

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL 101

By: Bergstrom

AS INTRODUCED

An Act relating to professional licenses; amending 59 O.S. 2011, Sections 46.8a, as amended by Section 6, Chapter 234, O.S.L. 2014, 46.14, as last amended by Section 1, Chapter 183, O.S.L. 2015, 199.11, as last amended by Section 2, Chapter 183, O.S.L. 2015, 396.12c, as amended by Section 4, Chapter 97, O.S.L. 2013, 475.18, as last amended by Section 16, Chapter 259, O.S.L. 2015 and 4000 (59 O.S. Supp. 2018, Sections 46.8a, 46.14, 199.11, 396.12c and 475.18), which relate to certain professional and occupational license qualifications; modifying language; prohibiting license denial after certain condition; authorizing license reinstatement; defining terms; requiring procedures for reinstatement under certain conditions; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 46.8a, as amended by Section 6, Chapter 234, O.S.L. 2014 (59 O.S. Supp. 2018, Section 46.8a), is amended to read as follows:

Section 46.8a. A. It shall be unlawful for any person to directly or indirectly engage in the practice of architecture in this state or use the title "Architect", "Registered or Licensed Architect", "Architectural Designer", or display or use any words,

1 letters, figures, titles, signs, cards, advertisements, or other
2 symbols or devices indicating or tending to indicate that such
3 person is an architect or is practicing architecture, unless the
4 person is licensed under the provisions of this act. No person
5 shall aid or abet any person, not licensed under the provisions of
6 this act, in the practice of architecture.

7 B. Every person applying to the Board for an initial license
8 shall submit an application accompanied by the fee established in
9 accordance with the rules of the Board, with satisfactory evidence
10 that such person holds an accredited professional degree in
11 architecture or has completed such other education as the Board
12 deems equivalent to an accredited professional degree and with
13 satisfactory evidence that such person has completed such practical
14 training in architectural work as the Board requires. If an
15 applicant is qualified in accordance with this subsection, the Board
16 shall, by means of a written examination, examine the applicant on
17 such technical and professional subjects as are prescribed by the
18 Board. None of the examination materials shall be considered public
19 records. The Board may exempt from such written examination an
20 applicant who holds a certification issued by the National Council
21 of Architectural Registration Boards or its successor or in any case
22 the Board decides the interest of the public will be served and the
23 person is determined to be qualified and competent by equivalent
24 standards for education, training and examination.

1 The Board shall adopt as its own rules governing practical
2 training and education and may use those guidelines published from
3 time to time by the National Council of Architectural Registration
4 Boards or its successor. The Board may also adopt the examinations
5 and grading procedures of the National Council of Architectural
6 Registration Boards or its successor and the accreditation decisions
7 of the National Architectural Accrediting Board or its successor.
8 The Board shall issue its license to each applicant who ~~is found to~~
9 ~~be of good moral character and who~~ satisfies the requirements set
10 forth in this section and the Board's current rules. Such license
11 shall be effective upon issuance.

12 C. Pursuant to this act and such rules as it may have adopted,
13 the Board shall have the power to issue licenses without requiring
14 an examination to persons who have been licensed to practice
15 architecture in states other than the State of Oklahoma, in a
16 territory of the United States, in the District of Columbia, or in a
17 country other than the United States; provided that the state or
18 country has a similar reciprocal provision to authorize the issuance
19 of licenses to persons who have been licensed in this state. If a
20 person who has been licensed in a state other than the State of
21 Oklahoma, or in a territory of the United States, in the District of
22 Columbia, or in a country other than the United States complies with
23 this act and the rules of the Board, the secretary-treasurer, acting
24 in the exercise of his or her discretion or upon the order of the

1 Board in the exercise of its discretion and upon the receipt of the
2 stated payment to the Board pursuant to the rules of the Board,
3 shall issue to the person a license to practice architecture in this
4 state.

5 SECTION 2. AMENDATORY 59 O.S. 2011, Section 46.14, as
6 last amended by Section 1, Chapter 183, O.S.L. 2015 (59 O.S. Supp.
7 2018, Section 46.14), is amended to read as follows:

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

13 1. Has been convicted of a felony crime that substantially
14 relates to the practice of architecture, landscape architecture or
15 interior design or poses a reasonable threat to public safety;
16 provided, however, no felony conviction shall operate to deny the
17 issuance or reinstatement of a previously held Oklahoma license
18 after ten (10) years from the date of such conviction unless the
19 conviction continues to pose a reasonable threat to public safety or
20 continued education or other requirements have not been met;

21 2. Has been guilty of fraud or misrepresentation; provided,
22 however, no conviction shall operate to deny the issuance or
23 reinstatement of a previously held Oklahoma license after ten (10)
24 years from the date of such conviction unless the conviction

1 continues to pose a reasonable threat to public safety or continued
2 education or other requirements have not been met;

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

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

8 5. Presents the license, registration or certification of
9 another as his or her own;

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

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

13 8. Has been found to be guilty of a violation of a provision of
14 the State Architectural and Registered Interior Designers Act, or
15 the rules of the Board; provided, that a person or entity complained
16 of shall be afforded the opportunity for a formal hearing carried
17 out as described under the current Administrative Procedures Act or
18 settled by the Board with a consent order or final order approved by
19 the Board.

