to practice~~
9 ~~podiatric medicine has been revoked, or while such license is under~~
10 ~~suspension. Provided, however, an applicant for a license by~~
11 ~~examination who has successfully passed the examination administered~~
12 ~~by the Board may practice podiatric medicine to the extent necessary~~
13 ~~to enable him to observe and assist a podiatric physician, as an~~
14 ~~intern, preceptee or resident, if while so doing he complies with~~
15 ~~all of the rules of the Board;~~

16 2. A podiatric physician to practice as such at any time when
17 his license is not conspicuously displayed in his place of regular
18 practice;

19 3. ~~Any person to knowingly represent in any manner in this~~
20 ~~state, either publicly or privately, that another person is a~~
21 ~~licensed podiatric physician, doctor of podiatric medicine,~~
22 ~~podiatrist, foot doctor or foot specialist, or is capable of~~
23 ~~examining, diagnosing, recommending for, prescribing for, caring~~
24 ~~for, or treating in this state ailments, diseased conditions,~~

1 ~~deformities, or injuries of the human foot, unless such other person~~
2 ~~at the time of such representation is a licensed podiatric~~
3 ~~physician, and~~

4 ~~4. 2.~~ Any podiatric physician to violate any provision of the
5 Podiatric Medicine Practice Act or the rules of the Board.

6 B. Any person who does any one or more of the things made
7 unlawful by subsection A of this section shall be deemed guilty of a
8 misdemeanor and upon conviction shall be punishable by a fine of not
9 more than Five Hundred Dollars (\$500.00) or by imprisonment in the
10 county jail for not more than six (6) months, or by both such fine
11 and imprisonment. Each day of such violation shall constitute a
12 separate and distinct offense.

13 SECTION 4. AMENDATORY 59 O.S. 2011, Section 199.6, is
14 amended to read as follows:

15 Section 199.6 A. It shall be unlawful and constitute a
16 misdemeanor, punishable upon conviction by a fine of not less than
17 Fifty Dollars (\$50.00), nor more than One Hundred Fifty Dollars
18 (\$150.00), or by imprisonment in the county jail for not more than
19 thirty (30) days, or both such fine and imprisonment, for any
20 person, firm, or corporation in this state to:

21 1. ~~Operate or attempt to operate a cosmetology school or~~
22 ~~cosmetology salon without having obtained a license therefor from~~
23 ~~the State Board of Cosmetology,~~

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1 ~~2. Give or attempt to give instruction in cosmetology, without~~
2 ~~having obtained an instructor's license from the State Board of~~
3 ~~Cosmetology;~~

4 ~~3. Practice or offer to practice cosmetology or manicuring~~
5 ~~without having obtained a license therefor from the State Board of~~
6 ~~Cosmetology;~~

7 ~~4. Operate a cosmetic studio without having obtained a license~~
8 ~~therefor from the State Board of Cosmetology;~~

9 ~~5. Demonstrate a cosmetic preparation without having obtained a~~
10 ~~demonstrator's license from the State Board of Cosmetology;~~

11 ~~6.~~ Permit any person in one's employ, supervision, or control
12 to practice cosmetology unless that person has obtained an
13 appropriate license from the State Board of Cosmetology;

14 ~~7.~~ 2. Willfully violate any rule promulgated by the State Board
15 of Cosmetology for the sanitary management and operation of a
16 cosmetology school or cosmetology salon; or

17 ~~8.~~ 3. Violate any of the provisions of the Oklahoma Cosmetology
18 Act.

19 B. The provisions of the Oklahoma Cosmetology Act shall not
20 apply to the following persons while such persons are engaged in the
21 proper discharge of their professional duties:

22 1. Funeral directors;

23 2. Persons in the Armed Services;

1 3. Persons authorized to practice the healing arts or nursing;
2 or

3 4. Regularly employed sales people working in retail
4 establishments engaged in the business of selling cosmetics in
5 sealed packages.

6 SECTION 5. AMENDATORY 59 O.S. 2011, Section 475.20, is
7 amended to read as follows:

8 Section 475.20 A. ~~Criminal penalties:~~

9 ~~Any person or entity who practices, or offers to practice,~~
10 ~~engineering or land surveying in this state without being licensed~~
11 ~~by the State Board of Professional Engineers and Land Surveyors in~~
12 ~~accordance with the provisions of Section 475.1 et seq. of this~~
13 ~~title, or any person or entity using or employing the words~~
14 ~~"engineer" or "engineering" or "land surveyor" or "land surveying"~~
15 ~~or any modification or derivative thereof in its name or form of~~
16 ~~business or activity except as authorized in Section 475.1 et seq.~~
17 ~~of this title, or any person presenting or attempting to use the~~
18 ~~certificate of licensure or the seal of another, or any person who~~
19 ~~shall give false or forged evidence of any kind to the Board or to~~
20 ~~any member thereof in obtaining or attempting to obtain a~~
21 ~~certificate of licensure, or any person who shall falsely~~
22 ~~impersonate any other licensee of like or different name, or any~~
23 ~~person who shall attempt to use an expired, suspended, revoked, or~~
24 ~~nonexistent certificate of licensure, or who shall practice or offer~~

1 ~~to practice when not qualified, or any person who falsely claims to~~
2 ~~be registered or licensed under Section 475.1 et seq. of this title,~~
3 ~~or any person who shall violate any of the provisions of Section~~
4 ~~475.1 et seq. of this title, shall be guilty of a misdemeanor,~~
5 ~~punishable by a fine of not less than Two Hundred Fifty Dollars~~
6 ~~(\$250.00), nor more than Two Thousand Dollars (\$2,000.00).~~

7 ~~B.~~ Administrative penalties:

8 1. Any person or entity who has been determined by the Board to
9 have violated any provision of Section 475.1 et seq. of this title,
10 or any rule, regulation or order issued pursuant to such provisions,
11 may be liable for an administrative penalty of not less than Two
12 Hundred Fifty Dollars (\$250.00) nor more than Ten Thousand Dollars
13 (\$10,000.00) for each separate violation.

14 2. The amount of the penalty shall be assessed by the Board
15 pursuant to the provisions of subsection 1 of this section, after
16 notice and hearing. In determining the amount of the penalty, the
17 Board shall include, but not be limited to, consideration of the
18 nature, circumstances and gravity of the violation, and with respect
19 to the person or entity found to have committed the violation, the
20 degree of culpability, the effect on ability of the person or entity
21 to continue to do business and any show of good faith in attempting
22 to achieve compliance with the provisions of Section 475.1 et seq.
23 of this title. All monies collected from administrative penalties
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1 shall be deposited with the State Treasurer and placed in the
2 "Professional Engineers and Land Surveyors Fund".

3 3. Any certificate of licensure or certificate of authorization
4 holder may elect to surrender the certificate of licensure or
5 certificate of authorization in lieu of an administrative action,
6 but shall be permanently barred from obtaining a reissuance of the
7 certificate of registration or certificate of authorization.

8 ~~C.~~ B. Legal Counsel:

9 The Attorney General of this state or an assistant shall act as
10 legal advisor to the Board and render such legal assistance as may
11 be necessary in carrying out the provisions of Section 475.1 et seq.
12 of this title. The Board may employ counsel and necessary
13 assistance to aid in the enforcement of such provisions, and the
14 compensation and expenses therefor shall be paid from funds of the
15 Board.

16 SECTION 6. AMENDATORY 59 O.S. 2011, Section 536.6, is
17 amended to read as follows:

18 Section 536.6 ~~A. No person shall practice electrolysis or hold~~
19 ~~himself out as an electrologist, or use the title "Electrologist",~~
20 ~~or "Registered Electrologist", or the initials "R.E." or "L.E.", in~~
21 ~~this state, unless he is licensed in accordance with the provisions~~
22 ~~of the Registered Electrologist Act. No other person shall in any~~
23 ~~way, orally or in writing, in print, or by sign or transmission of~~
24 ~~sound or sight, directly or by implication, represent himself as an~~

1 ~~electrologist. Such misrepresentation, upon conviction, shall~~
2 ~~constitute a misdemeanor and shall be punishable as provided in the~~
3 ~~Registered Electrologist Act.~~

4 ~~B.~~ Nothing in the Registered Electrologist Act shall prohibit
5 any person in the healing arts in this state under any other act
6 from engaging in the practice for which he is duly licensed.

