

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

SENATE BILL 569

By: Coates

AS INTRODUCED

An Act relating to licensure for professions and occupations; amending 59 O.S. 2001, Sections 46.14, as last amended by Section 10, Chapter 184, O.S.L. 2009, 144, as last amended by Section 1, Chapter 149, O.S.L. 2008, 148, 199.11, as amended by Section 6, Chapter 56, O.S.L. 2003, 396.12c, as amended by Section 14, Chapter 57, O.S.L. 2003, 475.18, as last amended by Section 8, Chapter 312, O.S.L. 2008, 532, 858-723, as amended by Section 11, Chapter 165, O.S.L. 2006, 887.13, as amended by Section 1, Chapter 26, O.S.L. 2008, 888.9, 1370, as amended by Section 24, Chapter 313, O.S.L. 2004, 1503A, 1619, 1912, as amended by Section 2, Chapter 220, O.S.L. 2009, 1925.15, as amended by Section 3, Chapter 220, O.S.L. 2009, and 1941, as amended by Section 4, Chapter 220, O.S.L. 2009 (59 O.S. Supp. 2010, Sections 46.14, 144, 199.11, 396.12c, 475.18, 858-723, 887.13, 1370, 1912, 1925.15 and 1941), which relate to architects and landscape architects, podiatric physicians, cosmetologists, funeral directors, professional engineers and land surveyors, athletic trainers and apprentices, real estate appraisers, physical therapists, occupational therapists, psychologists, pawnbrokers, speech-language pathologists and audiologists, professional counselors, marital and family therapists, and licensed behavioral practitioners; modifying and clarifying language; defining terms; modifying qualification for certain examination; requiring satisfaction of certain Board for certain licensure; modifying the prohibition to issue and renew certain licenses and certificates based on criminal conviction; providing certain appeal procedure for denial of certain license; adding definitions; 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 last amended by Section 10, Chapter 184, O.S.L. 2009 (59 O.S. Supp.
4 2010, Section 46.14), is amended to read as follows:

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

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

14 2. Shall have been guilty of fraud or misrepresentation in the
15 ~~person's~~ application of the person, whether seeking a contract to
16 provide services or for an examination or ~~for~~ a license or
17 registration without examination, or of fraud in the examination or
18 applying for or renewing a certificate of authority or certificate
19 of title, license or registration;

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

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

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

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

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

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

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

17 b. shall have the right to be represented by counsel and
18 an opportunity to respond and present evidence and
19 argument on all issues involved, by the introduction
20 of evidence and by the examination and cross-
21 examination of witnesses, and to compel the attendance
22 of witnesses and the production of books and papers.
23 Pursuant to the foregoing, the Board shall have the
24 power of a court of record, including the power to

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

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

19 B. As used in paragraph 1 of subsection A of 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 144, as last
6 amended by Section 1, Chapter 149, O.S.L. 2008 (59 O.S. Supp. 2010,
7 Section 144), is amended to read as follows:

8 Section 144. A. The fee for examination for a license to
9 practice podiatric medicine in this state shall be One Hundred
10 Dollars (\$100.00). The Board of Podiatric Medical Examiners may
11 increase this fee by not more than an additional Two Hundred Dollars
12 (\$200.00). The examination for such license shall be given by the
13 Board. The Board may give the examination at any special meeting,
14 but shall not be required to do so.

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

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

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

20 3. Satisfy the Board that the person is loyal to the United
21 States of America;

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

23 5. Be of good moral character;

1 6. Not have been ~~finally~~ convicted of any crime involving moral
2 turpitude or of any felony crime that substantially relates to the
3 practice of podiatric medicine or poses a reasonable threat to
4 public safety;

5 7. Be free from contagious or infectious disease;

6 8. Be a graduate of an accredited college of podiatric
7 medicine; and

8 9. Have complied with applicable Board rules.

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

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

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

22 3. Satisfies the Board that the applicant has not violated any
23 of the provisions of the Podiatric Medicine Practice Act or any of
24 the rules of the Board; and

1 4. Satisfied the Board, in the case of any criminal conviction,
2 that the crime does not substantially relate to the practice of
3 podiatric medicine nor pose a reasonable threat to public safety, or
4 constitute an act of moral turpitude that would affect the practice
5 of podiatric medicine or public safety. For purposes of this
6 paragraph:

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

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

17 D. The examination administered by the Board shall include both
18 a written and an oral portion, shall be administered in the English
19 language, and shall cover areas in anatomy, pathology, podiatric
20 medicine and surgery, dermatology, pharmacology, biomechanics,
21 anesthesia, radiology, Oklahoma law relating to podiatric medicine,
22 and such other subjects as the Board from time to time determines
23 necessary and appropriate. The Board may authorize examination
24 papers to be graded by one or more of its own members or by any one

1 or more licensed podiatric physicians selected by the Board. Each
2 license issued by the Board shall be signed by each member of the
3 Board, bear the seal of the Board, and designate the licensee as a
4 licensed podiatric physician.