20 The Board shall keep a record of the evidence in, and a record
21 of each proceeding for the suspension, revocation of or refusal to
22 renew a license or certificate of authority and shall make findings
23 of fact and render a decision therein. If, after a hearing, the
24 charges shall have been found to have been sustained by the vote of

1 a majority of the members of the Board it shall immediately enter
2 its order of suspension, revocation, penalties, probation,
3 educational course work and objectives or refusal to renew, as the
4 case may be.

5 B. As used in this section:

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

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

14 SECTION 3. AMENDATORY 59 O.S. 2011, Section 199.11, as
15 last amended by Section 2, Chapter 183, O.S.L. 2015 (59 O.S. Supp.
16 2018, Section 199.11), is amended to read as follows:

17 Section 199.11. A. The State Board of Cosmetology and
18 Barbering is hereby authorized to deny, revoke, suspend, or refuse
19 to renew any license, certificate, or registration that it is
20 authorized to issue under the Oklahoma Cosmetology and Barbering Act
21 for any of the following causes:

22 1. Conviction of a felony crime that substantially relates to
23 the practice of cosmetology or poses a reasonable threat to public
24 safety; provided, however, no felony conviction shall operate to

1 deny the issuance or reinstatement of a previously held Oklahoma
2 license after ten (10) years from the date of such conviction unless
3 the conviction continues to pose a threat to public safety or
4 continued education or other requirements have not been met;

5 2. Gross malpractice or gross incompetence;

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

7 4. A license or certificate holder's continuing to practice
8 while afflicted with an infectious, contagious, or communicable
9 disease;

10 5. Habitual drunkenness or addiction to use of habit forming
11 drugs; provided, however, reinstatement shall be allowed as provided
12 in Section 4000 of this title;

13 6. Advertising by means of statements known to be false or
14 deceptive;

15 7. Continued or flagrant violation of any rules of the Board,
16 or continued practice by a Board licensee in a cosmetology or barber
17 establishment wherein violations of the rules of the Board are being
18 committed within the knowledge of the licensee;

19 8. Failure to display license or certificate as required by the
20 Oklahoma Cosmetology and Barbering Act;

21 9. Continued practice of cosmetology or barbering after
22 expiration of a license therefor;

1 10. Employment by a salon or barber establishment owner or
2 manager of any person to perform any of the practices of cosmetology
3 or barbering who is not duly licensed to perform the services;

4 11. Practicing cosmetology or barbering in an immoral or
5 unprofessional manner;

6 12. Unsanitary operating practices or unsanitary conditions of
7 a school or establishment; or

8 13. Unsanitary operating practices of a licensee.

9 B. As used in this section:

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

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

18 SECTION 4. AMENDATORY 59 O.S. 2011, Section 396.12c, as
19 amended by Section 4, Chapter 97, O.S.L. 2013 (59 O.S. Supp. 2018,
20 Section 396.12c), is amended to read as follows:

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

3 1. Conviction of a felony shown by a certified copy of the
4 record of the court of conviction that substantially relates to the
5 funeral or embalming profession or poses a reasonable threat to
6 public safety; provided, however, no felony conviction shall operate
7 to deny the issuance or reinstatement of a previously held Oklahoma
8 license after ten (10) years from the date of such conviction unless
9 the conviction continues to pose a threat to public safety or
10 continued education or other requirements have not been met;

11 2. Conviction of a misdemeanor involving funeral services;

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

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

16 5. Violation of any of the provisions of the Funeral Services
17 Licensing Act or any violation of Sections 201 through 231 of Title
18 8 of the Oklahoma Statutes;

19 6. Fraud or misrepresentation in obtaining a license;

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

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

3 9. Use of intoxicating liquor sufficient to produce drunkenness
4 in public, or habitual addiction to the use of habit-forming drugs
5 or either; provided, however, reinstatement shall be allowed as
6 provided in Section 4000 of this title;

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

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

14 12. Violating applicable state laws relating to the failure to
15 file a death certificate, cremation permit, or prearrangement or
16 prefinancing of a funeral;

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

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

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

23 16. Improper issuance or renewal of a license or registration;
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1 17. Violating the provisions of subsection B of Section 396.12
2 of this title regarding advertisement of services at locations not
3 licensed by the Board;

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

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

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

12 21. Intentional interference with an investigation by the Board
13 or failure to allow access to funeral records during an
14 investigation or to produce records for an investigation; or

15 22. Failure to properly discharge financial obligations as
16 established by rule of the Board.