7 SECTION 7. AMENDATORY 59 O.S. 2011, Section 567.5, is
8 amended to read as follows:

9 Section 567.5 A. All applicants for a license to practice as a
10 Registered Nurse shall be subject to Section 567.8 of this title.

11 B. An applicant for a license to practice as a Registered Nurse
12 shall submit to the Oklahoma Board of Nursing certified written
13 evidence that the applicant:

14 1. Has completed the basic professional curricula of a school
15 of nursing approved by a state board of nursing, and holds or is
16 entitled to hold a diploma or degree therefrom;

17 2. Has never been convicted in this state, the United States or
18 another state or territory of any felony, unless five (5) years have
19 elapsed since the date of the criminal conviction or the termination
20 of any probation or other requirements imposed on the applicant by
21 the sentencing court, whichever shall last occur, or a presidential
22 or gubernatorial pardon for the criminal offense has been received,
23 provided that the provisions of this paragraph shall not be
24 effective until November 1, 2003;

1 3. Has submitted a criminal history records search that
2 complies with Section 567.18 of this title;

3 4. Is a minimum of eighteen (18) years of age; and

4 5. Has met such other qualifications as the Board may prescribe
5 in its rules.

6 C. An applicant for a license shall be required to pass a
7 written examination in such subjects as the Board may determine.
8 Upon an applicant successfully passing such an examination, the
9 Board may issue to the applicant a license to practice as a
10 Registered Nurse. An applicant who fails such examination shall be
11 subject to reexamination according to the rules of the Board. The
12 passing criteria shall be established by the Board in its rules.

13 D. The Board may issue a license to practice nursing as a
14 registered nurse without examination to an applicant who has been
15 duly licensed as a Registered Nurse under the laws of another state,
16 territory, the District of Columbia or a foreign country, if such
17 applicant meets the qualifications required for licensing as a
18 Registered Nurse in this state.

19 E. Any person who holds a license to practice as a registered
20 nurse in this state shall have the right to use both the title
21 "Registered Nurse" and the abbreviation "R.N." No other person
22 shall assume such title or use such abbreviation, or any other
23 words, letters, signs or figures to indicate that the person using
24 the same is a registered nurse. ~~Any individual doing so shall be~~

1 ~~guilty of a misdemeanor, which shall be punishable, upon conviction,~~
2 ~~by imprisonment in the county jail for not more than one (1) year or~~
3 ~~by a fine of not less than One Hundred Dollars (\$100.00) nor more~~
4 ~~than One Thousand Dollars (\$1,000.00), or by both such imprisonment~~
5 ~~and fine for each offense.~~

6 SECTION 8. AMENDATORY 59 O.S. 2011, Section 567.6, is
7 amended to read as follows:

8 Section 567.6 A. All applicants for a license to practice as a
9 Licensed Practical Nurse shall be subject to Section 567.8 of this
10 title.

11 B. An applicant for a license to practice as a Licensed
12 Practical Nurse shall submit to the Oklahoma Board of Nursing
13 certified evidence that the applicant:

14 1. Has received a high school diploma or a General Educational
15 Development (G.E.D.) credential;

16 2. Has successfully completed the prescribed curricula in a
17 state-approved program of practical nursing and holds or is entitled
18 to hold a diploma or certificate therefrom, or equivalent courses in
19 a state-approved program of nursing;

20 3. Has never been convicted in this state, the United States or
21 another state or territory of any felony, unless five (5) years have
22 elapsed since the date of the criminal conviction or the termination
23 of any probation or other requirements imposed on the applicant by
24 the sentencing court, whichever shall last occur, or a presidential

1 or gubernatorial pardon for the criminal offense has been received,
2 provided that the provisions of this paragraph shall not be
3 effective until November 1, 2003;

4 4. Has submitted a criminal history records search that
5 complies with Section 567.18 of this title;

6 5. Is a minimum of eighteen (18) years of age; and

7 6. Has met such other reasonable preliminary qualification
8 requirements as the Board may prescribe.

9 C. The applicant for a license to practice as a Licensed
10 Practical Nurse shall be required to pass a written examination in
11 such subjects as the Board may require. Upon the applicant
12 successfully passing such examination the Board may issue to the
13 applicant a license to practice as a Licensed Practical Nurse. An
14 applicant who fails such examination shall be subject to
15 reexamination according to the rules of the Board. The passing
16 criteria shall be established by the Board in its rules.

17 D. The Board may issue a license to practice as a Licensed
18 Practical Nurse without examination to any applicant who has been
19 duly licensed or registered as a Licensed Practical Nurse, or is
20 entitled to perform similar services under a different title,
21 according to the laws of another state, territory, the District of
22 Columbia or a foreign country if such applicant meets the
23 requirements for Licensed Practical Nurses in the State of Oklahoma.

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1 E. Any person holding a license to practice as a licensed
2 attendant issued by the Board, which is valid on July 1, 1953, shall
3 be deemed to be a Licensed Practical Nurse under the provisions of
4 this act.

5 F. Any person who holds a license to practice as a Licensed
6 Practical Nurse in this state shall have the right to use both the
7 title "Licensed Practical Nurse" and the abbreviation "L.P.N." No
8 other person shall assume such title or use such abbreviation or any
9 other words, letters, signs, or figures to indicate that the person
10 using the same is a Licensed Practical Nurse.

11 ~~Any individual doing so shall be guilty of a misdemeanor, which~~
12 ~~shall be punishable, upon conviction, by imprisonment in the county~~
13 ~~jail for not more than one (1) year or by a fine of not less than~~
14 ~~One Hundred Dollars (\$100.00) nor more than One Thousand Dollars~~
15 ~~(\$1,000.00), or by both such imprisonment and fine for each offense.~~

16 SECTION 9. AMENDATORY 59 O.S. 2011, Section 567.6a, is
17 amended to read as follows:

18 Section 567.6a A. All applicants for a certificate to practice
19 as an Advanced Unlicensed Assistant shall be subject to Section
20 567.8 of ~~Title 59 of the Oklahoma Statutes~~ this title.

21 B. An applicant for a certificate to practice as an Advanced
22 Unlicensed Assistant shall submit to the Oklahoma Board of Nursing
23 certified evidence that the applicant:

24

1 1. Has successfully completed the prescribed curricula in a
2 state-approved education program for Advanced Unlicensed Assistants
3 and holds or is entitled to hold a diploma or certificate therefrom,
4 or equivalent courses in a formal program of instruction;

5 2. Has never been convicted in this state, the United States or
6 another state or territory of any felony, unless five (5) years have
7 elapsed since the date of the criminal conviction or the termination
8 of any probation or other requirements imposed on the applicant by
9 the sentencing court, whichever shall last occur, or a presidential
10 or gubernatorial pardon for the criminal offense has been received;

11 3. Has submitted a criminal history records search that is
12 compliant with Section 567.18 of ~~Title 59 of the Oklahoma Statutes~~
13 this title;

14 4. Is a minimum of eighteen (18) years of age; and

15 5. Has met such other reasonable preliminary qualification
16 requirements as the Board may prescribe.

17 C. The applicant for a certificate to practice as an Advanced
18 Unlicensed Assistant shall be required to pass an examination in
19 such subjects as the Board may require. Upon the applicant
20 successfully passing such examination, the Board may issue to the
21 applicant a certificate to practice as an Advanced Unlicensed
22 Assistant. An applicant who fails such examination shall be subject
23 to reexamination according to the rules of the Board. The passing
24 criteria shall be established by Board rules.