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

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

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

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

17 4. Satisfies the Board that the applicant has not violated any
18 of the provisions of the Podiatric Medicine Practice Act or any of
19 the rules of the Board.

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

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

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

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

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

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

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

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

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

1 8. Practicing podiatric medicine in an unsafe or unsanitary
2 manner or place;

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

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

7 11. Dividing with any person, firm, corporation, or other legal
8 entity any fee or other compensation for services as a podiatric
9 physician, except with:

10 a. another podiatric physician,

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

14 c. a practitioner of another branch of the healing arts
15 who is duly licensed under the laws of this state or
16 another state, district or territory of the United
17 States,

18 who has actually provided services, directly or indirectly, to the
19 patient from or for whom the fee or other compensation is received,
20 or at the time of the services is an active associate of the
21 licensee in the lawful practice of podiatric medicine in this state;
22 and
23
24

1 12. Violating or attempting to violate the provisions of the
2 Podiatric Medicine Practice Act, the Code of Ethics, or the rules of
3 the Board.

4 B. Commitment of a licensee to an institution for the mentally
5 ill shall constitute prima facie evidence that the licensee is
6 mentally incapacitated to a degree that the licensee is unable to
7 practice podiatric medicine with safety and benefit to the public.

8 C. 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 4. AMENDATORY 59 O.S. 2001, Section 199.11, as
18 amended by Section 6, Chapter 56, O.S.L. 2003 (59 O.S. Supp. 2010,
19 Section 199.11), is amended to read as follows:

20 Section 199.11 A. The State Board of Cosmetology is hereby
21 authorized to deny, revoke, suspend, or refuse to renew any license,
22 certificate, or registration that it is authorized to issue under
23 the Oklahoma Cosmetology Act for any of the following causes:
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- 1 1. Conviction of a felony ~~as shown by a certified copy of the~~
2 ~~record of the court~~ crime that substantially relates to the practice
3 of cosmetology or poses a reasonable threat to public safety;
- 4 2. Gross malpractice or gross incompetence;
- 5 3. Fraud practiced in obtaining a license or registration;
- 6 4. A license or certificate holder's continuing to practice
7 while afflicted with an infectious, contagious, or communicable
8 disease;
- 9 5. Habitual drunkenness or addiction to use of habit forming
10 drugs;
- 11 6. Advertising by means of statements known to be false or
12 deceptive;
- 13 7. Continued or flagrant violation of any rules of the Board,
14 or continued practice by an operator in a cosmetology salon wherein
15 violations of the rules of the Board are being committed within the
16 knowledge of the operator;
- 17 8. Failure to display license or certificate as required by the
18 Oklahoma Cosmetology Act;
- 19 9. Continued practice of cosmetology after expiration of a
20 license therefor;
- 21 10. Employment by a salon owner or manager of any person to
22 perform any of the practices of cosmetology who is not duly licensed
23 to perform the services; or
24

1 11. Practicing cosmetology in an immoral or unprofessional
2 manner.

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 5. AMENDATORY 59 O.S. 2001, Section 396.12c, as
13 amended by Section 14, Chapter 57, O.S.L. 2003 (59 O.S. Supp. 2010,
14 Section 396.12c), is amended to read as follows:

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

20 1. Conviction of a felony ~~shown by a certified copy of the~~
21 ~~record of the court of conviction~~ crime that substantially relates
22 to the occupation of a funeral director or poses a reasonable threat
23 to public safety;

24 2. Conviction of a misdemeanor involving funeral services;

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

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

5 5. Violation of any of the provisions of the Funeral Services
6 Licensing Act or any violation of Sections 201 through 231 of Title
7 8 of the Oklahoma Statutes;

8 6. Fraud or misrepresentation in obtaining a license;