17 B. As used in this section:

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

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

3 SECTION 5. AMENDATORY 59 O.S. 2011, Section 475.18, as
4 last amended by Section 16, Chapter 259, O.S.L. 2017 (59 O.S. Supp.
5 2018, Section 475.18), is amended to read as follows:

6 Section 475.18. A. As provided in subsections A and B of
7 Section 475.8 of this title, the Board shall have the power to deny,
8 place on probation, suspend, revoke or refuse to issue a certificate
9 or license, or fine, reprimand, issue orders, levy administrative
10 fines or seek other penalties, if a person or entity is found guilty
11 of:

12 1. Any fraud or deceit in obtaining or attempting to obtain or
13 renew a certificate of licensure, or a certificate of authorization
14 or in taking the examinations administered by the Board or its
15 authorized representatives;

16 2. Any fraud, misrepresentation, gross negligence, gross
17 incompetence, misconduct or dishonest practice, in the practice of
18 engineering or land surveying;

19 3. Conviction of or entry of a plea of guilty or nolo
20 contendere to a felony crime that substantially relates to the
21 practice of engineering or land surveying or poses a reasonable
22 threat to public safety; or conviction of or entry of a plea of
23 guilty or nolo contendere to a misdemeanor, an essential element of
24 which is dishonesty or is a violation of the practice of engineering

1 or land surveying; provided, however, no conviction shall operate to
2 deny the issuance or reinstatement of a previously held Oklahoma
3 license after ten (10) years from the date of such conviction unless
4 the conviction continues to pose a threat to public safety or
5 continued education or other requirements have not been met;

6 4. Failure to comply with any of the provisions of Section
7 475.1 et seq. of this title or any of the rules or regulations
8 pertaining thereto;

9 5. Disciplinary action, including voluntary surrender of a
10 professional engineer's or professional land surveyor's license in
11 order to avoid disciplinary action by another state, territory, the
12 District of Columbia, a foreign country, the United States
13 government, or any other governmental agency, if at least one of the
14 grounds for discipline is the same or substantially equivalent to
15 those contained in this section;

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

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

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

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

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

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

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

18 13. Habitual intoxication or addiction to the use of alcohol or
19 to the illegal use of a controlled dangerous substance; provided,
20 however, reinstatement shall be allowed as provided in Section 4000
21 of this title;

22 14. Performing engineering or surveying services outside any of
23 the licensee's areas of competence or areas of competence designated
24 in the official Board records;

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

3 16. Failing to obtain the required professional development
4 hours, as approved by the Board, Board staff or Continuing Education
5 Committee as required by an audit.

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

14 C. Principals of a firm who do not obtain a certificate or
15 authorization for the firm as required by Section 475.1 et seq. of
16 this title may be subject to disciplinary action.

17 D. As used in this section:

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

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

3 SECTION 6. AMENDATORY 59 O.S. 2011, Section 4000, is
4 amended to read as follows:

5 Section 4000. A. All state entities that are charged with
6 oversight of occupational licenses shall establish procedures by
7 which individuals who are convicted of a felony or misdemeanor where
8 substance abuse or mental illness is the underlying cause of the
9 crime, or plead guilty or nolo contendere to a felony or misdemeanor
10 where substance abuse or mental illness is the underlying cause of
11 the crime, may appeal or apply to have an occupational license
12 reinstated.

13 B. All state entities that are charged with oversight of
14 occupational licenses shall establish procedures by which
15 individuals who were convicted of a felony or misdemeanor offense
16 and thereby lost an occupational license may appeal or apply to have
17 such license reinstated in the event such conviction is subsequently
18 reclassified or decriminalized by the Legislature or by the vote of
19 the people. The reinstatement shall be either full reinstatement or
20 a conditional reinstatement. The conditional reinstatement shall
21 not exceed one (1) year. The individual may be required to
22 demonstrate competency in the occupation and completion of continued
23 education or other requirements set by the board or commission
24 charged with oversight of the licensee. Supervision shall be

1 authorized during the period of conditional reinstatement. The
2 requirements for license reinstatement shall not be more stringent
3 than requirements for any other licensee in the occupation.

4 C. All state entities described in this section may consider
5 the length of time since the plea or conviction. Other items that
6 may be considered are education since the plea or conviction,
7 recovery status since the plea or conviction ~~if the underlying crime~~
8 ~~was alcohol or drug related~~, and the public safety of allowing an
9 individual to return to the specific occupation.

10 ~~C.~~ D. After ten (10) years from the date of the conviction or
11 plea was entered, an occupational license shall be reinstated unless
12 the conviction or underlying conduct continues to pose a reasonable
13 threat to public safety or the person is deemed unqualified to
14 practice the occupation for failure to complete continued education
15 requirements or failure to address the underlying alcohol, drug or
16 mental illness that resulted in loss of licensure or certification
17 in the occupation.

18 E. "Continues to pose a reasonable threat" means the nature of
19 criminal conduct for which the person was convicted or pled guilty
20 or nolo contendere involved an act or threat of harm against another
21 and has a bearing on the fitness or ability to serve the public or
22 work with others in the occupation.

1 F. The provisions of this section shall not apply to
2 professional licensure boards or commissions that currently
3 recognize and comply with the spirit and intent of this act.

4 SECTION 7. This act shall become effective November 1, 2019.

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