1 D. Any person who holds a certificate to practice as an
2 Advanced Unlicensed Assistant in this state shall have the right to
3 use both the title "Advanced Unlicensed Assistant" and the
4 abbreviation "A.U.A.". No other person shall assume such title or
5 use such abbreviation or any other words, letters, signs, or figures
6 to indicate that the person using the same is an Advanced Unlicensed
7 Assistant. ~~Any individual doing so shall be guilty of a~~
8 ~~misdemeanor, which shall be punishable, upon conviction, by~~
9 ~~imprisonment in the county jail for not more than one (1) year or by~~
10 ~~a fine of not less than One Hundred Dollars (\$100.00) nor more than~~
11 ~~One Thousand Dollars (\$1,000.00), or by both such imprisonment and~~
12 ~~fine for each offense.~~

13 SECTION 10. AMENDATORY 59 O.S. 2011, Section 588, is
14 amended to read as follows:

15 Section 588. ~~A. No person shall practice optometry in this~~
16 ~~state or make any tests or measurements of the human eye for~~
17 ~~diagnostic purposes unless said person has been issued a certificate~~
18 ~~pursuant to the provisions of Section 584 of this title or is a~~
19 ~~physician or surgeon authorized to practice medicine in this state.~~
20 ~~No person shall impersonate a registered optometrist. No person~~
21 ~~shall buy, sell or obtain in any manner a certificate of~~
22 ~~registration or exemption issued to another. Practicing or offering~~
23 ~~to practice optometry, or the public representation of being~~
24 ~~qualified to practice optometry, by any person not authorized to~~

1 ~~practice optometry shall be sufficient evidence of the violation of~~
2 ~~the provisions of Sections 581 through 604 of this title. No~~
3 ~~optometrist shall aid or abet any person not authorized to practice~~
4 ~~optometry in this state to practice optometry. Any person who~~
5 ~~violates any of the provisions of Sections 581 through 604 of this~~
6 ~~title shall be deemed guilty of a misdemeanor, and upon conviction~~
7 ~~for each offense, shall be punished by a fine of not less than Fifty~~
8 ~~Dollars (\$50.00), nor more than Five Hundred Dollars (\$500.00), or~~
9 ~~imprisonment in the county jail not less than thirty (30) days, nor~~
10 ~~more than ninety (90) days, or by both said fine and imprisonment.~~

11 ~~B.~~ Nothing in the provisions of Sections 581 through 604 of
12 this title shall prohibit the performance of routine visual
13 screening by a person not licensed to practice optometry in this
14 state. Nothing in this section shall prohibit an optometry student
15 officially enrolled in a college of optometry which is approved by
16 the State Regents for Higher Education from performing educational
17 functions within the institution or prohibit an instructor in such
18 optometry college from practicing optometry so long as such
19 practitioner is licensed in any state and his practice is limited to
20 instruction of optometry students in an accredited Oklahoma college
21 of optometry or state or federal hospital which is utilized as a
22 teaching institution for students of optometry, provided such
23 instructor has been issued a temporary license by the Oklahoma Board
24 of Examiners in Optometry.

1 SECTION 11. AMENDATORY 59 O.S. 2011, Section 638, is
2 amended to read as follows:

3 Section 638. A. Each of the following acts shall constitute a
4 felony, punishable, upon conviction, by a fine of not less than One
5 Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars
6 (\$10,000.00) or by imprisonment in the county jail for a term of not
7 more than one (1) year or imprisonment in the custody of the
8 Department of Corrections for a term of not more than four (4)
9 years, or by both such fine and imprisonment:

10 1. ~~The practice of osteopathic medicine or attempt to practice~~
11 ~~osteopathic medicine without a license issued by the State Board of~~
12 ~~Osteopathic Examiners;~~

13 ~~2.~~ Obtaining, or attempting to obtain, a license under the
14 Oklahoma Osteopathic Medicine Act by fraud or false statements;

15 ~~3.~~ 2. Obtaining, or attempting to obtain, money or any other
16 thing of value, by fraudulent representation or false pretense;

17 ~~4.~~ 3. Advertising as an osteopathic physician and surgeon, or
18 practicing or attempting to practice osteopathic medicine under a
19 false, assumed, or fictitious name, or a name other than the real
20 name; or

21 ~~5.~~ 4. Allowing any person in the licensee's employment or
22 control to practice as an osteopathic physician and surgeon when not
23 actually licensed to do so.

24

1 B. Each day a person is in violation of any provision of
2 subsection A of this section shall constitute a separate criminal
3 offense and, in addition, the district attorney may file a separate
4 charge of medical battery for each person who is injured as a result
5 of treatment or surgery performed in violation of subsection A of
6 this section.

7 C. Any person making any willfully false oath or affirmation
8 whenever oath or affirmation is required by the Oklahoma Osteopathic
9 Medicine Act shall be deemed guilty of the felony of perjury, and
10 upon conviction, shall be punished as prescribed by the general laws
11 of this state.

12 SECTION 12. AMENDATORY 59 O.S. 2011, Section 725.3, is
13 amended to read as follows:

14 Section 725.3 A. ~~1.~~ Any licensed health care provider found
15 by the appropriate licensing board or state agency to be in
16 violation of the provisions of subsection E of Section 725.2 of this
17 title shall be punished by an administrative penalty of not less
18 than Twenty-five Dollars (\$25.00) nor more than One Thousand Dollars
19 (\$1,000.00) to be administered and collected by the appropriate
20 licensing board or state agency.

21 ~~2. Any person who is not a licensed health care provider and~~
22 ~~found by the appropriate licensing board or state agency to be in~~
23 ~~violation of the provisions of subsection E of Section 725.2 of this~~
24 ~~title, shall be punished by an administrative penalty of not less~~

1 ~~than Twenty five Dollars (\$25.00) nor more than One Thousand Dollars~~
2 ~~(\$1,000.00) to be administered and collected by the appropriate~~
3 ~~licensing board or state agency. Each day this act is violated~~
4 ~~shall constitute a separate offense and shall be punishable as such.~~

5 B. 1. Any licensed health care provider found by the
6 appropriate licensing board or state agency to be in violation of
7 the provisions of this act, other than subsection E of Section 725.2
8 of this title, shall be punished by a fine of not less than Five
9 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars
10 (\$5,000.00) to be administered and collected by the appropriate
11 licensing board or state agency.

12 ~~2. Any person who is not a licensed health care provider and~~
13 ~~found by the appropriate licensing board or state agency to be in~~
14 ~~violation of the provisions of this act, other than subsection E of~~
15 ~~Section 725.2 of this title, shall be punished by an administrative~~
16 ~~penalty of not less than Five Hundred Dollars (\$500.00) nor more~~
17 ~~than Five Thousand Dollars (\$5,000.00) to be administered and~~
18 ~~collected by the appropriate licensing board or state agency.~~

19 ~~3.~~ Each day this act is violated shall constitute a separate
20 offense and shall be punishable as such.

21 C. A case shall be referred to the Attorney General for
22 investigation and prosecution if a licensing board or state agency
23 makes a finding of gross or repeated violations of this act by a
24 licensed health care provider or an unlicensed health care provider.

1 SECTION 13. AMENDATORY 59 O.S. 2011, Section 1044, is
2 amended to read as follows:

3 Section 1044. ~~Any person convicted of acting or performing as a~~
4 ~~building and construction inspector without the proper license shall~~
5 ~~be guilty of a misdemeanor and shall be punished by a fine of not~~
6 ~~less than Two Hundred Fifty Dollars (\$250.00) nor more than Two~~
7 ~~Thousand Five Hundred Dollars (\$2,500.00), together with the costs~~
8 ~~of prosecution. Each day of violation shall constitute a separate~~
9 ~~offense.~~

10 Any entity who employs an unlicensed person to perform the
11 duties and responsibilities of a building and construction inspector
12 or who fails to notify the Construction Industries Board of the
13 employment of an inspector shall be subject to an administrative
14 fine of not more than Two Hundred Dollars (\$200.00) for each
15 violation. Each day a person is in violation may constitute a
16 separate violation. The maximum fine shall not exceed One Thousand
17 Dollars (\$1,000.00).