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

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

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

18 10. Solicitation of business, either personally or by an agent,
19 from a dying individual or the relatives of a dead or individual
20 with a terminal condition, as defined by the Oklahoma Rights of the
21 Terminally Ill or Persistently Unconscious Act, other than through
22 general advertising;

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

1 12. Violating applicable state laws relating to the failure to
2 file a death certificate, cremation permit, or prearrangement or
3 prefinancing of a funeral;

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

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

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

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

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

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

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

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

22 B. As used in this section:

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

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

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

7 SECTION 6. AMENDATORY 59 O.S. 2001, Section 475.18, as
8 last amended by Section 8, Chapter 312, O.S.L. 2008 (59 O.S. Supp.
9 2010, Section 475.18), is amended to read as follows:

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

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

22 2. Any fraud, misrepresentation, gross negligence,
23 incompetence, misconduct or dishonest practice, in the practice of
24 engineering or land surveying;

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

10 4. Failure to comply with any of the provisions of Section
11 475.1 et seq. of this title or any of the rules or regulations
12 pertaining thereto;

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

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

22 7. Knowingly making false statements or signing false
23 statements, certificates or affidavits;

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

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

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

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

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

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

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

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

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

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

16 C. The Board shall have the power to:

17 1. Revoke a certificate of authorization;

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

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

1 4. Levy an administrative penalty.

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

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

8 F. As used in this section:

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

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

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

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

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

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

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

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

10 C. As used in this section:

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

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

19 SECTION 8. AMENDATORY 59 O.S. 2001, Section 858-723, as
20 amended by Section 11, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
21 Section 858-723), is amended to read as follows:

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

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

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

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

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

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

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

14 6. Reprimand, either public or private;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 ~~E.~~ F. 1. A complaint may be filed with the Board against a
22 trainee or state licensed or state certified appraiser for any
23 violations relating to a specific transaction of the Oklahoma
24 Certified Real Estate Appraisers Act by any person who is the

1 recipient of, relies upon or uses an appraisal prepared for a
2 federally related transaction or real-estate-related financial
3 transaction as described in Section 858-701 of this title.

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

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

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

21 G. An applicant whose license or certificate is denied or not
22 renewed may appeal the decision to the Board within thirty (30) days
23 of that decision. If after hearing and final decision of the Board
24 to deny or not renew a license or certificate, the applicant may

1 appeal the final decision to the district court pursuant to the
2 Administrative Procedures Act.

3 H. 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 9. AMENDATORY 59 O.S. 2001, Section 887.13, as
13 amended by Section 1, Chapter 26, O.S.L. 2008 (59 O.S. Supp. 2010,
14 Section 887.13), is amended to read as follows:

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

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

1 practiced other than under the direction of a licensed physical
2 therapist;

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

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

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

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

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

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

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

1 9. Been guilty of conduct unbecoming a person licensed as a
2 physical therapist or physical therapist assistant or guilty of
3 conduct detrimental to the best interests of the public or the
4 profession;

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

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

8 B. 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 10. AMENDATORY 59 O.S. 2001, Section 888.9, is
18 amended to read as follows:

19 Section 888.9 A. The State Board of Medical Licensure and
20 Supervision may deny or refuse to renew a license, or may suspend or
21 revoke a license, or may censure a licensee, publicly or otherwise,
22 or may impose probationary conditions where the licensee or
23 applicant for license has been guilty of unprofessional conduct
24

1 which has endangered or is likely to endanger the health, welfare,
2 or safety of the public. Such unprofessional conduct includes:

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

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

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

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

14 5. Violating any provisions of ~~this act~~ the Occupational
15 Therapy Practice Act.

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

22 One (1) year from the date of the revocation, refusal of renewal,
23 suspension, or probation of the license, application may be made to
24 the Board for reinstatement. The Board shall have discretion to

1 accept or reject an application for reinstatement and may, but shall
2 not be required to, hold a hearing to consider such reinstatement.

