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July 24, 2020

register@sos.arkansas.gov

Mr. John Thurston
Secretary of State
State Capitol – Room 026
Little Rock, AR 72201-1094

**Re: My Client: Arkansas State Board of Dental Examiners
Article XXIII – Pre-Licensure Criminal Background Check**

To Whom It May Concern:

Enclosed please find the following documents:

1. Arkansas Register Transmittal Sheet; and
2. Article XXIII – Pre-Licensure Criminal Background Check.

Please file this accordingly.

Sincerely,

HOPE, TRICE, O'DWYER & WILSON, P.A.



Kevin M. O'Dwyer
Attorney for the Arkansas State Medical Board

KMO:ena
enclosure

cc: Meredith Rogers, Executive Director (via e-mail Meredith.Rogers@arkansas.com)
Matt Gilmore (via e-mail matt.gilmore@arkansas.gov)

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State
John Thurston
500 Woodlane, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
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For Office
Use Only:

Effective Date _____ Code Number _____

Name of Agency Division of Health Related Board and Commissions/Arkansas State Board of Dental Examiners

Department Department of Health

Contact Meredith Rogers, Executive Director E-mail Meredith.Rogers@arkansas.gov Phone 501-682-2085

Statutory Authority for Promulgating Rules _____

Rule Title: Article XXIII - Pre-Licensure Criminal Background Check

Intended Effective Date <small>(Check One)</small>		Date
<input type="checkbox"/> Emergency (ACA 25-15-204)	Legal Notice Published	<u>3/31/2020</u>
<input type="checkbox"/> 10 Days After Filing (ACA 25-15-204)	Final Date for Public Comment	<u>5/8/2020</u>
<input type="checkbox"/> Other _____ <small>(Must be more than 10 days after filing date.)</small>	Reviewed by Legislative Council	<u>6/19/2020</u>
	Adopted by State Agency	<u>5/8/2020</u>

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Kevin O'Dwyer kodwyer@htolaw.com _____
Contact Person E-mail Address Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Meredith Rogers
Signature

501-682-2085 Meredith.Rogers@arkansas.gov
Phone Number E-mail Address

Meredith Rogers, Executive Director
Title

7.23.2020
Date

ARTICLE XXIII

PRE-LICENSURE CRIMINAL BACKGROUND CHECK

- A. Pursuant to Act 990 of 2019, an individual may petition for a pre-licensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.
- B. The individual must obtain the pre-licensure criminal background check petition form from the Board.
- C. The Board will respond with a decision in writing to a completed petition within a reasonable time.
- D. The Board's response will state the reason(s) for the decision.
- E. All decisions of the Board in response to the petition will be determined by the information provided by the individual.
- F. Any decision made by the Board in response to a pre-licensure criminal background check petition is not subject to appeal.
- G. The Board will retain a copy of the petition and response and it will be reviewed during the formal application process.

Waiver Request

- A. If an individual has been convicted of an offense listed in A.C.A. § 17-2-102(a), except those permanently disqualifying offenses found in subsection (e), the Board may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:
 1. An affected applicant for a license; or
 2. An individual holding a license subject to revocation.
- B. The Board may grant a waiver upon consideration of the following, without limitation:
 1. The age at which the offense was committed;
 2. The circumstances surrounding the offense;
 3. The length of time since the offense was committed;
 4. Subsequent work history since the offense was committed;
 5. Employment references since the offense was committed;
 6. Character references since the offense was committed;
 7. Relevance of the offense to the occupational license; and
 8. Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.
- C. A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees.
- D. The Board will respond with a decision in writing and will state the reasons for the decision.

E. An appeal of a determination under this section will be subject to the Administrative Procedures Act §25-15-201 *et seq.*

Pre-Licensure Criminal Background Check Petition

Date: _____

Contact Information:

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone Number: _____

Email: _____

Criminal Record Information:

By signing this petition:

I swear or affirm that the statements contained herein (and included on any attached documentation) are true and correct and that I do not misrepresent any information contained therein.

I acknowledge that, in addition to this petition, I may be required to undergo a state and federal criminal background check at my own expense.

I acknowledge that any decision made in response to this petition is subject to change if there has been a change to the provided information during the formal application process.

I acknowledge that any decision made in response to this petition only applies to the criminal records aspect of the licensing process and does not guarantee licensure.

I acknowledge that any decision made in response to this petition is not subject to appeal.

Signature: _____ Date: _____