18 SECTION 14. AMENDATORY 59 O.S. 2011, Section 1106, is
19 amended to read as follows:

20 Section 1106. A. Except as otherwise provided in the
21 Waterworks and Wastewater Works Operator Certification Act, it shall
22 be unlawful:

23 1. For any person to employ or appoint or vote for or approve
24 the employment or appointment of any person as an operator of a

1 waterworks or wastewater works who does not possess a valid current
2 certificate issued under the Waterworks and Wastewater Works
3 Operator Certification Act, which certifies the operator's
4 competency to operate a waterworks or wastewater works for which the
5 operator is employed or appointed as operator; or to employ or
6 appoint a person as an operator of a waterworks or wastewater works
7 or vote for or approve the employment or appointment of any person
8 as an operator of a waterworks or wastewater works contrary to the
9 terms and conditions of the certificate held by such person;

10 2. For any person to be the operator of ~~a waterworks or~~
11 ~~wastewater works for the operation of which the person does not hold~~
12 ~~a required certificate, or to be the operator of~~ any waterworks or
13 wastewater works contrary to any of the terms and conditions of the
14 operator's certificate; or

15 3. For any person to violate any rule or order made under the
16 authority of the Waterworks and Wastewater Works Operator
17 Certification Act or any certificate issued pursuant thereto.

18 B. Paragraphs 1 and 2 of subsection A of this section shall
19 apply to a waterworks or wastewater works employing a superintendent
20 of the waterworks or wastewater works who has not obtained the
21 proper level of certification within six (6) months of employment as
22 superintendent. The Environmental Quality Board may, by rule, limit
23 the number of times this six-month exemption is available to a
24 waterworks and wastewater works.

1 C. The provisions of this section shall not affect the practice
2 of engineering by a professional engineer.

3 D. A plumber licensed pursuant to The Plumbing License Law of
4 1955 shall not be required to hold any waterworks or wastewater
5 operator certificate in order to make connections to public water
6 systems or lines or sewer systems or lines.

7 SECTION 15. AMENDATORY 59 O.S. 2011, Section 1115, is
8 amended to read as follows:

9 Section 1115. Any public officer who shall knowingly violate
10 any provision of the Waterworks and Wastewater Works Operator
11 Certification Act shall upon conviction thereof be guilty of a
12 misdemeanor. If any county, district, municipality, or any agency
13 or instrumentality thereof, or any state board, institution, agency,
14 instrumentality, or commission shall violate any provision of the
15 Waterworks and Wastewater Works Operator Certification Act, each of
16 the members of the governing board thereof who shall vote for or
17 otherwise approve of such violation shall upon conviction thereof be
18 guilty of a misdemeanor. ~~Every other person who shall violate any~~
19 ~~provision of the Waterworks and Wastewater Works Operator~~
20 ~~Certification Act shall upon conviction thereof be guilty of a~~
21 ~~misdemeanor.~~ Any person guilty of a misdemeanor hereunder shall,
22 upon conviction thereof, be punished by a fine of not to exceed One
23 Hundred Dollars (\$100.00), or by imprisonment in the county jail for
24

1 not to exceed thirty (30) days, or by both such fine and
2 imprisonment.

3 SECTION 16. AMENDATORY 59 O.S. 2011, Section 1270, is
4 amended to read as follows:

5 Section 1270. A. ~~It shall be a misdemeanor for any person to:~~

6 ~~1. Use in connection with his or her name any designation~~
7 ~~tending to imply that he or she is licensed under the Social~~
8 ~~Worker's Licensing Act unless he or she is duly and respectively~~
9 ~~licensed under the provisions of this act;~~

10 ~~2. Use in connection with his or her name any designation~~
11 ~~tending to imply that he or she is licensed under the provisions of~~
12 ~~this act during the time his or her license shall be suspended or~~
13 ~~revoked; or~~

14 ~~3. Otherwise violate any of the provisions of this act.~~

15 B. 1. ~~Except as otherwise provided, it shall be unlawful for~~
16 ~~any individual to engage in the practice of social work unless duly~~
17 ~~licensed under this act.~~

18 ~~2. Except as otherwise provided, it shall be unlawful for any~~
19 ~~individual to engage in the practice of Clinical Social Work unless~~
20 ~~duly licensed as a Clinical Social Worker under this act.~~

21 ~~3. No individual shall offer social work services or use the~~
22 ~~designation social worker, licensed social work associate, licensed~~
23 ~~master's social worker, licensed social worker, licensed clinical~~
24 ~~social worker or the initials LSWA, LMSW, LSW, or LCSW or any other~~

1 ~~designation indicating licensure status or hold themselves out as~~
2 ~~licensed to practice social work unless duly licensed.~~

3 ~~4. The provision of social work services to an individual in~~
4 ~~this state, through telephonic, electronic or other means,~~
5 ~~regardless of the location of the social worker, shall constitute~~
6 ~~the practice of social work and shall be subject to regulation.~~

7 ~~5. Any individual who, after hearing, is found by the State~~
8 ~~Board of Licensed Social Workers to have unlawfully engaged in the~~
9 ~~practice of social work or to have violated other provisions of this~~
10 ~~act shall be subject to a fine to be imposed by the Board not to~~
11 ~~exceed Five Hundred Dollars (\$500.00) for each offense. Each~~
12 ~~violation of this act or Board rules pertaining to unlawful practice~~
13 ~~of social work shall also constitute a misdemeanor.~~

14 ~~6. Nothing in this act shall be construed to prevent members of~~
15 ~~other professions from performing functions for which they are duly~~
16 ~~licensed; provided, however, such professionals shall not hold~~
17 ~~themselves out or refer to themselves by any title or description~~
18 ~~stating or implying that they are engaged in the practice of social~~
19 ~~work or that they are licensed to engage in the practice of social~~
20 ~~work.~~

21 ~~7. Students currently participating in an approved social work~~
22 ~~program are exempt from licensure under this act when enrolled in or~~
23 ~~participating in an internship, externship, or other social work~~
24 ~~experience requirements for such programs.~~

1 SECTION 17. AMENDATORY 59 O.S. 2011, Section 1336, is
2 amended to read as follows:

3 Section 1336. Any person violating any of the provisions of
4 this act relating to bondsman shall, upon conviction, be fined not
5 more than Five Thousand Dollars (\$5,000.00) for each offense, or
6 imprisoned in the county jail for not more than one (1) year, or by
7 both such fine and imprisonment.

8 ~~Any person acting as a bondsman without a license shall be~~
9 ~~subject to the penalties provided in this section.~~

10 SECTION 18. AMENDATORY 59 O.S. 2011, Section 1474, is
11 amended to read as follows:

12 Section 1474. A. Any person who violates any provision of this
13 act ~~or any person who falsely states or represents that he has been~~
14 ~~or is a polygraph examiner or trainee or that he is qualified to~~
15 ~~apply instrumentation to the detection of deception or verification~~
16 ~~of truth of statements~~ shall be guilty of a misdemeanor and upon
17 conviction thereof shall be punished by a fine of not less than One
18 Hundred Dollars (\$100.00) nor more than Five Thousand Dollars
19 (\$5,000.00) or by imprisonment in the county jail for a term of not
20 to exceed six (6) months, or both such fine and imprisonment.

21 B. 1. In addition to the penalties authorized by this section,
22 any person who has been determined by the Board to have violated any
23 provision of the Polygraph Examiners Act or any rule, regulation, or
24 order issued pursuant thereto may also be liable for a penalty

1 assessed by the Board of not more than Five Thousand Dollars
2 (\$5,000.00) for any related series of violations.