3 C. As used in this section:

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

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

12 SECTION 11. AMENDATORY 59 O.S. 2001, Section 1370, as
13 amended by Section 24, Chapter 313, O.S.L. 2004 (59 O.S. Supp. 2010,
14 Section 1370), is amended to read as follows:

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

20 B. The Board shall have the power and duty to suspend, place on
21 probation, require remediation, or revoke any license to practice
22 psychology or to take any other action specified in the rules
23 whenever the Board shall find by clear and convincing evidence that
24

1 the psychologist has engaged in any of the following acts or
2 offenses:

3 1. Fraud in applying for or procuring a license to practice
4 psychology;

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

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

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

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

17 6. Harassment, intimidation, or abuse, sexual or otherwise, of
18 a client or patient;

19 7. Engaging in sexual intercourse or other sexual contact
20 with a client or patient;

21 8. Use of repeated untruthful, deceptive or improbable
22 statements concerning the licensee's qualifications or the effects
23 or results of proposed treatment, including practicing outside of
24

1 the psychologist's professional competence established by education,
2 training, and experience;

3 ~~9.~~ 8. Gross malpractice or repeated malpractice or gross
4 negligence in the practice of psychology;

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

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

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

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

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

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

~~16.~~ 15. Violation of the code of ethics adopted in the rules

and regulations of the Board; and

~~17.~~ 16. Inability to practice psychology with reasonable skill

and safety to patients or clients by reason of illness, inebriation,

misuse of drugs, narcotics, alcohol, chemicals, or any other

substance, or as a result of any mental or physical condition.

C. No license shall be suspended or revoked nor the licensee

placed on probation or reprimanded until the licensee has been given

an opportunity for a hearing before the Board pursuant to the

provisions of subsection D of this section. Whenever the Board

determines that there has been a violation of any of the provisions

of the Psychologists Licensing Act or of any order of the Board, it

shall give written notice to the alleged violator specifying the

cause of complaint. The notice shall require that the alleged

violator appear before the Board at a time and place specified in

the notice and answer the charges specified in the notice. The

notice shall be delivered to the alleged violator in accordance with

the provisions of subsection E of this section not less than ten

(10) days before the time set for the hearing.

D. On the basis of the evidence produced at the hearing, the

Board shall make findings of fact and conclusions of law and enter

an order thereon in writing or stated in the record. A final order

adverse to the alleged violator shall be in writing. An order

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

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

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

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

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

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

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

21 J. As used in this section:

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

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

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

7 SECTION 12. AMENDATORY 59 O.S. 2001, Section 1503A, is
8 amended to read as follows:

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

11 1. Be of good moral character;

12 2. Have net assets of at least Twenty-five Thousand Dollars
13 (\$25,000.00); and

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

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

21 C. If the Administrator is unable to verify that the applicant
22 meets the net assets requirement for a pawnshop license, the
23 Administrator may require a finding, including the presentation of a
24 current balance sheet, by an accounting firm or individual holding a

1 permit to practice public accounting in this state, that the
2 accountant has reviewed the books and records of the applicant and
3 that the applicant meets the net assets requirement.

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 13. AMENDATORY 59 O.S. 2001, Section 1619, is
14 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 4. If a person fails and refuses to attend in obedience to such
21 subpoena, or refuses to be sworn or examined or answer any legally
22 proper question propounded by any member of said Board or any
23 attorney or licensee upon permission from said Board, such person
24 shall be guilty of a misdemeanor, and, upon conviction, may be

1 punished by a fine not to exceed Two Hundred Fifty Dollars (\$250.00)
2 or by confinement in the county jail not to exceed ninety (90) days,
3 or both.

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

8 2. The suit shall be filed against the Board as defendant, and
9 service of process shall be upon either the chairman or executive
10 secretary of the Board.

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

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

15 F. As used in this section:

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

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

SECTION 14. AMENDATORY 59 O.S. 2001, Section 1912, as amended by Section 2, Chapter 220, O.S.L. 2009 (59 O.S. Supp. 2010, Section 1912), is amended to read as follows:

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

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

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

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

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

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

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

1 7. Misrepresented any information required in obtaining a
2 license.

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

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

15 D. As used in this section:

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

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

SECTION 15. AMENDATORY 59 O.S. 2001, Section 1925.15,
as amended by Section 3, Chapter 220, O.S.L. 2009 (59 O.S. Supp.
2010, Section 1925.15), is amended to read as follows:

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

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

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

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

4. Misrepresented any information required in obtaining a
license;

5. Engaged in fraud or deceit in connection with services
rendered or in establishing needed qualifications pursuant to the
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

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

E. As used in this section:

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

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

SECTION 16. AMENDATORY 59 O.S. 2001, Section 1941, as amended by Section 4, Chapter 220, O.S.L. 2009 (59 O.S. Supp. 2010, Section 1941), is amended to read as follows:

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

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

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~~ the Licensed Behavioral Practitioner 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 17. This act shall become effective July 1, 2011.

14 SECTION 18. 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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