3 2. The amount of the penalty shall be assessed by the Board
4 pursuant to the provisions of paragraph 1 of this subsection, after
5 notice and hearing pursuant to Sections 310 through 326 of Title 75
6 of the Oklahoma Statutes. In determining the amount of the penalty,
7 the Board shall include but not be limited to consideration of the
8 nature, circumstances, and gravity of the violation and, with
9 respect to the person found to have committed the violation, the
10 degree of culpability, the effect on ability of the person to
11 continue to do business, and any show of good faith in attempting to
12 achieve compliance with state laws.

13 3. Any person aggrieved by a final order or other final
14 determination of the Board may petition for a judicial review for
15 rehearing, reopening or reconsideration of the matter as provided
16 for in Title 75 of the Oklahoma Statutes. If an appeal is not made
17 by the person to whom such an order is directed within thirty (30)
18 days after notice has been sent to the parties, the order of the
19 Board shall become final and binding on all parties and shall be
20 docketed with the district court in the county of the residence of
21 the violator, or the district court in the county in which the
22 violation occurred. The order shall be enforced in the same manner
23 as an order of the district court.

24

1 C. Except as otherwise expressly provided by law, any notice,
2 order or other instrument issued by or pursuant to authority of the
3 Board may be served on any person affected thereby personally, by
4 publication, or by mailing a copy of the notice, order, or other
5 instrument by certified mail, return receipt requested, directed to
6 the person affected at his last-known post office address as shown
7 by the files or records of the Council. Proof of service shall be
8 made as in the case of service of a summons or by publication in a
9 civil action or may be made by the affidavit of the person who did
10 the mailing. Such proof of service shall be filed in the office of
11 the Council.

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

16 D. Any penalty assessed under the provisions of this section
17 shall constitute a lien upon all the property of said violator
18 within this state except the homestead of the violator. Before any
19 such penalty becomes a lien upon such property as against third
20 persons, a copy of the order of the Board assessing the penalty
21 shall be filed in the office of the county clerk of the county
22 wherein the property is located. The copy of the order shall be
23 filed and may be enforced as provided by the provisions of Section
24

1 143.1 and Sections 171 through 178 of Title 42 of the Oklahoma
2 Statutes.

3 E. Any penalties collected by the Board pursuant to this
4 section shall be deposited in the State Treasury to the credit of
5 the Polygraph Examiners Fund.

6 SECTION 19. AMENDATORY 59 O.S. 2011, Section 1512, is
7 amended to read as follows:

8 Section 1512. A. Rule Making Power. The Administrator shall
9 have the same authority to adopt, amend and repeal rules as is
10 conferred upon him by paragraph (e) of subsection (1), and
11 subsections (2) and (3) of Section 6-104 of Title 14A of the
12 Oklahoma Statutes, as applicable, and such rules shall have the same
13 effect as provided in subsection (4) of Section 6-104 thereunder.
14 In addition, the Administrator may adopt, amend and repeal such
15 other rules as are necessary for the enforcement of the provisions
16 of Section 1501 et seq. of this title and consistent with all its
17 provisions.

18 B. Administrative Enforcement. Compliance with the provisions
19 of this act may be enforced by the Administrator who may exercise,
20 for such purpose, all the powers enumerated in Part 1 of Article 6,
21 Title 14A of the Oklahoma Statutes, in the same manner as in
22 relation to consumer credit transactions under that act, as well as
23 those powers conferred in this act.

24

1 C. Criminal Penalties. 1. ~~Any person who engages in the~~
2 ~~business of operating a pawn shop without first securing the license~~
3 ~~prescribed by this act shall be guilty of a misdemeanor and upon~~
4 ~~conviction thereof shall be punished by a fine not in excess of One~~
5 ~~Thousand Dollars (\$1,000.00), by confinement in the county jail for~~
6 ~~not more than six (6) months or by both.~~

7 2. Any person selling or pledging property to a pawnbroker who
8 uses false or altered identification or a false declaration of
9 ownership as related to the provisions of Section 1515 of this title
10 shall be guilty of a felony, and upon conviction shall be punished
11 by imprisonment in the State Penitentiary not to exceed five (5)
12 years or in the county jail not to exceed one (1) year, or by a fine
13 not to exceed Five Hundred Dollars (\$500.00), or by both such
14 imprisonment and fine.

15 3. 2. Any person who fails to repay a pawnbroker the full
16 amount received from a pawn or buy transaction after being
17 officially notified by a peace officer that the goods he pledged or
18 sold in that transaction were stolen or embezzled shall be guilty of
19 a misdemeanor and upon conviction shall be punished by imprisonment
20 in the county jail for a term not to exceed six (6) months, or a
21 fine not to exceed Five Hundred Dollars (\$500.00), or by both such
22 fine and imprisonment.

23 D. Private Enforcement. 1. If any person engages in the
24 business of operating a pawnshop without first securing the license

1 prescribed by this act, or if any pawnbroker contracts for, charges
2 or receives a pawn finance charge in excess of that authorized by
3 this act, the pawn transaction shall be void and the customer is not
4 obligated to pay either the amount financed or the pawn finance
5 charge in connection with the transaction, and upon the customer's
6 demand, the pawnbroker shall be obligated to return to the customer,
7 as a refund, all amounts paid in connection with the transaction by
8 the customer and the pledged goods delivered to the pawnbroker in
9 connection with the pawn transaction or their value if the goods
10 cannot be returned. If a customer is entitled to a refund under
11 this section and a pawnbroker liable to the customer refuses to make
12 the refund within a reasonable time after demand, the customer shall
13 have an action against the pawnbroker and in the case of a
14 successful action to enforce such liability, the costs of the action
15 together with ~~attorney's~~ attorney fees as determined by the court
16 shall be awarded to the customer.

17 2. A pawnbroker who fails to disclose information to a customer
18 entitled to the information under this act is liable to that person
19 in an amount equal to the sum of:

- 20 a. twice the amount of the pawn finance charge in
21 connection with the transaction, or One Hundred
22 Dollars (\$100.00), whichever is greater~~r~~, and
23 b. in the case of a successful action to enforce the
24 liability under paragraph 1 of this subsection, the

1 costs of the action together with reasonable
2 ~~attorneys'~~ attorney fees as determined by the court.

3 SECTION 20. AMENDATORY 59 O.S. 2011, Section 1634, is
4 amended to read as follows:

5 Section 1634. A. The following American Society of Mechanical
6 Engineers Codes, based upon the latest edition, shall be the piping
7 codes for this state:

8 1. The power piping code, ASME B31.1;

9 2. The fuel gas piping code, ASME B31.2;

10 3. The gas transmission and distribution piping system code,
11 ASME B31.8;

12 4. The process piping code, ASME B31.3; and

13 5. The liquid transportation systems for hydrocarbons, liquid
14 petroleum gas, anhydrous ammonia and alcohols code, ASME 31.4.

15 B. The American Welding Society D1.1 and D1.3 shall be the
16 structural steel welding codes for this state.

17 C. The provisions of this act shall apply only to weldments
18 required by the above codes.

19 D. All welders prior to performing weldments within this state
20 on any piping enumerated in subsection A of this section or
21 structural steel welding enumerated in subsection B of this section
22 shall be tested, qualified and certified by the Commissioner of
23 Labor pursuant to this act.
24

1 E. It shall be mandatory upon the owner, or a contractor to
2 whom a contract is awarded and upon any welders wherein welders are
3 to perform weldments on any piping enumerated in subsection A, upon
4 any subcontractor under the owner or a contractor, to ensure that
5 all welders performing weldments within this state shall be
6 certified by the Commissioner of Labor before any weldments are
7 fabricated.

8 F. Penalties:

9 ~~1. Any welder who violates or omits to comply with any of the~~
10 ~~provisions of this section, and any officer, agent or representative~~
11 ~~of any owner or any contractor or subcontractor who violates or~~
12 ~~omits to comply with any of the provisions of this section shall be~~
13 ~~subjected to the penalties provided in this title.~~

14 ~~2.~~ The Commissioner of Labor is empowered to issue cease and
15 desist orders against violations of this act until such time as
16 compliance of the law is met. If an owner, welder, contractor
17 and/or subcontractor fails to obey the orders issued by the
18 Commissioner of Labor, the Attorney General shall review the case
19 and initiate necessary proceedings for contempt of the
20 Commissioner's order and/or ask for an injunction in the district
21 court as deemed appropriate to the facts of the case.

22 ~~3.~~ 2. No person, firm or corporation or agent thereof shall in
23 any manner interfere with the performance of the duties of any
24

1 inspector or representative of the Commissioner of Labor for the
2 implementation of this act.

3 SECTION 21. AMENDATORY 59 O.S. 2011, Section 1750.8, is
4 amended to read as follows:

5 Section 1750.8 A. ~~No person who is exempt from the provisions
6 of Section 1750.1 et seq. of this title shall display any badge or
7 identification card bearing the words "private investigator" or
8 "private detective", or use any words or phrases that imply that
9 such person is a private investigator or private detective.~~

10 ~~B.~~ No person licensed as a private investigator shall:

11 1. Divulge any information gained by him in his employment
12 except as his employer may direct or as he may be required by law to
13 divulge; or

14 2. Willfully make a false report to his employer or to a
15 client.

16 Any violation of this subsection, upon conviction, shall be
17 punishable by a fine of not more than Five Hundred Dollars (\$500.00)
18 or by imprisonment for not more than one (1) year, or by both such
19 fine and imprisonment.

20 ~~C.~~ B. The Council on Law Enforcement Education and Training or
21 its employees shall not disclose application information pertaining
22 to persons licensed pursuant to this act, except:

23 1. To verify the current license status of any applicant or
24 licensee to the public;

2. To perform duties pursuant to this act;
3. To a bona fide law enforcement agency;
4. To a licensing authority in another jurisdiction; or
5. As required by court order.

SECTION 22. AMENDATORY 59 O.S. 2011, Section 1928, is amended to read as follows:

Section 1928. A. As used in this act:

1. a. "Applied behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior through skill, acquisition, and the reduction of problematic behavior. An applied behavior analysis program shall:
 - (1) be based on empirical research including the direct observation and measurement of behavior as well as a functional behavior assessment, and
 - (2) utilize antecedent stimuli, positive reinforcement, and other consequences to produce behavior change.
- b. Applied behavior analysis does not include cognitive therapies or psychological testing, neuropsychology, psychotherapy, sex therapy, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities;

1 2. "Board" means the nationally accredited Behavior Analyst
2 Certification Board;

3 3. "Human services professional" means an individual licensed
4 or certified by the state as one of the following:

5 a. a licensed physical therapist or physical therapist
6 assistant pursuant to Sections 887.1 through 887.18 of
7 ~~Title 59 of the Oklahoma Statutes~~ this title,

8 b. an occupational therapist, occupational therapy
9 assistant, or occupational therapy aide pursuant to
10 Sections 888.1 through 888.15 of ~~Title 59 of the~~
11 ~~Oklahoma Statutes~~ this title,

12 c. a licensed clinical social worker, licensed masters
13 social worker, or social work associate pursuant to
14 Sections 1250 through 1273 of ~~Title 59 of the Oklahoma~~
15 ~~Statutes~~ this title,

16 d. a psychologist or health service psychologist pursuant
17 to Sections 1351 through 1376 of ~~Title 59 of the~~
18 ~~Oklahoma Statutes~~ this title,

19 e. a licensed speech pathologist, licensed audiologist,
20 speech-language pathologist or audiologist pursuant to
21 Sections 1601 through 1622 of ~~Title 59 of the Oklahoma~~
22 ~~Statutes~~ this title,

23 f. a licensed professional counselor or licensed
24 professional counselor candidate pursuant to Sections

1 1901 through 1920 of ~~Title 59 of the Oklahoma Statutes~~
2 this title,

3 g. a licensed marital and family therapist or licensed
4 marital and family therapist candidate pursuant to
5 Sections 1925.1 through 1925.18 of ~~Title 59 of the~~
6 ~~Oklahoma Statutes~~ this title, or

7 h. a licensed behavioral practitioner or licensed
8 behavioral practitioner candidate pursuant to Sections
9 1930 through 1949.1 of ~~Title 59 of the Oklahoma~~
10 ~~Statutes~~ this title;

11 4. "Certified assistant behavior analyst" means an individual
12 who is certified by the nationally accredited Behavior Analyst
13 Certification Board as a Board-Certified Assistant Behavior Analyst
14 and certified by the Developmental Disabilities Services Division of
15 the Department of Human Services;

16 5. "Licensed behavior analyst" means an individual who is
17 certified by the nationally accredited Behavior Analyst
18 Certification Board as a Board-Certified Behavior Analyst and
19 licensed by the Developmental Disabilities Services Division of the
20 Department; and

21 6. "Supervisee" means a person who acts under the extended
22 authority of a licensed behavior analyst to provide applied behavior
23 analysis services or a person who is in training to provide such
24 services.

1 B. Each person wishing to practice as a licensed behavior
2 analyst or a certified assistant behavior analyst shall apply to the
3 Developmental Disabilities Services Division of the Department of
4 Human Services using a form and in a manner prescribed by the
5 Division and shall furnish evidence satisfactory to the Division
6 that such person:

7 1. Is of good moral character;

8 2. Is at least twenty-one (21) years of age;

9 3. Has passed the Board examination and is certified by the
10 Board as a Board-Certified Behavior Analyst or a Board-Certified
11 Assistant Behavior Analyst, as applicable;

12 4. Has not had a professional license or certification refused,
13 revoked, suspended, or restricted and does not have a complaint,
14 allegation, or investigation pending in any regulatory jurisdiction
15 in the United States or in another country for reasons that relate
16 to unprofessional conduct unless the Division finds, to its
17 satisfaction, that the conduct has been corrected or that mitigating
18 circumstances exist that prevent its resolution; and

19 5. Has at least the minimum graduate or undergraduate degree,
20 appropriate for the level of certification, from an accredited
21 institution of higher learning in a qualifying field of study, as
22 determined by the Board.

23 C. A person holding a state license or state certification
24 shall apply for renewal of the state license or state certification

1 on or before April 30 of each odd-numbered year. The application
2 shall be accompanied by a renewal fee to be set by the Division in
3 accordance with paragraph 3 of subsection F of this section.

4 D. A person licensed or certified by the Developmental
5 Disabilities Services Division of the Department under this section
6 shall:

7 1. Maintain active status and fulfill all requirements for
8 renewal of national certification or recertification with the Board;
9 and

10 2. Conduct professional activities in accordance with accepted
11 standards such as the Guidelines for Responsible Conduct and
12 Professional Disciplinary Standards of the Board.

13 E. 1. No person shall claim the title of licensed behavior
14 analyst or certified assistant behavior analyst unless that person
15 meets the applicable requirements in this section. No person shall
16 practice applied behavior analysis without obtaining a license or
17 certification in accordance with this section. Supervisees may only
18 provide applied behavior analysis under the supervision of a
19 licensed behavior analyst. This section shall not restrict the
20 practice of applied behavior analysis by human services
21 professionals, provided such individuals are working within the
22 scope of their professions and the practice of applied behavior
23 analysis is commensurate with their level of training and
24 experience.

1 2. A violation of this subsection shall be punishable by a fine
2 of not more than Five Hundred Dollars (\$500.00), the suspension or
3 revocation of a license or certification issued pursuant to this
4 section, or both such fine and loss of licensure or certification.

5 F. The Division shall:

6 1. Investigate all complaints relating to:

7 a. the practice or supervision of applied behavior
8 analysis by any person licensed by the Developmental
9 Disabilities Services Division of the Department as a
10 behavior analyst or certified by the Division as an
11 assistant behavior analyst, ~~or~~

12 b. ~~any person alleged to be practicing or providing~~
13 ~~supervision without a state license or state~~
14 ~~certification;~~

15 2. Refer any substantiated complaints to the Board; and

16 3. Charge reasonable fees for a license or for certification,
17 not to exceed One Hundred Dollars (\$100.00).

18 G. 1. A person having a qualifying degree, as provided for in
19 paragraph 5 of subsection B of this section, and participating in
20 the applied behavior analysis treatment pilot project established in
21 Section ~~3~~ 280.2 of ~~this act~~ Title 63 of the Oklahoma Statutes shall
22 be exempt from the requirements of this section while such person is
23 actively participating in the project.

1 2. Persons employed by a school district in this state who
2 provide services solely to the school district under the Individuals
3 with Disabilities Education Act (IDEA), 20 U.S.C., Section 1400 et
4 seq., shall be exempt from the requirements of this section.

5 H. The Department shall promulgate rules to implement the
6 provisions of this section.

7 SECTION 23. AMENDATORY 59 O.S. 2011, Section 1957, is
8 amended to read as follows:

9 Section 1957. The Oklahoma Rental-Purchase Act applies to
10 persons, who in this state make or solicit rental-purchase
11 agreements, or who directly collect payments from or enforce rights
12 against debtors arising from the rental-purchase agreement, wherever
13 they are made; or who engage in rental-purchase transactions subject
14 to the provisions of the Oklahoma Rental-Purchase Act. ~~A person who
15 willfully engages in the business of making rental-purchase
16 agreements without a license in violation of the provisions of this
17 act pertaining to authority to make rental-purchase agreements, upon
18 conviction, is guilty of a misdemeanor and may be sentenced to pay a
19 fine not exceeding Five Thousand Dollars (\$5,000.00), or to
20 imprisonment not exceeding one (1) year, or both.~~

21 SECTION 24. AMENDATORY 59 O.S. 2011, Section 2009, is
22 amended to read as follows:

23 Section 2009. A. Any person who ~~engages in business as a
24 health spa without first being properly registered with the~~

1 ~~Administrator of Consumer Credit as prescribed in the Oklahoma~~
2 ~~Health Spa Act or who otherwise~~ violates any provision of the
3 Oklahoma Health Spa Act, upon conviction, shall be guilty of a
4 misdemeanor and shall be punished by the imposition of a fine not to
5 exceed Five Thousand Dollars (\$5,000.00) or imprisonment in the
6 county jail for not more than one (1) year, or by both such fine and
7 imprisonment.

8 B. The provisions of Title 14A of the Oklahoma Statutes shall
9 also apply to those health spas registered pursuant to the Oklahoma
10 Health Spa Act.

11 C. The Oklahoma Health Spa Act shall only govern those health
12 spa contracts or membership agreements executed after November 1,
13 1987.

14 D. The Administrator shall appoint an independent hearing
15 examiner to conduct all administrative hearings involving alleged
16 violations of the Oklahoma Health Spa Act. The independent hearing
17 examiner shall have authority to exercise all powers granted by
18 Article II of the Administrative Procedures Act in conducting
19 hearings. The independent hearing examiner shall have authority to
20 recommend penalties authorized by the Oklahoma Health Spa Act and
21 issue proposed orders, with proposed findings of fact and proposed
22 conclusions of law, to the Administrator pursuant to Article II of
23 the Administrative Procedures Act. The Administrator shall review
24 the proposed order and issue a final agency order in accordance with

1 Article II of the Administrative Procedures Act. A final agency
2 order issued by the Administrator shall be appealable by all parties
3 to the district court as provided in Article II of the
4 Administrative Procedures Act. The costs of the hearing examiner
5 may be assessed by the hearing examiner against the respondent,
6 unless the respondent is the prevailing party.

7 E. After notice and hearing, the Administrator may decline to
8 renew a registration, or suspend or revoke any registration issued
9 pursuant to the Oklahoma Health Spa Act or any rules promulgated by
10 the Administrator, or in lieu of or in addition to such denial,
11 suspension or revocation, order the refund of any unlawful charges,
12 or enter a cease and desist order.

13 ~~F. Any entity or individual offering to engage or engaged as a~~
14 ~~health spa in this state without a license shall be subject to a~~
15 ~~civil penalty not to exceed Five Thousand Dollars (\$5,000.00).~~

16 ~~G. The Administrator may impose a civil penalty as prescribed~~
17 ~~in subsection F of this section, after notice and hearing in~~
18 ~~accordance with Article II of the Administrative Procedures Act.~~
19 ~~Any administrative order or settlement agreement imposing a civil~~
20 ~~penalty pursuant to this section may be enforced as in the same~~
21 ~~manner as civil judgments in this state. The Administrator may file~~
22 ~~an application to enforce an administrative order or settlement~~
23 ~~agreement imposing a civil penalty in the district court of Oklahoma~~
24 ~~County.~~

1 SECTION 25. AMENDATORY 59 O.S. 2011, Section 2042, is
2 amended to read as follows:

3 Section 2042. A. ~~No person shall practice respiratory care or~~
4 ~~represent themselves to be a respiratory care practitioner unless~~
5 ~~licensed under the Respiratory Care Practice Act, except as~~
6 ~~otherwise provided by the Respiratory Care Practice Act.~~

7 B. The Respiratory Care Practice Act does not prohibit:

8 1. The practice of respiratory care which is an integral part
9 of the program of study by students enrolled in a respiratory care
10 education program recognized by the State Board of Medical Licensure
11 and Supervision. Students enrolled in respiratory therapy education
12 programs shall be identified as "student - RCP" and shall only
13 provide respiratory care under clinical supervision;

14 2. Self-care by a patient, or gratuitous care by a friend or
15 family member who does not represent or hold out to be a respiratory
16 care practitioner;

17 3. Monitoring, installation or delivery of medical devices,
18 gases and equipment and the maintenance thereof by a nonlicensed
19 person for the express purpose of self-care by a patient or
20 gratuitous care by a friend or family member;

21 4. Respiratory care services rendered in the course of an
22 emergency;

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1 5. Persons in the military services or working in federal
2 facilities from rendering respiratory care services when functioning
3 in the course of their assigned duties;

4 6. The respiratory care practitioner from performing advances
5 in the art and techniques of respiratory care learned through
6 formalized or specialized training; and

7 7. For purposes of continuing education, consulting, or
8 training, any person performing respiratory care in the state, if
9 these services are performed for no more than thirty (30) days in a
10 calendar year in association with a respiratory care practitioner
11 licensed pursuant to the Respiratory Care Practice Act or in
12 association with a licensed physician or surgeon, if:

13 a. the person is licensed as a respiratory care
14 practitioner or the equivalent, as determined by the
15 State Board of Medical Licensure and Supervision, in
16 good standing in another state or the District of
17 Columbia, or

18 b. the person is a Certified Respiratory Therapy
19 Technician (CRTT) or Registered Respiratory Therapist
20 (RRT).

21 ~~C.~~ B. Nothing in the Respiratory Care Practice Act shall limit,
22 preclude, or otherwise interfere with the lawful practices of
23 persons working under the supervision of the responsible physician.
24 In addition, nothing in the Respiratory Care Practice Act shall

1 interfere with the practices of health care personnel who are
2 formally trained and licensed by appropriate agencies of this state.

3 ~~D.~~ C. An individual who, by passing an examination which
4 includes content in one or more of the functions included in the
5 Respiratory Care Practice Act, and who has passed an examination
6 that meets the standards of the National Commission for Health
7 Certifying Agencies (NCHCA) or an equivalent organization, shall not
8 be prohibited from performing the procedures for which they were
9 tested. An individual who has demonstrated competency in one or
10 more areas covered by the Respiratory Care Practice Act may perform
11 only those functions for which the individual is qualified by
12 examination to perform. The standards of the National Commission
13 for Health Certifying Agencies shall serve to evaluate those
14 examinations and examining organizations.

15 ~~E.~~ D. Practitioners regulated under the Respiratory Care
16 Practice Act shall be covered under the "Good Samaritan Act",
17 Section 5 et seq. of Title 76 of the Oklahoma Statutes.

18 SECTION 26. AMENDATORY 59 O.S. 2011, Section 2044, is
19 amended to read as follows:

20 Section 2044. A. It is a misdemeanor for any person to:

21 1. ~~Sell, fraudulently obtain or furnish any respiratory care~~
22 ~~license or record, or aid or abet therein;~~

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1 ~~2. Practice respiratory care under cover of any respiratory~~
2 ~~care diploma, license or record illegally or fraudulently obtained~~
3 ~~or issued;~~

4 ~~3. Practice respiratory care unless duly licensed to do so~~
5 ~~under the provisions of the Respiratory Care Practice Act;~~

6 ~~4. Impersonate in any manner or pretend to be a respiratory~~
7 ~~care practitioner or use the title "respiratory care practitioner",~~
8 ~~the letters "R.C.P.", or other words, letters, signs, symbols or~~
9 ~~devices to indicate the person using them is a licensed respiratory~~
10 ~~care practitioner, unless duly authorized by license to perform~~
11 ~~under the provisions of the Respiratory Care Practice Act;~~

12 ~~5. Practice respiratory care during the time a license is~~
13 ~~suspended, revoked or expired;~~

14 ~~6. Fail to notify the State Board of Medical Licensure and~~
15 ~~Supervision of the suspension, probation, or revocation of any past~~
16 ~~or currently held licenses, certifications, or registrations~~
17 ~~required to practice respiratory care in this or any other~~
18 ~~jurisdiction;~~

19 ~~7.~~ Knowingly employ unlicensed persons in the practice of
20 respiratory care in the capacity of a respiratory care practitioner;

21 ~~8.~~ 2. Make false representations or impersonate or act as a
22 proxy for another person or allow or aid any person or impersonate
23 the person in connection with any examination or application for
24 licensing or request to be examined or licensed; or

1 ~~9.~~ 3. Otherwise violate any provisions of the Respiratory Care
2 Practice Act.

3 B. Such misdemeanor shall be punishable by a fine of not more
4 than One Thousand Dollars (\$1,000.00) or by imprisonment for not
5 more than six (6) months, or by both such fine and imprisonment for
6 each offense.

7 SECTION 27. AMENDATORY 59 O.S. 2011, Section 2069, is
8 amended to read as follows:

9 Section 2069. It is a misdemeanor for any person to:

10 1. Sell, fraudulently obtain or furnish any perfusion license
11 or record, or aid or abet therein;

12 ~~2. Practice perfusion under cover of any perfusion diploma,~~
13 ~~license, or record illegally or fraudulently obtained or issued;~~

14 ~~3. Practice perfusion unless duly licensed to do so pursuant to~~
15 ~~the provisions of the Oklahoma Licensed Perfusionists Act;~~

16 ~~4. Impersonate in any manner or pretend to be a perfusionist or~~
17 ~~use the title "licensed perfusionist", the letters "L.P." or other~~
18 ~~words, letters, signs, symbols, or devices to indicate the person~~
19 ~~using them is a licensed perfusionist unless duly authorized by a~~
20 ~~license to perform under the provisions of the Oklahoma Licensed~~
21 ~~Perfusionists Act;~~

22 ~~5. Practice perfusion during the time a license is suspended,~~
23 ~~revoked, or expired or not renewed;~~

24

1 ~~6. Fail to notify the Board of the suspension, probation, or~~
2 ~~revocation of any past or currently held permits, licenses, or~~
3 ~~certificates required to practice perfusion in this or any other~~
4 ~~jurisdiction;~~

5 ~~7. Knowingly employ unlicensed persons in the practice of~~
6 ~~perfusion in the capacity of a perfusionist;~~

7 ~~8. 3. Make false representations or impersonate or act as a~~
8 ~~proxy for another person or allow or aid any person or impersonate~~
9 ~~the person in connection with any examination or application for~~
10 ~~licensure or request to be examined or licensed; or~~

11 ~~9. 4. Otherwise violate any provision of the Oklahoma Licensed~~
12 ~~Perfusionists Act.~~

13 SECTION 28. AMENDATORY 59 O.S. 2011, Section 2307, is
14 amended to read as follows:

15 Section 2307. ~~A.~~ A licensed pedorthist may only provide care
16 or services pursuant to an order from a licensed podiatrist,
17 physician, or chiropractor, when addressing a medical condition, or
18 when evaluating, planning treatment, measuring, designing,
19 fabricating, assembling, fitting, adjusting, managing of the
20 patient, or servicing necessary to accomplish the application of a
21 pedorthic device for the prevention or amelioration of painful or
22 disabling conditions of the foot and ankle.

23 ~~B. Effective January 1, 2002, any person who holds himself or~~
24 ~~herself out to be a pedorthist or uses the title pedorthist or~~

1 ~~common variants of that title without holding an appropriate license~~
2 ~~issued by the State Board of Medical Licensure and Supervision, or~~
3 ~~who, without being registered by the Board, dispenses pedorthic~~
4 ~~devices, or who is in violation of any provision of the Oklahoma~~
5 ~~Licensed Pedorthists Act shall be subject to an administrative fine~~
6 ~~for each day found to be in violation. The amount of any fine shall~~
7 ~~be determined by the Board within limits set by the Board pursuant~~
8 ~~to rules adopted and promulgated by the Board and may be in addition~~
9 ~~to any other penalty provided by the Board or otherwise provided by~~
10 ~~law.~~

11 SECTION 29. AMENDATORY 59 O.S. 2011, Section 3007, is
12 amended to read as follows:

13 Section 3007. ~~A.~~ A licensed orthotist may only provide care or
14 services pursuant to a prescription from a licensed physician. A
15 licensed prosthetist may only provide care or services pursuant to a
16 prescription from a licensed physician.

17 ~~B. Effective July 1, 2002, any person who holds himself or~~
18 ~~herself out as an orthotist or prosthetist or uses the titles~~
19 ~~Orthotist, Prosthetist, Orthotist/Prosthetist, or common variants of~~
20 ~~those titles without holding an appropriate license issued by the~~
21 ~~State Board of Medical Licensure and Supervision, or who, without~~
22 ~~being registered by the Board, represents himself or herself to be a~~
23 ~~prosthetic/orthotic technician, or prosthetist/orthotist assistant,~~
24 ~~or who is in violation of any provision of the Orthotics and~~

1 ~~Prosthetics Practice Act shall be subject to an administrative fine~~
2 ~~for each day found to be in violation. The amount of any fine shall~~
3 ~~be determined by the Board within limits set by the Board pursuant~~
4 ~~to rules adopted and promulgated by the Board and may be in addition~~
5 ~~to any other penalty provided by the Board or otherwise provided by~~
6 ~~law.~~

7 SECTION 30. REPEALER 59 O.S. 2011, Sections 15.25,
8 46.17, 46.41, 61.6, 159.5, 161.14, 328.49, 353.17A, 396.12d, 396.24,
9 491, 495b, 519.10, 533, 536.11, 540.12, 567.9, 597, 698.18, 698.26,
10 731.3, 731.4, 858-401, 858-632, 858-704, 887.16, 946, 989, 1019,
11 1150.12, 1151.3, 1220, 1374, 1457, 1503, 1523, 1529, 1621, 1640,
12 1690, 1736, 1750.2A, 1750.4, 1750.4a, 1800.6, 1800.16, 1850.7,
13 1850.11, 1911, 1925.10, 1925.16 and 1940, are hereby repealed.

14 SECTION 31. This act shall become effective November 1, 2012.

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